

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA**

ZHENG, Daxing

A 

Petitioner,

v.

Pamela BONDI, in her official capacity as
U.S. Attorney General;

Marcos CHARLES, in his official capacity as
Acting Executive Associate Director,
Enforcement and Removal Operations;

Todd M. LYONS, in his official capacity as
Acting Director, Immigration and Customs
Enforcement;

Kristi NOEM, in her official capacity as
Secretary of the U.S. Department of
Homeland Security;

Tony NORMAND, in his official capacity as Warden
of the Folkston ICE Processing Center,

Respondents.

Docket No:

**VERIFIED
PETITION FOR
WRIT OF HABEAS
CORPUS AND
COMPLAINT FOR
DECLARATORY
AND INJUNCTIVE
RELIEF**

1. Petitioner Daxing Zheng (A ) ("Mr. Zheng" or "Petitioner"), hereby petitions this Court under 28 U.S.C. § 2241, et seq., to issue a Writ of Habeas Corpus ordering Mr. Zheng's immediate release from the unlawful custody of the Department of Homeland Security, United States Immigration and Customs Enforcement ("ICE").
2. This case presents an egregious violation of statutory and constitutional limits on immigration detention that threatens the liberty of all individuals subject to immigration enforcement. Mr. Zheng's removal order became administratively final on April 28, 1994—about thirty-two years ago. The 90-day "removal period" mandated by 8 U.S.C. § 1231(a)(1) expired on July 27, 1994. The six-month presumptively reasonable detention period under *Zadvydas v. Davis*, 533 U.S. 678 (2001), expired on October 28, 1994—also, over thirty-one years ago.
3. Despite these clear temporal limitations, ICE arrested and detained Mr. Zheng on December 2, 2025, claiming authority that expired over thirty-one years ago. The government's position—that it can warehouse detention authority indefinitely and deploy it at will decades later—would eviscerate the statutory scheme Congress created and render meaningless the Supreme Court's constitutional safeguards against indefinite detention.

JURISDICTION

4. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction), the Administrative Procedure Act, 5 U.S.C. § 701 et seq., and Article I, Section 9, Clause 2 of the U.S. Constitution. See *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001).

VENUE

5. Venue is proper in that Mr. Zheng is currently being detained at Folkston D Ray ICE Processing Center, located at 3262 HWY 252 East, Folkston, GA 31537.

PARTIES

6. Petitioner, Daxing Zheng is a native and citizen of the People's Republic of China ("China"). He is currently under the ICE custody.
7. Respondent, Pamela Bondi is the duly appointed, qualified, and confirmed Attorney General of the United States, and as such is the official charged with the enforcement of the laws of the United States.
8. Respondent, Marcos CHARLES, is the Acting Executive Associate Director, Enforcement and Removal Operations. Is responsible for the enforcement and removal of aliens including petitioner.
9. Respondent, Todd M. LYONS, is the Acting Director, Immigration and Customs Enforcement ("ICE"). He is responsible for the administration of

ICE functions relating to detention and removal of aliens including maintain and enforcing petitioner's condition of supervision.

10. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS"). Secretary Noem's responsibilities are set forth in 8 U.S.C. §§1103(a)(1)-(3), among which are: to administer and enforce the Immigration Act and all other laws relating to the immigration and naturalization of aliens; to control, direct and supervise all employees; to establish such regulations, issue such instructions, and perform such other acts deemed necessary for carrying out her authority; and to require any employee of the Service of the Department of Justice to perform or exercise any other the powers, privileges, or duties conferred or imposed by this Act or regulations issued there under upon any other employee of the Service.
11. Respondent, Tony Normand, is the Warden of the Folkston ICE Processing Center. He is responsible for Petitioner's immediate physical custody and is sued in his official capacity.

BACKGROUND

12. Mr. Zheng is a 55-year-old native and citizen of the People's Republic of China currently in ICE custody at the Folkston D Ray ICE Processing Center.
13. Mr. Zheng entered the United States on or about December 4, 1992.

14. Subsequently, DHS placed Mr. Zheng in removal proceedings, during which he filed an application for asylum based on persecution related to the Student Movement. Due to the travel agency he hired failed to inform him of the hearing date, Mr. Zheng failed to appear at his hearing on April 28, 1994, and was ordered excluded in absentia.

