UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MAO-SHENG LIN,

Petitioner,

v.

WARDEN, ORANGE COUNTY JAIL, *et al.*,

Respondents.

Case No. 25 Civ. 9039 (GHW)

RESPONDENTS' MEMORANDUM OF LAW IN OPPOSITION TO PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS

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The government respectfully submits this memorandum of law in opposition to the petition for writ of habeas corpus, ECF No. 1 ("Pet."), filed by petitioner Mao-Sheng Lin ("Petitioner") on October 30, 2025.

PRELIMINARY STATEMENT

Petitioner is a native and citizen of China who has been subject to a final removal order since February 2004. While his removal order was on appeal, Petitioner was arrested by New York State authorities in late 2003 on robbery, kidnapping, and firearms offenses, and following a jury trial in early 2005, he was convicted and sentenced to 15 years to life. Upon his release from jail in December 2018, U.S. Immigration and Customs Enforcement ("ICE") took Petitioner into custody to effectuate his removal. After ICE was unable to receive a travel document for Petitioner's return to China at that time, ICE released Petitioner on an order of supervision in March 2019. On June 18, 2025, while reporting to ICE pursuant to the terms of his supervision, ICE took Petitioner into custody for purposes of seeking to execute his outstanding removal order.

Petitioner challenges ICE's actions to detain him to execute his removal order on several grounds, each of which fails. Petitioner's initial argument that his continued detention violations 8 U.S.C. § 1231(a)(6) as interpreted by *Zadvydas v. Davis*, 533 U.S. 678 (2001) fails because Petitioner does not meet his threshold burden of demonstrating that his removal is not reasonably foreseeable; and even if he were to do so, the government rebuts any such showing here. ICE is actively seeking to procure a travel document for Petitioner's removal and will book him on the earliest practicable commercial flight to China once that document is received. Due process does not prohibit Petitioner from being detained while ICE arranges for his removal. Petitioner's remaining claims regarding his due process rights, based on the burden detention places on his family, and the effects on this health, also fail. The Court should deny the petition.

BACKGROUND

I. FACTUAL BACKGROUND

Petitioner is a citizen of China who unlawfully entered the United States in April 1993. Declaration of Deportation Officer Imani Montgomery, dated January 2, 2026 ("Montgomery Decl.") ¶ 3. Petitioner unlawfully entered without being admitted or paroled after inspection by an Immigration Officer. *Id.*

On June 13, 2000, ICE served Petitioner with a Notice to Appear, the document used to commence removal proceedings, charging him as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in the United States without being admitted or paroled, or who arrived in the United State at a time or place other than as designated by the Attorney General. *Id.* ¶ 4. Removal proceedings were thereafter commenced against Petitioner, and after several court appearances, an immigration judge issued a removal order on November 18, 2002. *Id.* ¶¶ 5–6. Petitioner filed an appeal with the Board of Immigration Appeals ("BIA"), and the BIA dismissed the appeal on February 26, 2004, rendering the removal order final. *Id.* ¶¶ 7, 9.

While his appeal was pending at the BIA, on November 20, 2003, Petitioner was arrested by law enforcement in Tompkins County, New York on robbery-related changes. *Id.* ¶ 8. On February 27, 2005, following a jury trial, Petitioner was convicted of Robbery in the First Degree, Criminal Use of a Firearm in the First Degree, and Kidnapping in the First Degree. *Id.* ¶ 10. On March 21, 2005, Petitioner was sentenced to 15 years to life in the custody of the New York Department of Corrections and Community Supervision ("NYCDOCCS"). *Id.* ¶ 11. Petitioner was released from Attica on December 10, 2018, after serving his sentence, and was then taken into ICE custody in Buffalo, New York. *Id.* ¶ 12.

On or about March 8, 2019, ICE conducted a 90-day post-order custody review, which involved, among other things, reviewing Petitioner's file to determine whether Petitioner should remain detained pending removal or released on supervision. *Id.* ¶ 13. On March 21, 2019, after ICE was unable to secure a travel document from China at that time, ICE determined that there was no significant likelihood of removal in the reasonably foreseeable future, and so served Lin with a Release Notification and ICE released Petitioner from custody on an Order of Supervision (Form I-220B) ("OSUP"). *Id.* ¶ 14. The OSUP required Petitioner to periodically report to ICE, including for removal, and to assist in obtaining a travel document. *See* Ex. F (OSUP). ICE also served Petitioner with a release notification, which informed him that ICE would continue to make efforts to seek a travel document for his removal, that he was requited to make good faith efforts to secure a travel document, and that "[a]t any time, [he] may be taken back into ICE custody should [his] removal become practicable." *See* Ex. E (Release Notification).

