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

12 HUANG ZHENJING,

13 Petitioner,

14 v.

15 MARKWAYNE MULLIN, Secretary of
16 the Department of Homeland Security,
17 TODD BLANCHE, Acting Attorney
18 General, TODD M. LYONS, Acting
19 Director, Immigration and Customs
20 Enforcement, JESUS ROCHA, Acting
21 Field Office Director, San Diego Field
22 Office, JEREMY CASEY, Warden at
23 Imperial Regional Detention Center,

24 Respondents.

Case No.:

'26CV3237 BJC MSB

**Petition for Writ
of
Habeas Corpus**

**[Civil Immigration Habeas Petition
Under 28 U.S.C. § 2241]**

25
26
27 ¹ Federal Defenders of San Diego, Inc., is filing with provisional appointment
28 under Chief Judge Order No. 134. Mr. Zhenjing's financial eligibility for
representation is included in this sworn statement.

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1 **I. Introduction**

2 Huang Zhenjing is a Chinese citizen who has been detained since he arrived
3 at the border seeking asylum on January 1, 2025. He lost his case and was ordered
4 removed to China on December 2, 2025. ICE has made no apparent progress in
5 removing him there. Mr. Zhenjing must therefore be released because “there is no
6 significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*
7 *v. Davis*, 533 U.S. 678 (2001). Further, if ICE decides to try to remove him to a
8 third country, ICE threatens to do so in violation of the Fifth Amendment’s Due
9 Process Clause.

10 Given the government’s failure to receive a travel document yet—
11 combined with the government’s naming of China as one of the most
12 uncooperative countries in the world—there is not a significant likelihood of
13 removal in the reasonably foreseeable future. This is a common problem for
14 Chinese nationals ordered removed. *See, e.g., Huan v. Noem*, No. 26-cv-512-JLS,
15 2026 WL 412609 (S.D. Cal. Feb. 13, 2026) (granting *Zadvydas* petitions as to
16 Chinese nationals ordered removed who had been held for nine, seven, and five
17 respective months post-order of removal, and as to whom ICE had pending travel
18 document requests with headquarters); *Xiao v. Noem*, No. 26-cv-474-LL-BJW,
19 ECF No. 7 (same as to Chinese national ordered removed who had been held for
20 six months, as to whom ICE had a pending identification request with its
21 headquarters); *see also Yang v. Kaiser*, No., 2025 WL 2791778, *1–*2, *6 (E.D.
22 Cal. Aug. 20, 2025) (granting temporary restraining order and ordering release of
23 re-detained Chinese national as to whom ICE had not been able to get a travel
24 document for seven years).

25 As other courts have done, this Court should grant the habeas petition and
26 order Mr. Zhenjing released.

1 **II. Statement of Facts**

2 **A. Mr. Zhenjing was ordered removed on December 2, 2025.**

3 Mr. Zhenjing, a Chinese citizen, came to the United States border to seek
4 asylum on January 1, 2025. Exhibit A, Declaration of Huang Zhenjing, at ¶ 1. He
5 has been in detention since. He is currently at the Imperial Regional Detention
6 Center. *Id.* ¶ 2.

7 On December 2, 2025, an immigration judge denied Mr. Zhenjing's
8 applications and ordered him removed to China. Exhibit B. The judge likely
9 reserved appeal on Mr. Zhenjing's behalf. Mr. Zhenjing did not appeal, so the
10 order likely became administratively final on January 2, 2025. Exhibit B; Exhibit
11 A ¶ 3. (If Mr. Zhenjing immediately waived appeal, then the order would have
12 become administratively final on December 2, 2025.)

13 Since then, Mr. Zhenjing has cooperated with ICE. He reports, "Since I've
14 been ordered deported, ICE officers have had me sign documents every month. I
15 sign." Exhibit A ¶ 5. The last time he was able to talk to an ICE officer, last
16 month, they told him that "they are trying to send [him] back to China, but [his]
17 travel document request is still pending." *Id.* ¶ 6.

18 **B. It is often challenging for the United States to deport people to**
19 **China.**

20 China has been "consistently categorized as uncooperative" in accepting its
21 deportees back from the United States. Exhibit C, Office of Inspector General of
22 DHS, *ICE Faces Barriers in Timely Repatriation of Detained Aliens*, at 19 n.32,
23 29 (March 11, 2019). As a result, as of November 2024, there were nearly 38,000
24 Chinese citizens with orders of deportation living within the United States who
25 could not be removed to China. Exhibit D (Memorandum from ICE ERO,
26 November 2024).

