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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 HONG GE,

11 Petitioner,

12 v.

13 WARDEN, *Imperial Regional Detention*
14 *Facility, et al.,*

15 Respondents.

Case No.: 26-cv-02213-JES-BJW

**RETURN TO PETITION FOR
WRIT OF HABEAS CORPUS**

1 **I. INTRODUCTION**

2 Petitioner Hong Ge filed a petition for writ of habeas corpus alleging she was
3 never served with an expedited removal order and that Respondents “cannot meet their
4 burden of establishing a significant likelihood of removal in the reasonably foreseeable
5 future.” ECF No. 1 at ¶ 25 (“No removal order—expedited or otherwise—has ever been
6 entered against her.”); ¶ 7.

7 However, Petitioner was served with a final expedited removal order that she
8 signed and acknowledged receipt of,¹ she has no currently pending immigration
9 proceedings,² the Embassy for the People’s Republic of China provided the United
10 States government with a travel document for Petitioner on April 1, 2026,³ and
11 Immigration and Customs Enforcement has a flight scheduled for Petitioner’s removal
12 which it hopes to effectuate on April 17, 2026,⁴ if the Court’s stay of removal is lifted
13 before then. For the reasons set forth below, Respondents respectfully request that the
14 Court deny Petitioner’s requests for relief on the merits and issue an order clarifying
15 whether Respondent’s may effectuate Petitioner’s removal on April 17, 2026.

16 **II. FACTUAL BACKGROUND**

17 Petitioner is a native and citizen of the People’s Republic of China. On May 2,
18 2025, Petitioner was arrested at the San Ysidro, California Port of Entry for attempting
19 to enter the United States illegally while providing a fraudulent United States Passport
20 as her entry document. *See* Exhibit 1 (Form I-213) at 2. Petitioner was charged as a
21 Material Witness and held in criminal custody for the United States case against the
22 principal of her smuggling attempt. *Id.*

23 On April 30, 2025, Petitioner was transferred into immigration custody and
24 served with a Notice and Order of Expedited Removal which she signed and
25

26 ¹ *See* Exhibit 2 (Notice of Expedited Removal Order) at 1, 3.

27 ² *See* Exhibit 3 (BIA and Ninth Circuit Court of Appeals Case Search under A240-285-
141).

28 ³ *See* Declaration of Deportation Officer Lizbeth Bribiesca (Bribiesca Decl.) ¶ 14.

⁴ *Id.* at ¶¶ 15-16.

1 acknowledged receipt of. *See* Exhibit 2 at 1, 3. Petitioner did not claim fear of return to
2 China. Bribiesca Decl. ¶ 6. Three days after entering ICE custody, the agency initiated
3 the process of obtaining a travel document. *Id.* at ¶ 7. On July 1, 2025, ICE was advised
4 that the travel document request was pending. *Id.* at ¶ 8. On September 19, 2025, ICE
5 requested an update regarding the pending travel document request. *Id.* at ¶ 9. On
6 December 26, 2025, ICE received a response that the travel document request remained
7 pending. *Id.* at ¶ 10. On January 19, 2026, ICE was advised that the travel document
8 request was pending nationality and identification verification from China. *Id.* at ¶ 11.
9 On March 4, 2026, ICE was advised that Petitioner’s nationality and identification had
10 been verified. *Id.* at ¶ 12. On March 31, 2026, ICE was advised the travel document was
11 being shipped. *Id.* at ¶ 13. On April 1, 2026, ICE received a travel document titled
12 “Permit for Entry” from the Embassy of the People’s Republic of China for Petitioner
13 Hong Ge. *Id.* at ¶ 14. On April 7, 2026, ICE booked a removal flight for Petitioner and
14 she is currently scheduled to be removed from the United States on April 17, 2026, if
15 the Court’s order staying removal is lifted before then. *Id.* at ¶¶ 15-16.

16 III. ARGUMENT

17 An alien ordered removed must be detained for ninety (90) days pending the
18 government’s efforts to secure the alien’s removal through negotiations with foreign
19 governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General “shall detain” the alien
20 during the 90-day removal period). The statute “limits an alien’s post-removal detention
21 to a period reasonably necessary to bring about the alien’s removal from the United
22 States” and does not permit “indefinite detention.” *Zadvydas v. Davis*, 533 U.S. 678,
23 689 (2001). The Supreme Court has held that a six-month period of post-removal
24 detention constitutes a “presumptively reasonable period of detention.” *Id.* at 683.
25 Release is not mandated after the expiration of the six-month period unless “there is no
26 significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701.

27 In *Zadvydas*, the Supreme Court held: “[T]he habeas court must ask whether the
28 detention in question exceeds a period reasonably necessary to secure removal. It should

1 measure reasonableness primarily in terms of the statute’s basic purpose, namely,
2 *assuring the alien’s presence at the moment of removal.*” *Id.* at 699 (emphasis added).
3 In so holding, the Court recognized that detention is presumptively reasonable pending
4 efforts to obtain travel documents, because the noncitizen’s assistance is needed to
5 obtain the travel documents, and a noncitizen who is subject to an imminent, executable
6 warrant of removal becomes a significant flight risk, especially if he or she is made
7 aware that removal is imminent.