15. Thereafter, Mr. Zheng filed a motion to reopen, which was denied by the Immigration Judge on May 16, 2007.

16. On December 17, 2001, Mr. Zheng registered his marriage to his wife, Jin Xia Chen ("Ms. Chen"), who is a Lawful Permanent Resident. Their first child, son, Aaron Zheng, was born on [REDACTED] 2002, and their second child, daughter, Nina Zheng, was born on [REDACTED] 2006.

17. On or about July 21, 2011, Mr. Zheng was detained by ICE while on his way to work. He remained in ICE custody for more than six months. Due to ICE's inability to secure the necessary passport or travel documents to effectuate his removal, Mr. Zheng was released from detention on or about February 10, 2012.

18. Upon his release, Mr. Zheng was placed under an Order of Supervision. He complied with all reporting requirements and reported as instructed through August 2025.

19. On December 28, 2023, their son, Aaron Zheng, filed a Form I-130, Petition for Alien Relative, on behalf of Mr. Zheng after reaching the age of 21. On the same day, Mr. Zheng filed a Form I-485, Application to Register Permanent Residence or Adjust Status, along with a Form I-601, Application for Waiver of Grounds of Inadmissibility.
20. After submitting these applications, Mr. Zheng also filed a Motion to Reopen with the Board of Immigration Appeals. The Motion to Reopen BIA jurisdiction was received on November 25, 2025.
21. On December 2, 2025, Mr. Zheng appeared for his scheduled I-485 interview with U.S. Citizenship and Immigration Services. Upon completion of the interview, ICE detained Mr. Zheng.
22. Mr. Zheng states that on that day, ICE took custody of Mr. Zheng's personal belongings, including his eyeglasses. ICE provided him with a travel document form to complete and sign. Mr. Zheng informed the officers that he could not read the form clearly without his glasses and requested to wear them. ICE then stated that Mr. Zheng had refused to sign the form.
23. The next day, Mr. Zheng's son received notice that the I-130 petition had been approved.

24. After being detained for approximately two weeks, ICE questioned Mr.

Zheng about his address in China and his family. Mr. Zheng explained that he had been living outside of China for over 30 years and no longer had a Chinese address, and he informed ICE that his family all reside in the United States. ICE then provided Mr. Zheng with a travel document application form, which he completed and signed. ICE also took his photograph. About a week later, ICE informed Mr. Zheng that the consulate required his Chinese ID card. Mr. Zheng explained that he had been outside China for over 30 years and no longer possessed such an ID card. Since that time, there has been no further communication from ICE.

25. As of March 12, 2026, Mr. Zheng remains detained at Folkston D Ray ICE Processing Center.

26. Mr. Zheng now files this petition for a writ of Habeas Corpus, seeking release on the grounds that his removal is not reasonably foreseeable.

LEGAL ARGUMENT

COUNT I: VIOLATION OF 8 U.S.C. § 1231 - DETENTION BEYOND STATUTORY AUTHORITY

27. The Immigration and Nationality Act creates a carefully structured detention scheme with mandatory temporal boundaries that ICE has flagrantly violated in detaining Mr. Zheng.

A. The Plain Language of Section 1231 Prohibits Mr. Zheng's Current Detention

28. Under 8 U.S.C. § 1231(a)(1)(B)(i), when a removal order becomes administratively final, a 90-day "removal period" begins. The statute's command during this period is unequivocal: "During the removal period, the Attorney General shall detain the alien." 8 U.S.C. § 1231(a)(2) (emphasis added). The word "during" temporally limits mandatory detention to this specific 90-day window.

29. When the removal period expires without successful removal, the statute dictates a mandatory result: "[I]f the alien does not leave or is not removed within the removal period, the alien, pending removal, shall be subject to supervision under regulations prescribed by the Attorney General." 8 U.S.C. § 1231(a)(3) (emphasis added). Congress chose the mandatory "shall" rather than the permissive "may," leaving no discretion for continued detention absent specific statutory authorization.

30. The Supreme Court has consistently recognized that "shall" creates mandatory obligations. In *Jennings v. Rodriguez*, 583 U.S. 281, 301 (2018), the Court emphasized that "the word 'shall' usually connotes a requirement" as opposed to discretion. This mandatory language forecloses any attempt by ICE to create detention authority where none exists.

31. Mr. Zheng's 90-day removal period expired on July 27, 1994. For the past thirty-one years, he has been entitled to supervision, not detention, as a matter of statutory law.