27 In the year for which data are most recently publicly available, fiscal year
28 2022, only 264 Chinese citizens were deported from the U.S. to China. *See* DHS,

1 2022 Yearbook of Immigration Statistics.²

2 **C. The government is carrying out deportations to third countries**
3 **without providing sufficient notice and opportunity to be heard.**

4 If ICE continues to be unable to remove Mr. Zhenjing to China, ICE may
5 try to remove him to a third country. If so, Mr. Zhenjing is in grave danger of
6 removal without due process.

7 Last summer, ICE began removing more immigrants it could not previously
8 remove to third countries. ICE implemented new nationwide policies to do so. On
9 July 9, 2025, ICE rescinded previous guidance meant to give immigrants a
10 “‘meaningful opportunity’ to assert claims for protection under the Convention
11 Against Torture before initiating removal to a third country.” Exhibit E (July 9,
12 2025, ICE third-country removal guidance).

13 Now, ICE may remove an immigrant to a third country without any notice.
14 It may do so if, in the sole view of the State Department, the United States has
15 received “credible” “assurances” from that country that deportees will not be
16 persecuted or tortured. *Id.* at 1.

17 If a country fails to credibly promise not to persecute or torture releasees,
18 ICE may remove immigrants with only 24 hours’ notice. “In exigent
19 circumstances,” a removal may take place in six hours, “as long as the alien is
20 provided reasonably means and opportunity to speak with an attorney prior to the
21 removal.” Exhibit E.

22 Regardless of how much notice noncitizens receive of the third country ICE
23 intends to deport them to, ICE “will not affirmatively ask whether the alien is
24 afraid of being removed to the country of removal.” *Id.* (emphasis original).
25 If the noncitizen “does not affirmatively state a fear of persecution or torture if
26 removed to the country of removal listed on the Notice of Removal within 24
27

28 ² Available at <https://ohss.dhs.gov/topics/immigration/yearbook>.

1 hours, [ICE] may proceed with removal to the country identified on the notice.”

2 *Id.* at 2.

3 Under this policy, the United States has deported hundreds of noncitizens to
4 prisons and military camps in Rwanda, Eswatini, South Sudan, Ghana, and
5 Equatorial Guinea, among other countries. Those who have not been returned to
6 their home countries are still detained, in countries to which they have never been,
7 without charge. Eduardo Cuevas & Jennifer Borresen, *How Trump’s DHS departs*
8 *people to prisons in countries they don’t know*, USA Today (May 4, 2026)³;
9 Nokukhanya Musi & Gerald Imray, *10 more deportees from the US arrive in the*
10 *African nation of Eswatini*, Associated Press (Oct. 6, 2025)⁴; Frank Chothia,
11 *Eswatini confirms receiving \$5.1m from the US for accepting deportees*, BBC
12 (Nov. 18, 2025)⁵; Nick Alexandra, *The Toll of Trump’s African Deportation*
13 *Agreements*, New Lines Magazine (Dec. 10, 2025); .⁶ Others have been returned
14 to their home countries, even though they had received orders protecting them
15 against their return under the Convention Against Torture. *See* Third Country
16 Deportation Watch, *Ghana*, Refugees International & Human Rights First (Dec.
17 5, 2025);⁷ Sheriff Bojang Jr., *Equatorial Guinea sends eight of Trump’s nine*
18 *deportees home, braces for new arrivals*, The Africa Report (Jan. 16, 2026).⁸

21
22 ³ Available at <https://www.usatoday.com/story/news/nation/2026/04/29/trump-third-country-removal-eswatini-dhs/89609025007/>.

23 ⁴ Available at <https://apnews.com/article/eswatini-deportees-us-trump-immigration-74b2f942003a80a21b33084a4109a0d2>.

24 ⁵ Available at <https://www.bbc.com/news/articles/cq50vjdx368o>.

25 ⁶ Available at <https://newlinesmag.com/reportage/the-toll-of-trumps-african-deportation-agreements/>.

26 ⁷ Available at <https://www.thirdcountrydeportationwatch.org/ghana>.