8 The Supreme Court also held that the detention could exceed six months: “This
9 6-month presumption, of course, does not mean that every alien not removed must be
10 released after six months. To the contrary, an alien may be held in confinement until it
11 has been determined that there is no significant likelihood of removal in the reasonably
12 foreseeable future.” *Id.* at 701. “After this 6-month period, once the alien provides good
13 reason to believe that there is no significant likelihood of removal in the reasonably
14 foreseeable future, the Government must respond with evidence sufficient to rebut that
15 showing and that the noncitizen has the initial burden of proving that removal is not
16 significantly likely.” *Id.*

17 Petitioner is subject to a final, executable Expedited Removal Order, which
18 means that she has no right to remain in the United States. ICE has long-standing
19 authority to remove noncitizens and resettle them in third countries where removal to
20 the country designated in the final order is “impracticable, inadvisable, or impossible.”
21 8 U.S.C. § 1231(b)(2)(E)(vii); *see also* 8 U.S.C. § 1231(b) (outlining framework for
22 designation). Accordingly, noncitizens who have received protection against removal
23 to the designated country (either withholding of removal under 8 U.S.C. § 1231(b)(3)
24 or CAT protection), may be removed and resettled in third countries.

25 Section 1231(b)(2)(E) provides that the Secretary of Homeland Security shall
26 remove the noncitizen to any of the following countries:

- 27 (i) The country from which the alien was admitted to the United States.
28 (ii) The country in which is located the foreign port from which the alien
left for the United States or for a foreign territory contiguous to the

- 1 United States.
- 2 (iii) A country in which the alien resided before the alien entered the
- 3 country from which the alien entered the United States.
- 4 (iv) The country in which the alien was born.
- 5 (v) The country that had sovereignty over the alien's birthplace when
- 6 the alien was born.
- 7 (vi) The country in which the alien's birthplace is located when the alien
- 8 is ordered removed.
- 9 (vii) If impracticable, inadvisable, or impossible to remove the alien to
- 10 each country described in a previous clause of this subparagraph,
- 11 another country whose government will accept the alien into that
- 12 country.

13 *Id.* Accordingly, if the Secretary of Homeland Security is unable to remove a noncitizen
14 to a country of designation or an alternative country per Section 1231(b)(2)(D), the
15 Secretary may, in her discretion, remove the noncitizen to any country listed in
16 subparagraphs (E)(i) through (E)(vi). Here, however, third country removal is not
17 necessary as Petitioner never claimed fear of return to China and she is subject to an
18 executable order of expedited removal. *See* Exhibit 1; Decl. at ¶ 7.

19 The Petition should be denied on the merits as there is a significant likelihood of
20 removal in the reasonably foreseeable future—three days—with Petitioner's removal
21 flight currently scheduled for April 17, 2026. The Ninth Circuit has made clear,
22 “*Zadvyd*das places the burden on the *alien* to show, after a detention period of six months,
23 that there is ‘good reason to believe that there is no significant likelihood of removal in
24 the reasonably foreseeable future.’” *Pelich v. INS*, 329 F. 3d 1057, 1059 (9th Cir. 2003)
25 (quoting *Zadvyd*das, 533 U.S. at 701) (emphasis added); *see also Xi v. INS*, 298 F.3d
26 832, 840 (9th Cir. 2003). With removal imminent, the Court should deny Petitioner's
27 claims for relief.

28 To the extent Petitioner is challenging ICE's decision to detain her for the
purpose of removal, such a challenge is precluded by statute. *See* 8 U.S.C. § 1252(g)
 (“Except as provided in this section and *notwithstanding any other provision of law*
(statutory or nonstatutory), *including section 2241 of Title 28, or any other habeas*

1 *corpus provision*, and sections 1361 and 1651 of such title, no court shall have
2 jurisdiction to hear any cause or claim by or on behalf of any alien arising from the
3 decision or action by the Attorney General to commence proceedings, adjudicate cases,
4 or *execute removal orders* against any alien under this chapter.”) (emphasis added); *see*
5 *also Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999) (“There
6 was good reason for Congress to focus special attention upon, and make special
7 provision for, judicial review of the Attorney General’s discrete acts of “commenc[ing]
8 proceedings, adjudicat[ing] cases, [and] execut[ing] removal orders”—which represent
9 the initiation or prosecution of various stages in the deportation process.”); *Limpin v.*
10 *United States*, 828 Fed. App’x 429 (9th Cir. 2020) (holding district court properly
11 dismissed under 8 U.S.C. § 1252(g) “because claims stemming from the decision to
12 arrest and detain an alien at the commencement of removal proceedings are not within
13 any court’s jurisdiction”).

14 **IV. CONCLUSION**

15 For the foregoing reasons, the Court should deny Petitioner’s request for relief.

16 DATED: April 15, 2026

17 Respectfully submitted,

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19 United States Attorney

20 *s/ Hunter V. Norton*
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22 Assistant United States Attorney
23 Attorney for Respondents
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