

FILED

FEB 12 2026

Clerk U.S. District Court
By: *[Signature]* Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

XIAO BIN CHEN
Pro Se, Petitioner

V.

26-3026-JWL

CRYSTAL CARTER, TODD LYONS
KRISTI NOEM, and PAM BONDI
Respondents.

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241


INTRODUCTION

1. Petitioner, XIAO BIN CHEN, a legally admitted noncitizen and long time resident of the United States (since 1993), is currently detained by Immigration and Customs Enforcement (ICE) pursuant to 8 U.S.C. § 1231(a)(6). Petitioner has been continuously detained since, ~~June 23rd~~^{Aug 23rd}, 2025, for a period exceeding one hundred and eighty (180) days. Because there is no significant likelihood of his removal in foreseeable future, his continued mandatory detention violates his Fifth Amendment right to Due Process under the principles established by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001). Petitioner respectfully requests that this Court issue a Writ of Habeas Corpus ordering his immediate release from physical custody under an appropriate Order of Supervision.

II. JURISDICTION AND VENUE

- 2. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) because Petitioner is held in custody in violation of the constitution and laws of the United States.
- 3. Federal district courts have jurisdiction to review habeas challenges by noncitizens to the lawfulness of their immigration detention, including post-removal-order detention under 8 U.S.C. § 1231(a).
- 4. This Court also has jurisdiction under 28 U.S.C. 1331 and the declaratory Judgment Act, 28 U.S.C. §§ 2201 02, because this petition raises questions arising under the Immigration and Nationality Act ("INA"), the Administrative Procedure Act ("APA"), and the Fifth Amendment.
- 5. Venue is proper in the District of Kansas under 28 U.S.C. § 1391(e) and § 2241 because Petitioner is detained in this District and his immediate custodian, CRYSTAL CARTER, is located here.

III. PARTIES

- 6. Petitioner, XIAO BIN CHEN  is a native of China, who is currently detained in ICE custody at FCI-Leavenworth, Kansas
- 7. CRYSTAL CARTER, Warden, FCI-Leavenworth
- 8. TODD LYONS, Acting Director, ICE
- 9. KRISTI NOEM, Secretary, Department of Homeland Security
- 10. PAM BONDI, Attorney General of the United States
- 11. All Government Respondents are sued in their official capacity.

IV. FACTUAL BACKGROUND

12. On or about July 28, 2008, an Immigration Judge ("IJ") ordered Petitioner removed to China under 212a7Ail, 8 USC 1227.

13. Petitioner's removal period began in the year 2008.

14. ICE/DHS could not remove the Petitioner to China for the past 18 years due to removal obstacles (travel document issuance issues, no consulate communication regarding Petitioner's removal, no reference to any future removal by any official representative from China that Petitioner will be granted entry and etc.) which remains unresolved to this point. Petitioner believes that China does not recognize him as their citizen, therefore, a removal is unlikely now or in near future.

15. In 2011, ICE agents showed up to Petitioner's restaurant, and instructed him to start a routine check-in at the ICE office.

16. Ever since, Petitioner has been making to every single one of his appointments.

17. During his Aug 12, 2025 routine check-in, Petitioner was handcuffed and taken into custody by ICE.

18. Petitioner has cooperated fully with ICE's efforts for the past 18 years, and during his detention period for the past six months by signing everything he has been asked to sign, attending interviews (Jan 2, 2026), and provide all the necessary information.

19. ICE has provided little to no information about any concrete steps taken toward Petitioner's removal or any timeframe for removal.

20. Petitioner does not pose a danger to the community and does not present a flight risk that cannot be addressed by conditions of supervised release, such as reporting requirements, or other standard conditions.

21. Petitioner does not have any criminal record, has been paying his taxes as a business owner, and raising his children as a single Dad, and paying for their college fees. His Daughter works as a nurse, and his son is still in college.

22. Petitioner has close ties in the United States, including his Daughter, his Son, friends, neighbors, business associates and etc., and is willing to comply with any conditions of release imposed by the Court or ICE.

23. Continued detention is causing Petitioner and his Children significant physical, emotional, and psychological harm, particularly given the indefinite and uncertain nature of the confinement.