27 ⁸ Available at <https://www.theafricareport.com/405291/equatorial-guinea-sends-eight-of-trumps-nine-deportees-home-braces-for-new-arrivals/>.

1 **III. This Court has jurisdiction.**

2 This Court has jurisdiction to consider Mr. Zhenjing’s claims of unlawful
3 detention under 28 U.S.C. § 2241.

4 The government’s recent argument otherwise, that 8 U.S.C. § 1252(g) strips
5 this Court of jurisdiction, lacks merit. Its argument “would eliminate judicial
6 review of immigration [detainees’] claims of unlawful detention . . . inconsistent
7 with *Jennings v. Rodriguez* and the history of judicial review of the detention of
8 noncitizens under 28 U.S.C. § 2241.” *Phan v. Noem*, No. 25-cv-2422-RBM, 2025
9 WL 2898977, *3 (S.D. Cal. Oct. 10, 2025) (collecting cases agreeing on this
10 jurisdictional point); *accord Sun v. Noem*, No. 25-cv-2433-CAB, 2025 WL
11 2800037, *2 (S.D. Cal. Sept. 30, 2025).

12 This Court also has jurisdiction to consider the procedures to which Mr.
13 Zhenjing is entitled in removal proceedings. *See A.A.R.P. v. Trump*, 605 U.S. 91,
14 94–95 (2025) (confirming jurisdiction to consider due process claims in habeas
15 proceedings for noncitizens threatened with Alien Enemies Act deportations).

16 **IV. Claim One: Mr. Zhenjing’s detention violates *Zadvydas* and 8 U.S.C.
17 § 1231.**

18 **A. Detention is mandatory for 90 days and allowable afterward only
19 if there is a significant likelihood of removal in the reasonably
20 foreseeable future.**

21 Mr. Zhenjing’s indefinite detention violates the statute authorizing
22 detention, 8 U.S.C. § 1231(a)(6).

23 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered
24 a problem affecting people like Mr. Zhenjing: Federal law requires ICE to detain
25 an immigrant during the “removal period,” which typically spans the first 90 days
26 after the immigrant is ordered removed, 8 U.S.C. § 1231(a)(1)–(2). After that 90-
27 day removal period expires, detention becomes discretionary—ICE may detain
28 the immigrant while continuing to try to remove them. *Id.* § 1231(a)(6).

1 If federal law were understood to allow for “indefinite, perhaps permanent,
2 detention,” it would pose “a serious constitutional threat.” *Zadvydas*, 533 U.S. at
3 699. In *Zadvydas*, the Supreme Court avoided the constitutional concern by
4 interpreting § 1231(a)(6) to incorporate implicit limits. *Id.* at 689.

5 *Zadvydas* held that detention is “presumptively reasonable” for six months.
6 *Id.* at 701. This presumption is “rebuttable.” *Zavvar v. Scott*, No. 25-2104-TDC,
7 2025 WL 2592543, *5–*6 (D. Md. Sept. 8, 2025). Mr. Zhenjing can already rebut
8 the presumption in this case, even before six months have passed.

9 Regardless, it will soon be six months since his removal order became final.
10 After six months, courts use a burden-shifting framework. The petitioner must
11 make a prima facie case for relief: He must prove that there is “good reason to
12 believe that there is no significant likelihood of removal in the reasonably
13 foreseeable future.” *Zadvydas*, 533 U.S. at 689. If he does so, the burden shifts to
14 “the Government [to] respond with evidence sufficient to rebut that showing.” *Id.*
15 Ultimately, then, the burden of proof rests with the government: The government
16 must prove that there is a “significant likelihood of removal in the reasonably
17 foreseeable future,” or the immigrant must be released. *Id.*

18 Good faith is beside the point. “[U]nder *Zadvydas*, the reasonableness of
19 Petitioner's detention does not turn on the degree of the government's good faith
20 efforts. Indeed, the *Zadvydas* court explicitly rejected such a standard. Rather, the
21 reasonableness of Petitioner's detention turns on whether and to what extent the
22 government's efforts are likely to bear fruit.” *Hassoun v. Sessions*, No. 18-CV-
23 586-FPG, 2019 WL 78984, at *5 (W.D.N.Y. Jan. 2, 2019). “[T]he Government is
24 required to demonstrate the likelihood of not only the *existence* of untapped
25 possibilities, but also of a probability of success in such possibilities.” *Elashi v.*
26 *Sabol*, 714 F. Supp. 2d 502, 506 (M.D. Pa. 2010).

