

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA

Fang Shu Lin,

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;

Jason STREEVAL, in his official capacity as
Warden of the Stewart Detention Center.

Respondents.

Docket No:

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

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

1. Petitioner Fang Shu Lin (“Mr. Lin” or “Petitioner”), hereby petitions this Court under 28 U.S.C. § 2241, *et seq.*, to issue a Writ of Habeas Corpus ordering Mr.

Lin's immediate release from the unlawful custody of the Department of Homeland Security, United States Immigration and Customs Enforcement ("ICE").

2. This case is governed by the clear rule established in *Zadvydas v. Davis*, 533 U.S. 678 (2001): once post-final-order detention exceeds six months, continued detention is no longer authorized unless the government can demonstrate that removal is significantly likely in the reasonably foreseeable future.
3. ICE arrested and detained Mr. Lin on September 20, 2025, claiming authority that expired one decade ago. Petitioner has now been detained well beyond six months. Because the government cannot meet its burden to show that removal is reasonably foreseeable, his continued detention is unlawful and must end.

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. Lin is currently being detained at the Stewart Detention Center, located at 146 Cca Rd, Lumpkin, GA 31815.

PARTIES

6. Petitioner, Fang Shu Lin 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, in his official capacity as Acting Executive Associate Director, Enforcement and Removal Operations is responsible for the enforcement and removal of aliens including Petitioner.
9. Respondent Todd M. LYONS, in his official capacity as Acting Director, Immigration and Customs Enforcement ("ICE"). He is responsible for the administration of ICE functions relating to detention and removal of aliens including maintaining 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. Jason STREEVAL, in his official capacity as Warden of Stewart Detention Center. He is responsible for the maintaining and enforcement of the detention of aliens including Petitioner.

BACKGROUND

12. Mr. Lin is a 48-year-old native and citizen of the People's Republic of China currently in ICE custody at Stewart Detention Center.
13. Mr. Lin entered the United States in or about October 1994, at San Francisco, CA, fleeing political persecution in China. Shortly after, he filed an application for political asylum, seeking protection under United States immigration law.
14. Mr. Lin was then placed in removal proceedings. February 22, 2011, an immigration judge issued a removal order against him.
15. On March 22, 2013, the Board of Immigration Appeals ("BIA") dismissed his appeal, rendering his removal order administratively final on that date. This date— March 22, 2013—triggers all statutory time limits governing Mr. Lin's detention authority.

16. During the Thirteen years since his removal order became final, Mr. Lin has built a life, family, and community in the United States that demonstrates he is neither a flight risk nor a danger to the community.
17. Mr. Lin married his U.S. Citizen wife Yin Ching Lam in New York, NY. Mr. Lin is the father of two United States citizen children: Kevin Lin and T [REDACTED] who were born on [REDACTED] 2002, and [REDACTED]. His brother, Fang Hui Lin and Ai Ping Lin are also U.S. Citizen.
18. Mr. Lin has maintained continuous, lawful employment throughout his time in the United States. Right before his arrest, he was working as a manger in the restaurant he owned called [REDACTED] in Jacksonville, NC.
19. Mr. Lin has dutifully filed taxes for over 30 years, contributing to the United States economy and demonstrating his integration into American society.
20. Since September 20, 2025, Mr. Lin has been detained for more than six months. Mr. Lin now files a petition for a writ of Habeas Corpus, requesting release on the grounds that he has been detained for more than six months, and his removal is not reasonably foreseeable.

LEGAL ARGUMENT

**COUNT I: DETENTION IN VIOLATION OF
ZADVYDAS v. DAVIS AND THE FIFTH AMENDMENT**

21. The Immigration and Nationality Act (“INA”) creates a carefully structured detention scheme with mandatory temporal boundaries that ICE has flagrantly violated in detaining Mr. Lin.
22. Petitioner’s continued detention violates the constitutional limitations recognized in *Zadvydas v. Davis*, 533 U.S. 678 (2001), which governs post-final-order detention under 8 U.S.C. § 1231(a)(6).
23. Under *Zadvydas*, detention after a final order of removal is permitted only for a period reasonably necessary to effectuate removal. To avoid serious constitutional concerns, the Supreme Court established a six-month presumptively reasonable period of detention. After that period, once a noncitizen provides good reason to believe that removal is not significantly likely in the reasonably foreseeable future, the burden shifts to the government to rebut that showing with concrete evidence. *Id.* at 701.
24. That standard is clearly met here. Petitioner has been detained since September 20, 2025. His detention has now exceeded six months. Accordingly, the dispositive question is whether removal is significantly likely in the reasonably foreseeable future. It is not.