B. ICE Cannot Manipulate Statutory Time Limits Through Strategic Delay

32. The government cannot circumvent these temporal limitations by waiting decades to arrest someone whose removal period has long expired. Federal courts have rejected such manipulation. As the Southern District of New York held in *Farez-Espinoza v. Chertoff*, 600 F. Supp. 2d 488, 500 (S.D.N.Y. 2009), when addressing ICE's attempt to "arbitrarily trigger the removal period" by delaying arrest: ICE cannot manipulate statutory timelines to manufacture detention authority that has expired.

33. Similarly, in *Ulysse v. Department of Homeland Security*, 291 F. Supp. 2d 1318, 1325 (M.D. Fla. 2003), the court rejected ICE's argument that the removal period begins upon arrest rather than when the order becomes final, finding "no indication in the statute or regulations" supporting this position and recognizing that accepting it would grant the agency unlimited discretion to extend detention indefinitely through strategic delays.

34. Accepting the government's implied position—that it can detain Mr. Zheng thirty-one years after his final removal order—would create a regime of shadow detention authority. ICE could maintain lists of individuals with decades-old

removal orders and strategically detain them whenever politically expedient regardless of whether removal is actually possible.

**COUNT II: VIOLATION OF DUE PROCESS UNDER THE FIFTH
AMENDMENT AND *ZADYDAS v. DAVIS***

35. Even if this Court were to find some residual detention authority under Section 1231(a)(6)—which Petitioner disputes—Mr. Zheng’s detention violates the constitutional limits established by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001).

36. In *Zadvydas*, the Court interpreted § 1231(a)(6) to authorize detention only for a period reasonably necessary to secure removal, and no longer. The Court held that detention beyond six months after the removal period expires is presumptively unreasonable unless the government can establish that removal is significantly likely to occur in the reasonably foreseeable future. This rule was adopted to avoid the grave constitutional concerns raised by indefinite civil detention, which offends both substantive due process and the longstanding principle that immigration detention must bear a reasonable relation to its purpose of effectuating removal.

37. Here, Mr. Zheng has already been detained before for over six months on July 21, 2011. The government has not shown—and cannot show—that his removal is reasonably foreseeable. Absent such a showing, continued detention violates both the statutory framework as construed in *Zadvydas* and the constitutional protections against indefinite civil confinement.

38. After the six-month period expires, the government bears the burden of demonstrating by clear and convincing evidence that removal is reasonably foreseeable. *Zadvydas*, 533 U.S. at 701. The government cannot possibly meet this burden when:

- a) Thirty-one years have passed without removal. The sheer passage of time creates an overwhelming presumption that removal is not reasonably foreseeable. If removal were possible, it would have occurred within the thirty-one years since the order became final.
- b) China has consistently refused to accept its nationals subject to removal from the United States, particularly those who sought political asylum. There is no evidence this policy has changed regarding Mr. Zheng.
- c) Upon information and belief, ICE has not obtained and cannot obtain travel documents from China for Mr. Zheng's removal.

39. The government cannot rely on speculation or hope that someday, somehow, China might change its position. *Zadvydas* requires concrete evidence that removal is reasonably foreseeable in the immediate future, not theoretical possibility at some indefinite point.

40. Accordingly, Mr. Zheng's continued detention is unlawful, and this Court should grant habeas relief under 28 U.S.C. § 2241.

C. The Government's Position Would Eviscerate Constitutional Protections

41. If the government can restart the six-month clock whenever it chooses to detain someone, then *Zadvydas*'s protections become meaningless. Under this theory, ICE could release someone for decades, then re-detain them and claim a fresh six-month period of presumptively reasonable detention. This would mean someone whose removal order became final in 1970 could be detained today with the same constitutional justification as someone whose order became final yesterday.

42. Such an interpretation defies both logic and law. The Supreme Court's concern in *Zadvydas* was preventing indefinite civil detention, which it characterized as raising serious constitutional problems. The Court emphasized that detention becomes increasingly difficult to justify as time passes without removal. If ICE could reset the constitutional clock at will by strategically delaying detention, it would create precisely the indefinite detention problem *Zadvydas* sought to prevent.

**COUNT III: ABSENCE OF ANY LEGITIMATE
GOVERNMENT INTEREST IN DETENTION**

43. The Fifth Amendment prohibits deprivation of liberty without due process of law. This protection extends to all persons within United States territory, including aliens subject to removal orders. *Zadvydas*, 533 U.S. at 693. In the civil

detention context, the government must demonstrate a special justification that outweighs the individual's fundamental liberty interest.