After his release from ICE custody in March 2019, Petitioner reported to ICE pursuant to his order of supervision. *See* Ex. F (OSUP). On June 18, 2025, Petitioner reported to ICE at 26 Federal Plaza pursuant to his order of supervision, and at that reporting, ICE revoked his OSUP and took him into custody. *Id.* ¶ 16. During processing, ICE served Petitioner with a Notice of Revocation of Release and provided him with an informal interview to afford him an opportunity to respond to the reasons for the revocation of his OSUP. *Id.* Thereafter, Petitioner was transferred to the Orange County Jail in Goshen, New York, where he remains detained pending removal. *Id.* ¶ 17.

On July 2, 2025, ICE sent a request for a travel document for Petitioner to the Chinese Embassy in Washington, D.C. *Id.* ¶ 18. On September 13, 2025, following a 90-day post-order custody review, ICE issued a Decision to Continue Detention, notifying Petitioner that ICE had

reviewed his file and determined that he would remain detained pending his removal. *Id.* ¶ 19. On October 6, 2025, ICE sent a request for travel documents to ICE's Headquarters for submission to the Chinese embassy in Washington, D.C. *Id.* ¶ 20. On November 10, 2025, ICE's headquarters in Washington D.C. indicated that the travel document request was still pending with the Embassy and going through identification verification. *Id.* ¶ 21.

On December 15, 2025, ICE conducted an interview with Petitioner as part of its 180-day post-order custody review, following which ICE recommended to ICE Headquarters that Petitioner should remain detained pending removal. *Id.* ¶ 22. A final determination on the 180-day custody review remains pending with ICE headquarters. *Id.*

II. PROCEDURAL HISTORY

On October 30, 2025, Petitioner initiated this action by filing a Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241. ECF No. 1 ("Pet."). Petitioner argues that his supervision was revoked without notice or a hearing, removal to his country is impossible due to non-removability, and his detention places a burden on his family and his own health. *Id.* at 2, 6–7. Petitioner seeks his immediate release from detention and to be placed back on an Order of Supervision. *Id.* at 7.

III. STATUTORY AND REGULATORY BACKGROUND

Pursuant to 8 U.S.C. § 1231(a), ICE has the authority to detain an alien subject to a final removal order. *See Wang v. Ashcroft*, 320 F.3d 130, 145 (2d Cir. 2003) ("8 U.S.C. § 1231, governs the detention of aliens subject to final orders of removal."); *accord Johnson v. Arteaga-Martinez*, 596 U.S. 573, 578 (2022) ("8 U.S.C. § 1231(a), governs the detention, release, and removal of individuals 'ordered removed.'"). An order of removal is considered final upon the earlier of "(i) a determination by the Board of Immigration Appeals affirming such order; or (ii) the expiration of the period in which the alien is permitted to seek review of such order by the Board of Immigration

Appeals." 8 U.S.C. § 1101(a)(47)(B). *Chupina v. Holder*, 570 F.3d 99, 103 (2d Cir. 2009) (citing § 1101(a)(47)(B) to conclude that "[a]n order of removal is 'final' upon the earlier of the BIA's affirmance of the immigration judge's order of removal or the expiration of the time to appeal the immigration judge's order of removal to the BIA.").

Section 1231 establishes a 90-day "removal period" within which the government generally must secure removal after a removal order becomes final—or, if the alien is in criminal custody when the removal order becomes final, upon the alien's release from criminal custody—and during which the government "shall" detain the alien until such removal. *See* 8 U.S.C. §§ 1231(a)(1)(A), (a)(2). When the government is unable to secure removal within the removal period, while detention is no longer mandatory, the government "may" continue to detain four categories of aliens: (1) "inadmissible" aliens, (2) aliens who are "removable" for national-security or foreign-policy reasons or for violating entry conditions, status requirements or certain criminal laws, (3) aliens who pose a "risk to the community," and (4) aliens who are "unlikely to comply with the order of removal." 8 U.S.C. § 1231(a)(6). Aliens who fall outside those categories (or who fall within them but are not detained) are subject to supervision upon release. 8 U.S.C. § 1231(a)(3) & (6).

