

District Judge Lauren King
Magistrate Judge Theresa L. Fricke

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GUO XIN ZHENG,

Petitioner,

v.

UNITED STATES IMMIGRATION AND
CUSTOMS ENFORCEMENT FIELD
OFFICE DIRECTOR,

Respondent.

Case No. 2:25-cv-02483-LK-TLF

RESPONDENT'S RETURN
MEMORANDUM

Noted for Consideration:
January 19, 2026

I. INTRODUCTION

U.S. Immigration and Customs Enforcement ("ICE") lawfully detains Petitioner Guo Xin Zheng, a native and citizen of the People's Republic of China, subject to an order of removal under Section 241 of the Immigration and Naturalization Act ("INA"). *See* 8 U.S.C. § 1231. He seeks release or a bond hearing where he may be released "pending conclusion of his legal matters." Pet., at 6. Petitioner is not entitled to release or a bond hearing because he is currently detained pursuant to 8 U.S.C. § 1231(a)(6) during the "presumptively reasonable" six-month detention period announced by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678, 700-01 (2001). Detention during this period is constitutionally permissible and he has not met his burden

RESPONDENT'S RETURN MEMORANDUM
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1 to show that there no significant likelihood of removal in the reasonably foreseeable future.
 2 Accordingly, the Petition should be denied.

3 II. LEGAL STANDARD

4 “Writs of habeas corpus may be granted by . . . the district courts . . . within their respective
 5 jurisdictions.” 28 U.S.C. § 2241(a). A habeas petitioner must prove by the preponderance of the
 6 evidence that he is “in custody in violation of the Constitution or laws or treaties of the United
 7 States.” *Davis v. Woodford*, 384 F.3d 628, 638 (9th Cir. 2004); 28 U.S.C. § 2241(c). Although
 8 pro se pleadings are held “to less stringent standards than normal pleadings drafted by lawyers . .
 9 . this does not preclude dismissal where a liberal construction does not remedy the palpable
 10 deficiencies in the complaint.” *Isaacson v. Sec’y of Hous. & Urb. Dev.*, No. 16-1254, 2017 WL
 11 1364559, at *2 (W.D. Wash. Apr. 14, 2017) (internal marks and cites omitted).

12 III. FACTUAL AND PROCEDURAL BACKGROUND

13 A. Detention Authorities and Removal Procedures

14 The INA contains a complex scheme of authorities governing the detention and release of
 15 aliens during and following their removal proceedings. These periods are generally referred to as
 16 “pre-order” (meaning before the entry of a final order of removal) and “post-order” (meaning
 17 after the entry of a final order of removal). *Compare* 8 U.S.C. § 1226 (authorizing pre-order
 18 detention) *with* § 1231(a) (authorizing post-order detention). Once a final order of removal has
 19 been entered, an alien enters what Congress has called the “removal period.” 8 U.S.C.
 20 § 1231(a)(1). During this period of 90 days, Congress has directed that the Secretary of Homeland
 21 Security “shall remove the alien from the United States.” *Id.* ICE¹ is charged with attempting to
 22 effectuate removal of an alien from the United States. 8 U.S.C. § 1231(a)(1). To ensure an alien’s

23
 24 ¹ Under 8 C.F.R. § 241.2(b), ICE deportation officers are delegated the Secretary of Homeland Security’s authority to execute removal orders.

1 presence for removal and to protect the community from dangerous aliens while removal is being
2 achieved, Congress directed:

3 During the removal period, the [Secretary of Homeland Security]² shall detain the
4 alien. Under no circumstance during the removal period shall the [Secretary]
5 release an alien who has been found inadmissible under section 1182(a)(2) or
6 212(a)(3)(B) of this title or deportable under section 1227(a)(2) or 1227(a)(4)(B)
7 of this title.

8 8 U.S.C. § 1231(a)(2).

