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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10

11 HAOXU YIN,

12 Petitioner,

13 v.

14 MARKWAYNE MULLIN, Secretary of
15 Homeland Security; *et al.*,

16 Respondents.
17

Case No.: 26-cv-02668-GPC-GC

**RESPONSE IN OPPOSITION TO
AMENDED HABEAS PETITION**

18 **I. INTRODUCTION**

19 Haoxu Yin ("Petitioner") has filed a petition for a Writ of Habeas Corpus
20 pursuant to 28 U.S.C. § 2241. Petitioner requests the Court to order his immediate
21 release from custody. Petitioner's request is not ripe for review. Respondents therefore
22 request the Court deny the habeas petition.
23

24 **II. BACKGROUND**

25 Petitioner is a citizen and national of the People's Republic of China. Exhibit 1¹
26 (Record of Deportable/Inadmissible Alien). Petitioner originally entered the United
27

28 ¹The attached exhibits are true copies, with redactions of private information, of documents obtained from ICE counsel

1 States on or about January 26, 2025. *See id.*; Declaration of Detention Officer Adrian
2 Gonzalez (“Gonzalez Decl.”) at ¶ 4. On May 15, 2025, Petitioner was interviewed by an
3 asylum officer, received a positive credible fear assessment, and was issued a Notice to
4 Appear (NTA). Gonzalez Decl. ¶ 5; Exhibit 2. On July 22, 2025, an immigration judge
5 found Petitioner inadmissible under § 212(a)(6)(A)(i) of the Immigration and
6 Nationality Act (INA) as an alien present in the United States who has not been admitted
7 or paroled or who arrived at any time or place other than as designated by the Attorney
8 General. Gonzalez Decl. ¶ 6.

9 On November 4, 2025, an immigration judge denied all Petitioner’s applications
10 for relief of withholding of removal and ordered Petitioner removed to China. Gonzalez
11 Decl. at ¶ 7; Exhibit 3 (Immigration Judge Removal Order). Neither the Petitioner nor
12 the government filed an appeal. Gonzalez Decl. at ¶ 7. On December 5, 2025, the
13 removal order became final. *Id.*

14 Since Petitioner’s removal order became final, ICE has been actively working to
15 remove Petitioner to China. Gonzalez Decl. at ¶ 9. On February 18, 2026, ICE submitted
16 a travel document request for Petitioner’s removal and that request is still pending. *Id.*
17 at ¶¶ 10-11. ICE is confident Petitioner’s removal will occur in the near future once
18 China’s immigration officials verify Petitioner’s identity and inform ICE they are ready
19 to issue Petitioner’s travel document. *Id.* at ¶ 12. While ICE estimates this process takes
20 several months, there is no other reason Petitioner’s removal to China would be
21 prevented or delayed. *Id.* at ¶¶ 12-13.

22 III. ARGUMENT

23 A. Petitioner’s Detention is Lawful and He Has Not Established That There 24 is No Significant Likelihood of Removal in the Reasonably Foreseeable 25 Future

26 Petitioner’s petition should be denied because he is properly detained under 8
27 U.S.C. § 1231(a). Respondents are working expeditiously to acquire the necessary
28 travel document in order to effectuate Petitioner’s removal to China. Petitioner has not
met his burden of rebutting the presumptively reasonable period of detention. “Section

241(a) of the Immigration and Nationality Act (INA), codified at 8 U.S.C. § 1231(a), authorizes the detention of noncitizens who have been ordered removed from the United States.” *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 575 (2022). The INA provides that an alien ordered removed must be detained for 90 days pending the government’s efforts to secure the alien’s removal through negotiations with foreign governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General “shall detain” the alien during the 90-day removal period under subsection (a)(1)).

Section 1231(a)(6) “authorizes further detention if the Government fails to remove the alien during those 90 days.” *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001). Detention authority under this statute, however, is limited to “a period reasonably necessary to bring about the alien’s removal from the United States” and “does not permit indefinite detention.” *Id.* at 689. The Supreme Court has held that a six-month period of post-removal detention constitutes a “presumptively reasonable period of detention.” *Id.* at 701. Release is not mandated after the expiration of the six-month period unless “there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.*

If an individual ordered removed “is not removed to his or her country of choice or citizenship, he or she shall be removed to any of the following countries” listed in 8 U.S.C. § 1231(b)(2)(E). *Hadera v. Gonzales*, 494 F.3d 1154, 1156–57 (9th Cir. 2007). The enumerated countries are:

- (i) The country from which the alien was admitted to the United States.
- (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 United States.
- (iii) A country in which the alien resided before the alien entered the country from which the alien entered the United States.
- (iv) The country in which the alien was born.
- (v) The country that had sovereignty over the alien's birthplace when the alien was born.
- (vi) The country in which the alien’s birthplace is located when the alien is ordered removed.

1 *Id.* (quoting § 1231(b)(2)(E)(i)–(vi)). “If removal to any of these countries is
2 ‘impracticable, inadvisable, or impossible,’ the individual shall be removed to ‘another
3 country whose government will accept the alien into that country.’” *Id.* (quoting
4 § 1231(b)(2)(E)(vii)).