The Supreme Court addressed ICE's authority to detain aliens after their removal orders become final in *Zadvydas v. Davis*, 533 U.S. 678 (2001). There, the Court held that 8 U.S.C. § 1231(a)(6) authorizes immigration detention for a period reasonably necessary to accomplish the alien's removal from the United States. 533 U.S. at 699-700. The Supreme Court recognized six months as a presumptively reasonable period of time to allow the government to accomplish an alien's removal. *Id.* at 701. However, the Court did not require the government to release every alien whose detention exceeds six months. Rather, the Court held:

> After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing. And for detention to remain reasonable, as the period of prior postremoval confinement grows, what counts as the "reasonably foreseeable future" conversely would have to shrink. *This 6-month presumption, of course, does not mean that every alien not removed must be released after six months. To the contrary, an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.*

Id. (emphasis added).[1] Thus, the Supreme Court placed the initial burden on the alien. *Id.* If the alien fails to meet that burden, or if the government rebuts the alien's showing, then continued detention is permissible. *Id.* Following *Zadvydas*, the government promulgated regulations requiring ICE to conduct custody reviews for aliens whose post-removal-order detention has exceeded six months. *See* 8 C.F.R. §§ 241.4, 241.13. Under these regulations, the alien first receives a custody review from ICE's local Field Office Director just prior to the expiration of the 90-day removal period. 8 C.F.R. § 241.4(c)(1), (h)(1)-(2). If the alien remains in detention after this 90-day period, further reviews are conducted periodically by ICE Headquarters. *Id.* § 241.4(c)(2). Before deciding to release any alien, ICE must conclude that removal is not foreseeable, that the alien is not a danger to the community, and that the alien is not likely to flee or to violate the conditions of release. *Id.* § 241.4(e).

Pursuant to the relevant regulations, ICE "shall have authority, in the exercise of discretion, to revoke release and return to Service custody an alien previously approved for release under the

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[1] In *Zadvydas*, the concern of "indefinite detention" arose where the petitioners could not be removed from the United States because their home countries would not accept their repatriation, yet the government continued to detain them. *See Zadvydas*, 533 U.S. at 684–86. But "indefinite" does not merely mean of uncertain duration; the concerns animating *Zadvydas* pertained to aliens in a "removable-but-unremovable limbo," where an alien's confinement is "not limited, but potentially permanent." *Jama v. ICE*, 543 U.S. 335, 347 (2005).

procedures in this section." 8 C.F.R. § 241.4(*l*)(2). The regulation permits ICE to exercise its discretion to revoke release when, in the opinion of the revoking official: ". . . (iii) [i]t is appropriate to enforce a removal order or to commence removal proceedings against an alien; or (iv) . . . any other circumstance[] indicates that release would no longer be appropriate." *Id.* The regulation does not require advance notice prior to revoking an alien's release pursuant to section 241.4(*l*)(2).[2]

ICE utilizes different review procedures in instances where an alien subject to a final removal order has "provided good reason to believe there is no significant likelihood of removal to the country to which he or she was ordered removed . . . in the reasonably foreseeable future," 8 C.F.R. § 241.13(a). In those circumstances, ICE may choose to release an alien subject to "appropriate conditions." 8 C.F.R. § 241.13(g)(1). ICE "may revoke an alien's release under this section and return the alien to custody if, on account of changed circumstances, the Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2). ICE also has "discretion" to "grant a stay of removal or deportation for such time and under such conditions as [it] may deem appropriate." 8 C.F.R. § 241.6(a).

ARGUMENT

Petitioner challenges his detention pending removal on several grounds. None has merit. He primarily argues that his detention is unlawful because his removal is not reasonably foreseeable, but he is incorrect. His removal to China is reasonably foreseeable, and thus his

[2] In contrast, an alien whose release is revoked due to violations of the terms of the conditions of release under section 241.4(*l*)(1) must be notified at the time of revocation of the reasons for revocation, and must be afforded an initial interview "promptly after his or her return to Service custody" to respond to the reasons stated in the notification. 8 C.F.R. § 241.4(*l*)(1).

detention is statutorily authorized and does not violate due process. Petitioner's other arguments, ranging from the alleged lack of process when his OSUP was revoked, to assertions that his detention is punitive, are all conclusory and lack merit.