27 Using this framework, Mr. Zhenjing can make all the threshold showings
28 needed to shift the burden to the government—or rebut the presumption and prove

1 his petition outright before then.

2 **B. Mr. Zhenjing has been ordered deported since December 2,**
 3 **2025, and the rebuttable presumption will expire on June or**
 4 **July 2.**

5 The *Zadvydas* rebuttable presumption period lasts for “*six months* after a
 6 final order of removal—that is, *three months* after the statutory removal period
 7 has ended.” *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th Cir. 2001).

8 Mr. Zhenjing was ordered removed on December 2, 2025. Exhibit B. He
 9 did not appeal, but assuming the immigration judge reserved appeal on his behalf,
 10 his order likely became administratively final on January 2, 2026. *Id.*

11 Accordingly, his 90-day removal period likely began then. 8 U.S.C.
 12 § 1231(a)(1)(B). The *Zadvydas* rebuttable presumption period will likely expire
 13 on July 2, 2026. Mr. Zhenjing can prove his detention is no longer authorized and
 14 rebut the presumption before then.

15 **C. There is no significant likelihood of Mr. Zhenjing’s removal in**
 16 **the reasonably foreseeable future.**

17 The *Zadvydas* standard can be broken down into two parts relevant here:

18 “**No significant likelihood of removal.**” This component focuses on
 19 whether Mr. Zhenjing will likely be removed: Continued detention is permissible
 20 only if it is “significant[ly] like[ly]” that ICE will be able to remove him.
 21 *Zadvydas*, 533 U.S. at 701. This inquiry targets “not only the *existence* of
 22 untapped possibilities, but also [the] probability of *success* in such possibilities.”
 23 *Elashi v. Sabol*, 714 F. Supp. 2d 502, 506 (M.D. Pa. 2010) (second emphasis
 24 added). In other words, even if “there remains *some* possibility of removal,” a
 25 petitioner can still meet its burden if there is good reason to believe that
 26 successful removal is not significantly likely. *Kacanic v. Elwood*, No. CIV.A. 02-
 27 8019, 2002 WL 31520362, at *4 (E.D. Pa. Nov. 8, 2002) (emphasis added).

28 “**In the reasonably foreseeable future.**” This component of the test
 focuses on when Mr. Zhenjing will likely be removed: Continued detention is

1 permissible only if removal is likely to happen “in the reasonably foreseeable
2 future.” *Zadvydas*, 533 U.S. at 701. This inquiry places a time limit on ICE’s
3 removal efforts. If the Court has “no idea of when it might reasonably expect
4 [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal
5 is likely to occur—or even that it might occur—in the reasonably foreseeable
6 future.” *Palma v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at *3
7 (S.D. Miss. July 7, 2020), *report and recommendation adopted*, 2020 WL
8 4876859 (S.D. Miss. Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d
9 93, 102 (W.D.N.Y. 2019)). Thus, even if this Court concludes that Mr. Zhenjing
10 “would *eventually* receive” a travel document, he can still meet his burden by
11 giving good reason to anticipate sufficiently lengthy delays. *Younes v. Lynch*,
12 2016 WL 6679830, at *2 (E.D. Mich. Nov. 14, 2016).

13 Mr. Zhenjing has good reason to think that ICE cannot remove him—or,
14 alternatively, can rebut the presumption and prove that outright.

15 First, six months of effort have borne no fruit. ICE has apparently tried to
16 request travel documents, and Mr. Zhenjing has done everything in his power to
17 aid ICE. Exhibit A ¶¶ 5–6. Yet six months later, there is no indication that China
18 has agreed to issue a travel document.

19 Second, there is a good explanation for this state of affairs: ICE has named
20 China one of the top 15 most uncooperative countries in the world, due to their
21 “[l]ack of cooperation . . . in accepting the return of their nationals.” Exhibit C at
22 8. Tellingly, there are nearly 38,000 Chinese nationals with final removal orders
23 living in the United States. *Id.* at 3.