5 Here, Petitioner was ordered removed to China—his country of birth and
6 citizenship. Apart from China, there appears to be no other country that would meet the
7 definitions under subsections (i) through (vi), and Petitioner has made no showing to
8 the contrary. *See Rokhfirooz v. Larose*, No. 25-CV-2053-RSH-VET, 2025 WL
9 2646165, at *2 (S.D. Cal. Sept. 15, 2025) (“A prisoner bears the burden of
10 demonstrating that ‘he is in custody in violation of the Constitution or laws or treaties
11 of the United States.’”) (quoting 28 U.S.C. § 2241(c)(3), brackets omitted).
12 Nonetheless, there is no evidence ICE is attempting to remove Petitioner to a country
13 other than China and it is premature and speculative for Petitioner to state otherwise.

14 Here, Petitioner’s removal order became final on December 5, 2025, when both
15 Petitioner and the government opted not to appeal the immigration judge’s decision.
16 *See Gonzalez Decl.* at ¶ 8; 8 C.F.R. § 1241.1. Petitioner has thus been in post-final order
17 detention, under 8 U.S.C. § 1231(a), for 4 months and 26 days, which is within the six
18 months of post-removal confinement that *Zadvydas* found to be presumptively
19 reasonable. *See Zadvydas*, 533 U.S. at 700–01. Petitioner claims that “six months of
20 effort have borne no fruit.” ECF No. 1 at 10. However, the record shows, as of February
21 18, 2026, ICE is working expeditiously to acquire Petitioner’s travel document from
22 China. *Gonzalez Decl.* at ¶¶ 10–12. Therefore, contrary to Petitioner’s assertions, ICE
23 is working diligently to effect Petitioner’s removal. *See also Zadvydas*, 533 U.S. at 700
24 (instructing district courts “to listen with care when the Government’s foreign policy
25 judgments, including, for example, the status of repatriation negotiations, are at issue,
26 and to grant the Government appropriate leeway when its judgments rest upon foreign
27 policy expertise.”).

1 On this record, Petitioner cannot show that there is no significant likelihood of
2 removal in the reasonably foreseeable future, and it would be premature to reach that
3 conclusion before permitting ICE an opportunity to complete its diligent efforts to affect
4 his removal. “[E]vidence of progress, albeit slow progress, in negotiating a petitioner’s
5 repatriation will satisfy *Zadvydas* until the petitioner’s detention grows unreasonably
6 lengthy.” *Kim v. Ashcroft*, Case No. 02cv1524-J (LAB) slip op., at 7 (S.D. Cal. June 2,
7 2003) (finding that petitioner’s one-year and four-month detention does not violate
8 *Zadvydas* given respondent’s production of evidence showing governments’
9 negotiations are in progress and there is reason to believe that removal is likely in the
10 foreseeable future) [Exs. 26-34.]; *see also Sereke v. DHS*, Case No. 19cv1250 WQH
11 AGS, ECF No. 5 at *5 (S.D. Cal. Aug. 15, 2019) (“the record at this stage in the
12 litigation does not support a finding that there is no significant likelihood of Petitioner’s
13 removal in the reasonably foreseeable future.”) [Exs. 35-39.]; *Marquez v. Wolf*, Case
14 No. 20-cv-1769-WQH-BLM, 2020 WL 6044080 at *3 (denying petition because
15 “Respondents have set forth evidence that demonstrates progress and the reasons for
16 the delay in Petitioner’s removal”).

17 To the extent Petitioner is challenging ICE’s decision to detain him for the
18 purpose of removal, such a challenge is precluded by statute. *See* 8 U.S.C. § 1252(g)
19 (“Except as provided in this section and *notwithstanding any other provision of law*
20 (statutory or nonstatutory), *including section 2241 of Title 28, or any other habeas*
21 *corpus provision*, . . . no court shall have jurisdiction to hear any cause or claim by or
22 on behalf of any alien arising from the decision or action by the Attorney General to
23 commence proceedings, adjudicate cases, or *execute removal orders* against any alien
24 under this chapter.”) (emphasis added); *see also Reno v. Am.-Arab Anti-Discrimination*
25 *Comm.*, 525 U.S. 471, 483 (1999) (“There was good reason for Congress to focus
26 special attention upon, and make special provision for, judicial review of the Attorney
27 General’s discrete acts of commencing proceedings, adjudicating cases, and executing
28 removal orders—which represent the initiation or prosecution of various stages in the

1 deportation process.”) (simplified); *Limpin v. United States*, 828 Fed. App’x 429 (9th
2 Cir. 2020) (holding that the district court properly dismissed under 8 U.S.C. § 1252(g)
3 “because claims stemming from the decision to arrest and detain an alien at the
4 commencement of removal proceedings are not within any court’s jurisdiction”).

5 **IV. CONCLUSION**

6 For the reasons stated herein, Respondents respectfully request that the Court
7 deny the relief requested in the petition.

8 DATED: May 1, 2026

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