I. PETITIONER'S DETENTION IS STATUTORILY AUTHORIZED AND DOES NOT VIOLATE *ZADVYDAS*

In Ground One of the petition, Petitioner argues that his detention violates 8 U.S.C. § 1231(a)(6) as interpreted by *Zadvydas*, arguing that "ICE may not detain any individual beyond six months after a final order of removal when there is no significant likelihood of removal." Pet. at 6. This claim fails.

As set forth above, 8 U.S.C. § 1231(a) governs the detention of aliens subject to final removal orders. While the statutory 90-day removal period expired years ago, § 1231(a)(6) authorizes Petitioner's detention beyond the removal period, as he is an alien ordered removed under 8 U.S.C. § 1182(a)(6)(A)(i) (as an alien present in the United States without being admitted or paroled). Thus, he falls within the category of aliens that may be detained even after the removal period expires. *See* 8 U.S.C. § 1231(a)(6).

Section 1231(a)(6) does not expressly specify how long detention may continue after the removal period expires. But the Supreme Court has resolved this question. In *Zadvydas*, the Supreme Court interpreted the statute to include an "implicit limitation": detention beyond the removal period may last only for "a period reasonably necessary to bring about" removal. *Zadvydas*, 533 U.S. at 689. The Supreme Court identified six months of detention as presumptively reasonable. *Id.* Thereafter, if an alien "provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future," the government must rebut the showing or release the alien on an order of supervision. *Id.* at 701.

There is no dispute that as of today's date, Petitioner's post-removal-order detention has exceeded the six months the Supreme Court held was presumptively reasonable in *Zadvydas*. Nevertheless, Petitioner has not met his threshold burden of showing that his removal is not significantly likely to occur in the reasonably foreseeable future. In arguing otherwise, Petitioner points to the fact that his final order of removal was issued in February 2004. Pet at 6. That Petitioner's final order became final in 2004 has no bearing on the lawfulness of his current detention or the likelihood of his removal. Petitioner was incarcerated for at least the first thirteen years, until he completed his criminal sentence in December 2018—during that time, ICE could not effectuate his removal. He further points to the fact that he was detained by ICE from December 2018 through March 2019, and was then released "because deportation was impossible," Pet. at 6, but that China did not issue ICE a travel document in a 90-day period seven years ago, does not mean that China will not issue a travel document now. At bottom, Petitioner offers only conclusory and speculative allegations about the amount of time that has passed since his removal order became final in 2004, China's willingness to accept nationals ordered removed from the United States, and ICE's supposed inability to "obtain travel documents from China." Pet. at 6. But "mere assertions that removal is unforeseeable do not satisfy [the petitioner's] burden [under *Zadvydas*]." *See Juma v. Mukasey*, No. 09 Civ. 3122 (PAC)(AJP), 2009 WL 2191247, at *3 (S.D.N.Y. July 23, 2009) (vague, conclusory, and general claims that removal is not foreseeable, and that Embassy will not issue travel document in foreseeable future, fails to meet initial burden); *id.* at *3 n.4 (collecting cases); *see also, e.g.*, *Callender v. Shanahan*, 281 F. Supp. 3d 428, 434–35 (S.D.N.Y. 2017) (allegations that an embassy "will not issue a travel document in the foreseeable future" or that "government has been unable to obtain a travel document to date"

do no satisfy petitioner's burden); *Newell v. Holder*, 983 F. Supp. 2d 241, 248 (W.D.N.Y. 2013); *Beckford v. Lynch*, No. 15-cv-1020 (JTC), 2016 WL 827389, at *6 (W.D.N.Y. Mar. 3, 2016).