VII. LEGAL FRAMEWORK

24. Under 8 U.S.C. § 1231(a), DHS is generally required to remove an individual within 90 days of a final Order of Removal with limited authority to continue detention beyond that period.

25. In *Zadvydas v. Davis*, the Supreme Court construed § 1231(a)(6) to avoid serious constitutional concerns by reading into the statute an explicit "reasonable time" limitation on post-order detention and establishing a six month presumptively reasonable period.

26. After six months, once the noncitizen provides "good reason to believe that there is no significant likelihood of removal in reasonably foreseeable future," the burden shifts to the government to provide evidence to rebut that showing; if it cannot, continued detention is unlawful.

27. The Fifth Amendment Due Process Clause limits civil immigration detention to purpose of ensuring appearance at proceedings and protecting the community and detention must bear a reasonable relation to those purposes and not be arbitrary or indefinite.

VIII. CLAIMS FOR RELIEF

First Claim For Relief: Statutory Claim Under 8 U.S.C. v 1231(a) As Interpreted By Zadvydas v. Davis

28. Petitioner re-alleges and incorporates by reference paragraphs 1-27.
29. Petitioner has been detained for more than six (6) months for removal purposes.
30. ICE/DHS have failed to effectuate Petitioner's removal for the past 18 years, and during the last six (6) months Petitioner has been detained at FCI-Leavenworth, with Petitioner's full cooperation.
31. Petitioner has presented good reason to believe that there is no significant likelihood of removal in foreseeable future.
32. Respondents have not provided evidence sufficient to rebut Petitioner's showing that removal is not significantly likely in the reasonably foreseeable future.
33. Under Zadvydas, continued detention under these circumstances exceeds the authority granted by § 1231(a)(6) and is unlawful.
34. Accordingly, Petitioner's continued detention violates the INA and must cease.

Second Claim For Relief: The Fifth Amendment Violation

35. Petitioner re-alleges and incorporates by reference paragraphs 1-34.
36. The Fifth Amendment Prohibits arbitrary and indefinite civil detention that is not reasonably related to a legitimate governmental purpose.
37. Any legitimate purpose that might initially justify Petitioner's detention such as facilitating removal have dissipated because removal is not significantly likely in the reasonably foreseeable future.
38. Continued detention is excessive and disproportionate in relation to any legitimate governmental interest and therefore violates substantive due process.

Third Claim For Relief: The Purpose Of Detention Effecting Removal No Longer Exists

39. Petitioner re-alleges and incorporates by reference paragraphs 1-38.
40. The Statutory scheme contemplates detention only as long as necessary to effect removal. 8 U.S.C. § 1231(a)(i)(A) gives 90-day removal period; then 1231(a)(6) gives discretionary further detention only if removal is reasonably foreseeable.
41. Once it becomes apparent that removal is no longer "reasonably foreseeable," continued detention becomes punitive in nature, which raises due-process concerns. Zadvydas, 533 U.S. at 690.

Fourth Claim For Relief: Constitutional And Human Rights Concerns

42. Petitioner re-alleges and incorporates by reference paragraphs 1-41.
43. Indefinite detention without release or bond hearing raises serious due-process and liberty interest issues. See e.g., Congress Research Service note: "indefinite detention raises 'serious constitutional-concerns'."
44. The burden on the government must increase when liberty is at stake.
45. For these reasons as well, Petitioner's continued detention is unlawful.

IX. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Assume jurisdiction over this matter;
- B. Issue a Writ of Habeas Corpus ordering Respondents to show CAUSE;
- C. Immediately release Petitioner from ICE custody under such reasonable conditions of supervision as the Court deems appropriate;

D. Grant such other and further relief as the Court deems just and proper.

X. VERIFICATION

I XIAO BIN CHEN, declare under penalty of perjury under the laws of the United States that I am the Petitioner in the above-entitled action; that I have read the foregoing Petition for Writ of Habeas and know the contents, therefore; and that the same is true and correct to the best of my knowledge, information and belief.

 2/9/2026

FCI Leavenworth



XIAO BIN CHEN
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