24 Because China is notoriously uncooperative, and because ICE has made no
25 progress in persuading China to accept Mr. Zhenjing, he has met his burden.
26
27
28

1 **D. The remedy for a *Zadvydas* violation is immediate release on**
2 **conditions set by ICE under § 1231(a)(3).**

3 As noted earlier, *Zadvydas* interpreted 8 U.S.C. § 1231(a)(6), which
4 permits ICE to detain immigrants past the removal period if certain conditions are
5 met. 533 U.S. at 698. Applying the constitutional avoidance canon, the Supreme
6 Court held that immigrants may no longer be held under 8 U.S.C. § 1231(a)(6),
7 but must be released when removal proves unforeseeable. *Id.* at 700–01.

8 Section 1231(a)(6) dictates what happens next: “An alien ordered removed
9 . . . if released, shall be subject to the terms of supervision in paragraph (3).”
10 Paragraph (3) states that “[i]f the alien does not leave or is not removed within the
11 removal period, the alien, pending removal, shall be subject to supervision under
12 regulations prescribed by the Attorney General,” including several conditions that
13 must be imposed. 8 U.S.C. § 1231(a)(3). The Attorney General has delegated
14 authority to officials within ICE. *See* 8 C.F.R. § 241.5(a).

15 Thus, an immigrant released from detention under § 1231(a)(6) as
16 interpreted in *Zadvydas* is subject to conditions set by ICE under § 1231(a)(3).

17 **V. Claim 2: ICE may not remove Mr. Zhenjing to a third country without**
18 **adequate notice and an opportunity to be heard.**

19 Because there is no current likelihood that Mr. Zhenjing will be removed to
20 China, ICE might instead try to remove Mr. Zhenjing to a third country. If so, it
21 would do so under a policy that violates the Fifth Amendment, the Convention
22 Against Torture, and implementing regulations.

23 **A. Due process requires notice and an opportunity to be heard**
24 **before deportation to third countries.**

25 As noted, U.S. law enshrines mandatory protections against dangerous and
26 life-threatening removal decisions through the withholding of removal statute and
27 implementations of the Convention Against Torture. *See* 8 U.S.C.
28 § 1231(b)(3)(A); 8 C.F.R. §§ 208.16, 1208.16 (withholding); FARRA 2681-822
 (codified as 8 U.S.C. § 1231 note; 28 C.F.R. § 200.1; *id.* §§ 208.16-208.18,

1 1208.16-1208.18 (CAT).

2 Further, the third country removal statute involves a “four-stage inquiry set
3 forth in § 1231(b)(2).” *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1006 (W.D. Wash.
4 2019) (summarizing cases on this point); *see also Hadera v. Gonzales*, 494 F.3d
5 1154, 1156–59 (9th Cir. 2007) (explaining the stages). The first step is a
6 noncitizen designates “one country to which the noncitizen wants to be removed.”
7 *Aden*, 409 F. Supp. 3d at 1006. If the noncitizen does not designate a country, or
8 that country does not accept them, then “the IJ may at step two designate a
9 country of which the noncitizen is a subject, national, or citizen.” *Id.* at 1007. If
10 “no country satisfies” that requirement, the step three allows designation and
11 removal to a number of other countries. 8 U.S.C. § 1231(b)(2)(E). The
12 government can proceed to the fourth stage—removal to “another country”—only
13 if it determines it is “impracticable, inadvisable, or impossible to remove the alien
14 to each country described” in the third stage. 8 U.S.C. § 1231(b)(2)(E)(vii).

15 When pursuing a third-country removal subject to all the above constraints,
16 the government must provide notice of the third country removal and an
17 opportunity to respond. Due process requires “written notice of the country being
18 designated” and “the statutory basis for the designation, i.e., the applicable
19 subsection of § 1231(b)(2).” *Aden*, 409 F. Supp. 3d at 1019.

20 The government must also “ask the noncitizen whether he or she fears
21 persecution or harm upon removal to the designated country and memorialize in
22 writing the noncitizen’s response. This requirement ensures DHS will obtain the
23 necessary information from the noncitizen to comply with section 1231(b)(3) and
24 avoids [a dispute about what the officer and noncitizen said].” *Id.* “Failing to
25 notify individuals who are subject to deportation that they have the right to apply
26 for asylum in the United States and for withholding of deportation to the country
27 to which they will be deported violates both INS regulations and the constitutional
28 right to due process.” *Andriasian*, 180 F.3d at 1041.