Moreover, Petitioner cannot meet his burden by merely relying on the length of his current detention—which, to date, is more than six months—because the passage of time without issuance of a travel document, by itself, does not show that there is no significant likelihood of removal within the reasonably foreseeable future. *See, e.g.*, *Beckford*, 168 F. Supp. 3d at 539-40 (collecting cases); *Newell*, 983 F. Supp. 2d at 248 ("[T]he mere passage of time [is] insufficient to meet the petitioner's burden to demonstrate no significant likelihood of removal.").[3] This is not a case where a petitioner has identified a specific impediment to his removal. *Cf. Montestime v. Reilly*, 704 F. Supp. 2d 453, 456, 458 (S.D.N.Y. 2010) (finding a "likelihood of indefinite detention" due to the United States' then-existing moratorium on deportations to Haiti following 2010 earthquake); *Hassoun v. Sessions*, No. 18 Civ. 586, 2019 WL 78984, at *4 (W.D.N.Y. Jan. 2, 2019) (finding that petitioner had met his burden where he "has shown that the countries with which he has any affiliation," including Lebanon, Sweden, and the United Arab Emirates, "will not accept him"). In short, Petitioner has not "provide[d] good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." (internal quotation marks omitted)); *Abimbola v. Ridge*, 181 F. App'x 97, 99 (2d Cir. 2006) (alien's filing of numerous petitions is a "self-inflicted wound" that does not entitle him to relief under *Zadvydas*).

[3] To the extent that the length of Petitioner's detention bears on the likelihood of his removal, courts have sustained far greater periods of detention where aliens have failed to produce evidence that there is no significant likelihood of removal in the reasonably foreseeable future. *See, e.g.*, *Luna-Aponte v. Holder*, 743 F. Supp. 2d 189, 197 (W.D.N.Y. 2010) (39 months); *Kassama v. Dep't of Homeland Sec.*, 553 F. Supp. 2d 301, 306 (W.D.N.Y. 2008) (21 months); *see also Leslie v. Mule*, 423 F. App'x 29 (2d Cir. 2011) (more than two years); *Abimbola v. Ridge*, 181 F. App'x 97 (2d Cir. 2006) (more than two years).

Even if Petitioner could meet his initial burden—which he cannot—the government has rebutted any showing here by demonstrating that his removal is in fact reasonably foreseeable. In order to repatriate Petitioner to China, ICE is required to submit an application to obtain travel documents to the Chinese Embassy in Washington, D.C. ICE's request for travel documents for Petitioner is currently pending with the Chinese Embassy. Montgomery Decl. ¶ 21. Once the travel documents are obtained, Petitioner will be booked on the earliest practicable commercial flight to China. *Id.* ¶ 24. Since January 2025, China has accepted citizens who were removed from the United States and has issued travel documents; in the Fiscal Year 2025, ICE has removed 411 individuals to China. *Id.* ¶ 23. Accordingly, Petitioner's removal is significantly likely to occur in the reasonably foreseeable future. Notably, this is not a case where the detention is "indefinite and potentially permanent," *Demore v. Kim*, 538 U.S. 510, 528 (2003), nor is Petitioner in a "removable-but-unremovable limbo," *Jama*, 543 U.S. at 347.

ICE is actively pursuing Petitioner's removal and expects to receive a travel document to effectuate his removal to China in the near future; due process does not require that Petitioner be released while his removal remains reasonably foreseeable and ICE completes the removal process.

II. PETITIONER'S OTHER CHALLENGES TO HIS DETENTION FAIL

A. ICE Complied with Regulations in Detaining Petitioner

While not set forth as a claim/ground in the petition, Petitioner makes a passing, conclusory statement that his "supervision was revoked without notice or hearing, which violates [his] right to due process and render[s] [his] detention unlawful." Pet. at 2. Aside from that conclusory statement, Petitioner has not pointed to any specific regulatory provision that he claims ICE has violated. Nor could he. Petitioner's OSUP was issued pursuant to 8 C.F.R. § 241.13(i). Section

241.13(i) provides that ICE "may revoke an alien's release under this section and return the alien to custody if, on account of changed circumstances, the Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2).[4] For aliens released under this provision, "[u]pon revocation, the alien will be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification." 8 C.F.R. § 241.13(i)(3).