9 Section 1231(a)(6) authorizes the Department of Homeland Security (“DHS”) to continue
10 detention of aliens after the expiration of the removal period. Unlike Section 1231(a)(2),
11 Section 1231(a)(6) does not mandate detention and does not place any temporal limit on the
12 length of detention under that provision:

13 An alien ordered removed who is inadmissible under section 1182, removable
14 under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or who has been
15 determined by the [the Secretary of Homeland Security] to be a risk to the
16 community or unlikely to comply with the order of removal, *may* be detained
17 *beyond the removal period* and, if released, shall be subject to the terms of
18 supervision in paragraph (3).

19 8 U.S.C. § 1231(a)(6) (emphasis added).

20 Although there is no statutory time limit on detention pursuant to Section 1231(a)(6), the
21 Supreme Court has held that an alien may be detained only “for a period reasonably necessary to
22 bring about that alien’s removal from the United States.” *Zadvydas*, 533 U.S. at 689. The Supreme
23 Court has further identified six months as a presumptively reasonable time to bring about an
24 alien’s removal. *Id.*, at 701.

² Although 8 U.S.C. § 1231(a)(2) refers to the “Attorney General” as having responsibility for detaining aliens, the Homeland Security Act of 2002, Pub. L. No. 107-296 § 441(2), 116 Stat. 2135, 2192 (2002), transferred this authority to the Secretary of the Department of Homeland Security. *See also* 6 U.S.C. § 251.

1 If an alien cannot be removed to the country designated in his removal order because the
2 country refuses to accept the alien, the alien has been granted relief from removal to that country,
3 the country refuses to recognize the alien as its citizen, or another reason, Congress has directed
4 ICE to pursue removal to alternate countries. *See* 8 U.S.C. §§ 1231(b)(2)(D), (E); 1231(b)(3); 8
5 C.F.R. §§ 241.13(a), 241.15.

6 In this case, on September 15, 2025, an immigration judge denied Petitioner's application
7 for relief, ordered Petitioner removed to the People's Republic of China, and granted Petitioner's
8 application for withholding of removal. Declaration of Katherine G. Collins ("Collins Decl."),
9 Exh. H, Order of the Immigration Judge. To date Petitioner has not filed an appeal of the
10 immigration judge's removal order with the Board of Immigration Appeals. Declaration of
11 Deportation Officer Anthony Rosa ("Rosa Decl.") ¶ 14. The 30-day appeal period for this order
12 lapsed on October 15, 2025, and Petitioner's removal order became administratively final as of
13 that date. 8 C.F.R. § 1003.38(b); 8 CFR § 1241.1(c).

14 **B. Petitioner Guo Xin Zheng**

15 Petitioner is a native and citizen of the People's Republic of China who entered the United
16 States without inspection on February 16, 2023, and was taken into immigration custody. Rosa
17 Decl., ¶ 4; Collins Decl., Exh. A, Form I-213; Exh. B, Form I-200. On March 17, 2023, Petitioner
18 was served with a Notice to Appear, charging his as removable under Section 212(a)(6)(A)(i) of
19 the Immigration and Nationality Act ("INA") (8 U.S.C. § 1182(a)(6)(A)(i)). Rosa Decl., ¶ 5;
20 Collins Decl., Exh. E, Notice to Appear. On or about March 19, 2024, Petitioner was released
21 from immigration custody pursuant to an Order of Release on Recognizance. Rosa Decl., ¶ 6;
22 Collins Decl., Ex. C, OREC; Exh. D, Not. of Custody Determination. Petitioner's release on the
23 Order was conditioned on several factors, including that he not commit any crimes while on the
24

1 Order. Collins Decl., Ex. C, OREC. Petitioner filed an asylum application with the Immigration
2 Court on June 29, 2023. Rosa Decl., ¶ 7.