1 If the noncitizen claims fear, measures must be taken to ensure that the
2 noncitizen can seek asylum, withholding, and relief under CAT before an
3 immigration judge in reopened removal proceedings. The amount and type of
4 notice must be “sufficient” to ensure that “given [a noncitizen’s] capacities and
5 circumstances, he would have a reasonable opportunity to raise and pursue his
6 claim for withholding of deportation.” *Aden*, 409 F. Supp. 3d at 1009
7 (citing *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976) and *Kossov v. I.N.S.*, 132
8 F.3d 405, 408 (7th Cir. 1998)).

9 “[L]ast minute” notice of the country of removal will not suffice,
10 *Andriasian*, 180 F.3d at 1041; accord *Najjar v. Lunch*, 630 Fed. App’x 724 (9th
11 Cir. 2016). For good reason: To have a meaningful opportunity to apply for fear-
12 based protection from removal, immigrants must have time to prepare and present
13 relevant arguments and evidence to the relevant agencies: first, the asylum officer
14 within USCIS, and, if that fails, the immigration judge. Telling a person where
15 they may be sent, without giving them a chance to look into country conditions
16 and the possibility they may be deported to yet another country, does not give
17 them a meaningful chance to determine whether and why they have a credible
18 fear.

19 **B. The July 6, 2025 memo’s removal policies violate the Fifth**
20 **Amendment, 8 U.S.C. § 1231, the Convention Against Torture,**
and implementing regulations.

21 The policies in the currently effective July 6, 2025, memo do not adhere to
22 these requirements. The operative memo “contravenes Ninth Circuit law.”
23 *Nguyen*, 796 F. Supp. 3d at 728 (explaining how the July 9, 2025 ICE memo
24 contravenes Ninth Circuit law on the process due to noncitizens in detail); *see*
25 *also Azzo v. Noem*, No. 25-cv-3122-RBM-BJW, 2025 WL 3535208, *6–*8 (S.D.
26 Cal. Dec. 10, 2025) (same).

27 Most critically, current policy does not require ICE to notify immigrants
28 that they have a right to apply for withholding of deportation from the new third

1 country to which they will be deported. Exhibit E (ICE ““will not affirmatively
2 ask whether the alien is afraid of being removed to the country of removal”).

3 This is in direct conflict with controlling Ninth Circuit law. “Failing to
4 notify individuals who are subject to deportation that they have the right to apply
5 . . . for withholding of deportation to the country to which they will be deported
6 violates both INS regulations and the constitutional right to due process,”
7 *Adriasian*, 180 F.3d at 1041.

8 Next, under the policy, ICE need not give immigrants *any* notice or *any*
9 opportunity to be heard before removing them to a country that—in the State
10 Department’s estimation—has provided “credible” “assurances” against
11 persecution and torture. Exhibit E. By depriving immigrants of any chance to
12 challenge the State Department’s view, this policy violates “[t]he essence of due
13 process,” “the requirement that a person in jeopardy of serious loss be given
14 notice of the case against him and opportunity to meet it.” *Mathews v. Eldridge*,
15 424 U.S. 319, 348 (1976) (cleaned up).

16 Then, even when the government has obtained no credible assurances
17 against persecution and torture, the government can still remove the person with
18 between 6 and 24 hours’ notice, depending on the circumstances. *See* Exhibit E.
19 Practically speaking, there is not nearly enough time for a detained person to
20 assess their risk in the third country and develop evidence to support any credible
21 fear—let alone a chance to file a motion to reopen with an IJ. An immigrant may
22 know nothing about a third country, like Eswatini or South Sudan, when they are
23 scheduled for removal there.

24 If given the opportunity to investigate conditions, immigrants may find
25 credible reasons to fear persecution or torture—like keeping deportees indefinitely
26 and without charge in solitary confinement, or extreme instability raising a high
27 likelihood of death—in many of the third countries that have agreed to removal of
28 thus far.

1 Immigrants may also have ample reason to challenge DHS's determination
2 under § 1231(b)(2)(E)(vii) that each other country with which the immigrant has
3 connections is "impracticable, inadvisable, or impossible to remove the alien to."
4 DHS must consider whether to remove him there before proceeding to the final
5 step of the third-country removal statute. *See Hadera*, 494 F.3d at 1156–59
6 (explaining this process).

7 Due process requires an adequate chance to identify and raise these threats
8 to health and life. Because "[f]ailing to notify individuals who are subject to
9 deportation that they have the right to apply . . . for withholding of deportation to
10 the country to which they will be deported violates both INS regulations and the
11 constitutional right to due process," *Adriasian*, 180 F.3d at 1041, this Court must
12 prohibit the government from removing Mr. Zhenjing without these due process
13 safeguards.