When Petitioner reported to ICE on June 18, 2025 under the terms of OSUP, ICE took him into custody and served him with a Notice of Revocation of Release, informing him that, following a review of his file and a determination of changed circumstances, he would be detained because ICE determined that his removal was attainable. *See* Ex. I (Notice); Montgomery Decl. ¶ 16. Indeed, when ICE released Petitioner in March 2019, Petitioner was informed that ICE would continue to make efforts to seek a travel document for his removal, and that "[a]t any time, [he] may be taken back into ICE custody should [his] removal become practicable." *See* Ex. E (Release Notification). And following notice of the revocation of his release, ICE provided Petitioner with an informal interview to afford him an opportunity to respond to the reasons for the revocation of

[4] The Government notes that courts in this District have held that an Assistant Field Office Director lacks authority to revoke an OSUP under a different section, Section 241.4(l)(2). *See E.M.M. v. Almodovar*, No. 25 Civ. 08212 (MMG), 2025 WL 3077995, at *6 (S.D.N.Y. Nov. 4, 2025), *Funes v. Francis*, No. 25 Civ. 7429 (PAE), 2025 WL 3263896, at *20 (S.D.N.Y. Nov. 24, 2025). Because here Petitioner's OSUP was issued pursuant to 241.13(i), those cases do not apply, as 241.13(i) does not specify who at ICE may make the revocation decision. *Compare* 8 C.F.R. § 241.13(i) ("The Service may revoke an alien's release under this section . . . . "), *with* 8 C.F.R. § 241.13(l)(2) ("The Executive Associate Commissioner shall have authority, in the exercise of discretion, to revoke release . . . .").

his OSUP. Montgomery Decl. ¶ 16. To the extent Petitioner argues that he was entitled to advanced notice and a hearing, he points to no such requirement in statute or regulation.[5]

B. Petitioner's Remaining Arguments Do Not Rise to Due Process Violations

Petitioner argues that his detention violates due process because it places an extreme burden on his wife and children, is harmful to his physical and mental health, and is punitive. Pet. at 6, 7. Petitioner's claims fail.

First, Petitioner contends that his continued detention places a burden on his family, because his "household relies on [him] for both financial and emotional support." Pet. at 6. This claim, even if true, does not render Petitioner's detention unlawful. In similar situations, courts have found that "it is likely that all, or virtually all, immigration detention orders place a burden on the family of the alien. That burden alone is insufficient to merit a finding of unreasonableness." *Alphonse v. Moniz*, No. 21 Civ. 11844 (FDS), 2022 WL 279638, at *12 (D. Mass. Jan. 31, 2022); *see also, e.g.*, *Aguilar v. ICE*, 510 F.3d 1, 22 (1st Cir. 2007) ("So long as the detention is lawful, that so-called deprivation of the right to family integrity does not violate the Constitution."); *M.O.G.R. v. Warden, Stewart Det. Ctr.*, No. 25 Civ. 356 (CDL) (AGH), 2025 WL 3460936, at *5 (M.D. Ga. Dec. 2, 2025) ("The government took into custody an individual subject to a final removal order. The fact that that individual is a parent is incidental to her lawful detention for the purpose of removal. Thus, there is no due process violation"). As discussed above, because Petitioner's detention pending removal is lawful, any effects on his family are not a violation of his due process.

[5] Further, while detained, Petitioner has received adequate process—he received a 90-day post-order custody review, *see* Montgomery Decl. ¶ 19, and a 180-day post-order custody review is underway, pursuant to 8 C.F.R. § 241.4, Montgomery Decl. ¶ 22.

Second, Petitioner contends that his detention is harmful to his physical and mental health because the "[j]ail conditions are overwhelming and unhealthy," and he experiences "severe anxiety and health concerns as this facility is known for being unsanitary and abusive." Pet. at 7. As an initial matter, these contentions are conclusory fail to state a claim. *See, e.g.*, *Angel v. Garvin,* 98 Civ. 5384 (LTS) (THK), 2001 WL 327150, at *8 (S.D.N.Y. Apr. 3, 2001) ("A habeas petition may be denied where the allegations are insufficient in law, undisputed, immaterial, vague, conclusory, palpably false or patently frivolous") (internal citations and quotations omitted); *see also, e.g.*, *Van Minh v. Dep't of Homeland Sec.*, No. 25 Civ. 02245 (HDV) (JDE), 2025 WL 2624361, at *1 (C.D. Cal. Sept. 10, 2025) (conclusory allegations "are insufficient to warrant relief, and are subject to summary dismissal"). Moreover, to the extent Petitioner is claiming that his conditions of confinement violate his due process rights, his allegations that the conditions are "overwhelming and unhealthy," without more, do not rise to the level of unreasonableness that is required for a due process violation. *Alphonse v. Moniz*, No. 21 Civ. 11844 (FDS), 2022 WL 279638, at *12 (D. Mass. Jan. 31, 2022) ("petitioner has not demonstrated that the conditions of confinement merit a finding of unreasonableness").[6] In order to establish a claim for unconstitutional conditions of confinement, Petitioner would need to show "that a government official knew, or should have