25. Petitioner has met his initial burden by demonstrating that removal is not reasonably foreseeable. His removal order became final on March 22, 2013, and for more than thirteen years the government did not remove him. The extraordinary passage of time without removal strongly confirms that removal is not practically attainable. If removal were reasonably foreseeable, it would have occurred during that extended period.
26. Moreover, there is no evidence that travel documents have been issued or are likely to be issued. Upon information and belief, the government has not secured acceptance from the People's Republic of China, and has not identified any concrete timeline for removal. The mere possibility that removal may occur at some undefined point in the future is insufficient under *Zadvydas*, which requires a realistic and imminent prospect of removal—not speculation.
27. Once the six-month period has passed, the government bears the burden of showing that removal is significantly likely in the reasonably foreseeable future. Conclusory assertions that removal efforts are ongoing do not satisfy this burden. Without evidence of actual progress, such as confirmed travel documents or a scheduled removal, continued detention is not authorized.
28. Here, Respondents cannot meet that burden. The record reflects prolonged non-removal, lack of travel documentation, and no identifiable pathway to

effectuating removal. Under these circumstances, continued detention serves no permissible purpose and becomes constitutionally impermissible.

29. The Supreme Court made clear that immigration detention is justified only to facilitate removal. Where removal is not reasonably foreseeable, “continued detention is no longer authorized by statute.” *Zadvydas*, 533 U.S. at 699. That is precisely the case here.
30. Petitioner is a national of China, a country that has historically imposed significant barriers to repatriation, particularly for individuals who previously sought asylum. The government has not produced any evidence that China has agreed to issue travel documents in this case. Nor has it identified any scheduled removal or concrete diplomatic progress that would make removal likely in the near future.
31. Petitioner’s long residence in the United States, combined with the government’s failure to effectuate removal over more than a decade, strongly indicates that removal is not practically attainable. Courts routinely find that such prolonged inaction, combined with lack of travel documents, satisfies the noncitizen’s burden under *Zadvydas*.
32. The government cannot rely on speculation that removal may occur at some indefinite point. The relevant inquiry is whether removal is significantly likely in the reasonably foreseeable future. On this record, it is not.

33. Because removal is not reasonably foreseeable, continued detention is unlawful and Petitioner must be released under appropriate conditions of supervision.

34. Accordingly, Petitioner's continued detention violates both § 1231(a)(6) as construed by *Zadvydas* and the Due Process Clause of the Fifth Amendment.

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

35. The Immigration and Nationality Act ("INA") creates a carefully structured detention scheme with mandatory temporal boundaries that ICE has flagrantly violated in detaining Mr. Lin.

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

36. 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.

37. 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.

38. 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.

39. Mr. Lin’s 90-day removal period expired on June 20, 2013. For the past Thirteen years, he should have been entitled to supervision, not detention, as a matter of statutory law.

B. ICE Cannot Manipulate Statutory Time Limits Through Strategic Delay

40. 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.

41. 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.
42. Accepting the government’s implied position—that it can detain Mr. Lin Thirteen 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 possible.

**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.

C. Mr. Lin Poses No Flight Risk

44. The government cannot credibly claim Mr. Lin poses a flight risk when he has:
- Resided continuously in the United States for over 31 years;

- Raised two children, ages 24 and 15 who depend on him;
- 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.

D. Mr. Lin Poses No Danger to the Community

46. The government cannot manufacture public safety justification - *ex post facto* -- where none exists. Mr. Lin has been a productive member of society for over two decades.

E. Removal Is Not Reasonably Foreseeable

47. As detailed above, removal to China is not reasonably foreseeable after Thirteen 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 has already obtained a travel document is demonstrably false.

49. The government's detention of Mr. Lin 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 twenty-one years, removal is not merely remote—it is impossible.

**IRREPARABLE HARM AND NEED FOR
EMERGENCY RELIEF**

50. Every day of unlawful detention constitutes irreparable injury to Mr. Lin's 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").
51. The harm is particularly acute given Mr. Lin's age (48 years old), his role as father to three U.S. citizen minor children, his status as primary breadwinner for his family, and the psychological trauma of indefinite detention after building a life in America for over decades.
52. Mr. Lin faces additional irreparable harm through the loss of employment that supports his family; the separation from his minor U.S. citizen children during critical developmental years; the inability to support his spouse; 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. Lin, 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. Lin from custody;
- B. Declare that Mr. Lin'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*;
- C. Enter a permanent injunction prohibiting Respondents from re-detaining Mr. Lin 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. Lin 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 24, 2026

Respectfully submitted,

s/ Thomas Evans

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VERIFICATION

I, Theodore N. Cox, counsel for Petitioner Fang Shu Lin, 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 24, 2026

Respectfully submitted,

/s/ Theodore N. Cox
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