14 **VI. This Court must hold an evidentiary hearing on any disputed facts.**

15 Resolution of a prolonged-detention habeas petition may require an
16 evidentiary hearing. *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009).

17 Mr. Zhenjing hereby requests such a hearing on any material, disputed facts.

18 **VII. Prayer for relief**

19 For the foregoing reasons, Petitioner respectfully requests that this Court:

- 20 1. Order and enjoin Respondents to immediately release Petitioner from
21 custody;
- 22 2. Enjoin Respondents from re-detaining Petitioner under 8 U.S.C.
23 § 1231(a)(6) unless and until Respondents obtain a travel document
24 for his removal;
- 25 3. Enjoin Respondents from re-detaining Petitioner without first
26 following all procedures set forth in 8 C.F.R. §§ 241.4(l), 241.13(i),
27 and any other applicable statutory and regulatory procedures;
- 28 4. Enjoin Respondents from removing Petitioner unless they provide

the following process:

- a. written notice to both Petitioner and Petitioner's counsel in a language Petitioner can understand;
- b. a meaningful opportunity, and a minimum of ten days, to raise a fear-based claim for CAT protection prior to removal;
- c. if Petitioner is found to have demonstrated "reasonable fear" of removal to the country, Respondents must move to reopen Petitioner's immigration proceedings; and
- d. if Petitioner is not found to have demonstrated a "reasonable fear" of removal to the country, a meaningful opportunity, and a minimum of fifteen days, for the Petitioner to seek reopening of his immigration proceedings; and

5. Order all other relief that the Court deems just and proper.

Respectfully submitted,

Dated: May 26, 2026

/s/ Jessie Agatstein

JESSIE AGATSTEIN

Federal Defenders of San Diego, Inc.

Email: Jessie_Agatstein@fd.org

PROOF OF SERVICE

I, the undersigned, will cause the attached Petition for a Writ of Habeas Corpus to be emailed to the U.S. Attorney's Office for the Southern District of California at USACAS.Habeas2241@usdoj.gov when I receive the court-stamped copy.

Date: May 26, 2026

/s/ Jessie Agatstein
Jessie Agatstein

Exhibit A

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jessie_agatstein@fd.org

Attorneys for Mr. Zhenjing¹

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

HUANG ZHENJING,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary of
the Department of Homeland Security,
TODD BLANCHE, Acting Attorney
General, TODD M. LYONS, Acting
Director, Immigration and Customs
Enforcement, JESUS ROCHA, Acting
Field Office Director, San Diego Field
Office, JEREMEY CASEY, Warden at
Imperial Regional Detention Center,

Respondents.

Civil Case No.:

**Declaration of Huang Zhenjing in
support of petition for writ of
habeas corpus**

**[Civil Immigration Habeas Petition
Under 28 U.S.C. § 2241]**

I declare the following is true and correct under penalty of perjury:

1. My name is Huang Zhenjing. My A-number is  I came to the United States border from China to seek asylum on January 1, 2025.
2. I am at the Imperial Regional Detention Center.

¹ Federal Defenders of San Diego, Inc., is filing with provisional appointment under Chief Judge Order No. 134. Mr. Zhenjing's financial eligibility for representation is included in this sworn statement.

3. The immigration judge denied my application and ordered me removed to China on December 2, 2025. I did not appeal.
4. The only country I am a citizen of is China. My mother and father are citizens of China. I do not know of any reason why a country other than China would accept me for deportation.
5. Since I've been ordered deported, ICE officers have had me sign documents every month. I sign.
6. Last month, they said they are trying to send me back to China, but my travel document request is still pending. I have not been able to talk to them since, as of today.
7. I do not have the money to hire a habeas attorney. I do not have any savings left. I own a small flat in China that was worth about \$30,000 when I left China, and I still owe money to the bank for it. I do not own any other assets.
8. This declaration was interpreted into my native language, Mandarin, and read to me in its entirety.

I give my attorney the authority to sign on my behalf that the above is true and correct under penalty of perjury on May 14, 2026, from Imperial Regional Detention Center to San Diego, California,

/s/ Jessie Agatstein, on behalf of Huang Zhenjing.