[6] Neither does Petitioner make a successful claim that he is receiving inadequate medical care, for any conditions he possesses. A detainee raising a constitutional due process challenge regarding the medical care provided to him in detention must establish "(1) that [the detainee] had a serious medical need . . . , and (2) that the Defendants acted with deliberate indifference to such need[]." *Charles v. Orange County*, 925 F.3d 73, 86 (2d Cir. 2019). Accordingly, the detainee must show that the defendant failed to provide necessary medical treatment or care while having actual or constructive knowledge that doing so would pose a substantial risk to the detainee's health. *Id.* at 87. Here, even if Petitioner's claim that he suffers from "severe anxiety" was sufficient to meet the first prong, he cannot show that DHS knew, or should have known, about the condition. *See Charles*, 925 F.3d at 87. Petitioner has not demonstrated, or even specifically alleged, that any government actor had actual or constructive knowledge of any severe anxiety. As such, a claim for inadequate medical care also fails.

known of a condition that posed excessive risk to health and failed to take appropriate action." *Basank v. Decker*, No. 20 Civ. 2518 (AT), 2020 WL 1481503, at *5 (S.D.N.Y. March 26, 2020) (citing *Darnell v. Pineiro*, 849 F.3d 17, 35 (2d Cir. 2017)). Here, Petitioner has not contended that any government agent knew, or should have known, about his condition, and then subsequently failed to take appropriate action. He only alleges that he "experience[s] sever anxiety and health concerns." This is insufficient.

Courts have found that although the government has a legitimate interest in detention, that interest "must yield if conditions of confinement present unreasonable or excessive risks to a detainee's health." *Ulger v. Barr*, No. 20-CV-2952-LTS, 2020 WL 2061473, at *3 (S.D.N.Y. Apr. 29, 2020). Petitioner has not contended that the current conditions present an excessive risk to his health. Notably, Petitioner has not demonstrated that release from detention is the *only* relief that would remedy this claim. *See P.B. v. Bergami, et al.*, No. 25 Civ. 02978-O, 2025 WL 3632752, at *8 (N.D. Tex. Dec. 13, 2025) (denying petition and noting "Petitioner has not shown that the only remedy for her claims is release"). Therefore, this claim fails.

Lastly, Petitioner argues that his detention "indefinite and punitive in nature." Pet. at 6. This claim is without merit. Petitioner's detention pending his removal from the United States, following the issuance of a final order of removal, is statutorily authorized by 8 U.S.C. § 1231(a)(6). The statute's "basic purpose" is "effectuating an alien's removal." *Zadvydas*, 533 U.S. at 697. Moreover, the government's interest in "ensuring that noncitizen[s] do not abscond" and "do not commit crimes" is also "well-established." *Velasco Lopez v. Decker*, 978 F.3d 842, 854 (2d Cir. 2020) (citing *Zadvydas*, 533 U.S. at 690; *Hernandez v. Sessions*, 872 F.3d 976, 990-91 (9th Cir. 2017)). Here, Petitioner is an alien who was ordered removed upon a charge of inadmissibility under 8 U.S.C. § 1182(a)(6)(A)(i), and who was convicted of serious felony

offenses involving kidnapping, robbery, and firearms. Because Petitioner's detention pending removal serves the valid immigration purposes of ensuring that ICE can effectuate his final removal order, his detention is not punitive and comports with due process. *See Zadvydas*, 533 U.S. at 697; *Velasco Lopez*, 978 F.3d at 854. Further, as detailed above, Petitioner's removal is reasonably foreseeable, and so his detention is not "indefinite," *i.e.*, potentially permanent. Instead, it will end in the reasonably foreseeable future upon his removal.

CONCLUSION

For the foregoing reasons, the Court should deny Petitioner's petition for writ of habeas corpus.

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Certificate of Compliance

Pursuant to Local Civil Rule 7.1(c), and the Court's Individual Practices, the above-named counsel hereby certifies that this memorandum complies with the word-count limitation of this Court's Local Civil Rules. As measured by the word processing system used to prepare it, this memorandum contains 5,844 words.