A. Mr. Zheng's Poses No Flight Risk

44. The government cannot credibly claim Mr. Zheng poses a flight risk when he has:

- Resided continuously in the United States for over 33 years;
- With his Lawful Permanent Resident wife, two U.S born children, and the family is established in the United States;
- Maintained continuous employment and paid taxes;
- Never attempted to evade immigration authorities;

45. A person with such deep roots in the community, facing no reasonable prospect of removal, has every incentive to remain and pursue available legal remedies rather than flee.

B. Mr. Zheng Poses No Danger to the Community

46. The government cannot manufacture a public safety justification - *ex post facto* -- where none exists. Mr. Zheng has been a productive, member of society for about three decades.

C. Removal Is Not Reasonably Foreseeable

47. As detailed above, removal to China is not reasonably foreseeable after thirty-one years of demonstrated impossibility. Detention cannot be justified to facilitate a removal that will never occur.

48. The claim in the Notice of Revocation of Supervision that ICE had already obtained a travel document is demonstrably false.

49. The government's detention of Mr. Zheng serves no legitimate purpose and violates both procedural and substantive due process. As the Supreme Court recognized in *Zadvydas*, detention's justification is "weak or nonexistent where removal seems a remote possibility at best." 533 U.S. at 690. After thirty-one years, removal is not merely remote—it is impossible.

**COUNT IV:
ARBITRARY AND CAPRICIOUS ACTION UNDER
THE APA**

50. ICE's detention of Mr. Zheng constitutes arbitrary and capricious agency action in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A). The decision to detain someone after 31 years, without evidence of changed circumstances, without following required procedures, and without any legitimate purpose, represents the paradigm of arbitrary government action.

**IRREPARABLE HARM AND NEED FOR
EMERGENCY RELIEF**

51. Every day of unlawful detention constitutes irreparable injury to Mr. Zheng fundamental liberty interests that cannot be adequately compensated through monetary damages. *Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects").

52. Mr. Zheng faces additional irreparable harm through the loss of employment that supports his family; the inability to support his Lawful Permanent Resident spouse; the deterioration of his physical and mental health in detention; and the loss of his home and stability built over decades.

53. The balance of hardships overwhelmingly favors Mr. Zheng, as Respondents suffer no cognizable harm from complying with federal law and releasing someone who poses no flight risk or danger and cannot be removed.

54. The public interest strongly favors enforcing statutory limits and constitutional protections. Permitting ICE to circumvent temporal limitations and detain people decades after removal periods expire undermines the rule of law and threatens the liberty of countless individuals with old removal orders.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Mr. Zheng from custody;

B. Declare that Mr. Zheng's detention violates:

- 8 U.S.C. § 1231's temporal limitations;
- The Due Process Clause of the Fifth Amendment;
- The Supreme Court's holding in *Zadvydas v. Davis*;
- The Administrative Procedure Act;

C. Enter a permanent injunction prohibiting Respondents from re-detaining Mr. Zheng absent clear and convincing evidence that removal to China has become imminently feasible;

D. In the alternative, order an immediate bond hearing at which the government bears the burden of proving by clear and convincing evidence that Mr. Zheng poses a flight risk or danger that cannot be mitigated by conditions of release;

E. Award Petitioner his costs and reasonable attorneys' fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412;

F. Retain jurisdiction to ensure compliance with this Court's orders;

G. Grant such other and further relief as this Court deems just and proper.

Dated: March 12, 2026

Respectfully submitted,

s/ Thomas Evans

Thomas Evans

Georgia Bar No. 305649

Kuck Baxter- Immigration Lawyer

365 Northridge Road, Suite 300

Atlanta, GA 30350

(404) 816-8611

tevans@immigration.net

VERIFICATION

I, Thomas Evans, counsel for Petitioner Daxing Zheng, hereby verify under penalty of perjury pursuant to 28 U.S.C. § 1746 that the factual allegations in this petition are true and correct to the best of my knowledge, information, and belief, based upon the records available and information provided by Petitioner.

Dated: March 12, 2026

Respectfully submitted,

s/ Thomas Evans
Thomas Evans
Kuck Baxter
365 Northridge Road, Suite 300
Atlanta, GA 30350
(404) 816-8611
tevens@immigration.net