3 While released from custody, Petitioner was arrested for and convicted of several criminal
4 offenses. Rosa Decl., ¶¶ 8-9. On November 18, 2023, Petitioner was arrested and charged with
5 misdemeanor larceny; this charge remains pending. Rosa Decl., ¶ 8. Then, on December 3, 2024,
6 Petitioner pleaded guilty to conspiracy to commit theft and was sentenced to a maximum term of
7 12 months; Petitioner received credit for 255 days served. Rosa Decl., ¶ 9. On December 4, 2024,
8 ICE arrested Petitioner and took him into custody. Rosa Decl., ¶ 10; Collins Decl., Exh. F, I-213;
9 Exh. G, I-200. On May 30, 2025, Petitioner was transferred to the Northwest ICE Processing
10 Center in Tacoma, Washington. Rosa Decl., ¶ 13.

11 On September 15, 2025, an immigration judge denied Petitioner's application for relief,
12 ordered Petitioner removed to the People's Republic of China, and granted Petitioner's
13 application for withholding of removal. Collins Decl., Exh. H, Order of the Immigration Judge;
14 Rosa Decl., ¶ 14. Petitioner did not appeal, and the order of removal became administratively
15 final on October 15, 2025. *Id.* At this time the detention authority shifted to mandatory detention
16 pursuant to 8 U.S.C. § 1231(a)(2).

17 On October 21, 2025, a Deportation Officer ("DO") interviewed Petitioner and verbally
18 informed him that DHS intended to seek his removal to a third country. Rosa Decl., ¶ 15. The DO
19 presented Petitioner with a list of visa-free countries Petitioner could go to if he had a valid
20 Chinese passport and was willing to buy a ticket. *Id.* Then again, on November 4, 2025, another
21 DO provided Petitioner with a list of visa-free countries for China passport holders and informed
22 him that he could purchase tickets to those countries. Rosa Decl., ¶ 16. Petitioner stated to the DO
23 that he would like to consider going to a third country. *Id.*

1 Petitioner's 90-day removal period expired one day ago, on January 13, 2025. 8 U.S.C.
2 § 1231(a)(2). On January 14, 2026, ICE determined that Petitioner would remain in custody
3 pursuant to 8 U.S.C. § 1231(a)(6). Rosa Decl., ¶ 18. ICE is continuing to pursue Petitioner's
4 removal from the United States to a country other than the People's Republic of China. Rosa
5 Decl., ¶ 17.

6 IV. ARGUMENT

7 Petitioner's claim that his detention is unlawful lacks merit. Petitioner remains detained
8 during the presumptively reasonable period and any *Zadvydas*-based claim is not ripe for review.

9 In *Zadvydas*, the Supreme Court considered the government's ability to detain an alien
10 subject to a final order of removal before the removal is effectuated. 533 U.S. at 699. The
11 Supreme Court held that the government cannot detain an alien "indefinitely" beyond the 90-day
12 removal period, limiting "post-removal-period detention to a period reasonably necessary to bring
13 about the alien's removal from the United States." 533 U.S. at 682, 689. The Court further held
14 that a detention period of six months is "presumptively reasonable." *Id.* at 701. Then after this
15 first six months, the burden is on the petitioner to show "good reason to believe that there is no
16 significant likelihood of removal in the reasonably foreseeable future" before the burden shifts
17 back to the government to rebut that showing. *Id.*

18 Petitioner's six-month "presumptively reasonable period of detention" runs from October
19 15, 2025 (the date the removal order became final) through April 15, 2026. Petitioner has not yet
20 been detained for six months after his administrative removal order became final; he has only
21 been detained 91 days post-order. He also has not met his burden to show that there is a "good
22 reason to believe that there is no significant likelihood of removal in the reasonably foreseeable
23 future" before the burden shifts back to the government to rebut that showing." *Zadvydas*, 533

1 U.S. at 701. Accordingly, his petition raises no constitutional claim for habeas relief based on the
2 length of his detention.

3 **V. CONCLUSION**

4 For the foregoing reasons, the Petition should be denied without an evidentiary hearing.

5 DATED this 14th day of January, 2026.

6 Respectfully submitted,

7 CHARLES NEIL FLOYD
8 United States Attorney

9 s/ Katherine G. Collins

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20 *I certify that this memorandum contains 1,667*
21 *words, in compliance with the Local Civil Rules*