UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ZHI MING ZHANG,

Petitioner,

v.

KENNETH GENALO, *et al.*,

Respondents.

No. 25-cv-8772 (JPO)

DECLARATION OF DEPORTATION OFFICER ROCCO KISH

Pursuant to 28 U.S.C. § 1746, I, Rocco Kish, hereby declare as follows:

1. I am a Deportation Officer at U.S. Immigration and Customs Enforcement ("ICE") within the U.S. Department of Homeland Security ("DHS"). I have served in this capacity since June 4, 2023. As a Deportation Officer, I manage the cases of aliens who are in immigration proceedings. Once an alien is ordered removed from the United States, I facilitate the alien's removal by coordinating with the government of that alien's country of removal to obtain proper travel documents.

2. I have prepared this declaration at the request of the U.S. Attorney's Office for the Southern District of New York in connection with the Emergency Petition for Writ of Habeas Corpus and Complaint for Declarative and Injunctive Relief filed by the Petitioner, Zhi Ming Zhang ("Zhang"), who has been assigned the following Alien Number: [redacted]. The following representations are based on my review of Zhang's administrative file, consultation with my colleagues, and ICE electronic records and databases.

3. Zhang is a native and citizen of the People's Republic of China.

4. On July 8, 1992, Zhang entered the United States without inspection. On March 25, 1994, Zhang filed an affirmative application for relief with the former U.S. Immigration and Naturalization Service ("INS").

5. On August 30, 1994, the INS notified Zhang it intended to deny his application because he was not credible. The notice advised Zhang that the INS intended to seek an advisory opinion on his application from the Department of State.

6. On February 14, 1997, the INS informed Zhang that his application was denied and issued a Notice to Show Cause (Form I-221), ordering him to appear for an initial hearing before an Immigration Judge at 26 Federal Plaza, New York, New York 10278 on July 23, 1997. At that hearing, the Immigration Judge scheduled Zhang's merits hearing for 9 a.m. on January 26, 1998.

7. On January 26, 1998, Zhang failed to appear for his hearing, and the Immigration Judge ordered him deported in absentia.

8. On August 8, 2000, Zhang was charged in New York County Supreme Court with grand larceny under NYPL §155.30 and aggravated harassment under NYPL § 240.30 (02). On March 16, 2001, Zhang pleaded guilty to the lesser charge of criminal mischief under NYPL § 145.00 and received a one-year conditional discharge and a $120 fine.

9. On August 14, 2000, Zhang was again charged with grand larceny in New York County Criminal Court under NYPL § 155.30 and aggravated harassment under NYPL § 240.30, but he was not arraigned on those charges.

10. On June 9, 2006, Zhang filed a Motion to Reopen his proceedings with the Immigration Court. On August 1, 2006, the Immigration Judge denied the Motion to Reopen. Zhang appealed that denial to the Board of Immigration Appeals ("BIA"). On February 1, 2008, the BIA dismissed his appeal.

11. On October 15, 2008, Zhang filed a second Motion to Reopen and a Stay of Deportation with the BIA. On February 5, 2009, the BIA denied the Motion to Reopen and Stay of Deportation.

12. On March 2, 2009, Zhang filed a Petition for Review ("PFR") with the U.S. Court of Appeals for the Second Circuit (docket # 09-0813). On October 1, 2010, the Second Circuit dismissed his PFR.

13. On April 12, 2012, Zhang was arrested by NYC Fugitive Operations outside his home on Staten Island, New York, pursuant to a Warrant of Removal, as deportable under INA § 241(a)(1)(B) because he had been ordered deported in proceedings commenced before April 1, 1997 under INA § 242. Zhang was transported to 26 Federal Plaza in New York for processing, then detained by ICE at Delaney Hall Detention Facility in Newark, New Jersey.

14. On April 27, 2012, Zhang filed with ICE an application for a Stay of Removal, Form I-246, and deferred action on his deportation. On May 11, 2012, ICE granted the Stay of Removal for six months.

15. On May 14, 2012, ICE released Zhang from custody and placed him under an Order of Supervision ("OSUP") until November 11, 2013. Among other things, the OSUP required that Zhang not commit any crimes and to refrain from associating with known gang members, criminal associates, or "be associated with any such activity." The OSUP further warned Zhang that any violation of the conditions "may result in you being taken into Service custody and you being criminally prosecuted." It specified that Zhang report to ICE periodically, which he did.

16. On May 23, 2012, ICE obtained a valid travel document from the consulate of China for Zhang, valid until August 22, 2012, but his deportation was put on hold because of the six-month Stay of Removal granted on May 11, 2012.

17. On October 25, 2013, Zhang submitted a request for a one-year extension of the Stay of Removal because he had two U.S. Citizen ("USC") children for whom he was allegedly the sole provider, he owned two properties, and cared for his mother, also a USC. On December

18, 2013, ICE denied Zhang's request to extend the Stay of Removal after he failed to comply with producing travel documents.

18. On June 11, 2014, Zhang's attorney again requested that DHS exercise prosecutorial discretion to administratively close his case and defer his removal because he was the sole provider for his wife and children.

19. On March 1, 2016, Zhang was charged in Kings County Criminal Court with driving while intoxicated under NYVTL § 1192 (03), driving with impaired under NYVTL § 1192 (01), refusal to take a breath test under NYVTL § 1194, and a windshield equipment violation under VTL § 0375 (12A1).[1] On June 22, 2016, Zhang pleaded guilty to reckless driving under NYVTL § 1212, was conditionally discharged and fined $150.

20. On August 8, 2018, a grand jury in the U.S. District Court for the Eastern District of New York ("EDNY") indicted Zhang (also known by six alias names) for Conspiracy to Traffic in Counterfeit Goods and Attempted Smuggling in violation of 18 U.S.C. §§ 2320(a), 371, 545.

21. On August 16, 2018, agents of the Department of Homeland Security Investigations ("HSI") and the New York Police Department arrested Zhang at a vehicle stop in Kearney, New Jersey, based on a federal warrant issued pursuant to the EDNY indictment. ICE recorded Zhang's passport number as [redacted], and he was later released and granted deferred action on his removal until 2023 due to EDNY's pending criminal action.

22. On February 7, 2019, pursuant to a plea agreement entered in EDNY, Zhang was convicted of two federal felonies, namely Conspiracy to Traffic in Counterfeit Goods and Attempted Smuggling in violation of 18 U.S.C. §§ 2320(a), 545, for which the criminal monetary

[1] Driving under the influence is a significant adverse consideration in determining whether a respondent is a danger to the community in bond proceedings. *Matter of Siniauskas*, 27 I&N Dec. 207 (BIA 2018).

penalties included a forfeiture money judgment in the amount of $1,030.000 representing the proceeds of his crimes. EDNY released Zhang on bond pending sentencing.

23. On January 27, 2025, Zhang reported to the ICE filed office for a routine check-in required by his OSUP and claimed that he lost his passport years ago.

24. On February 27, 2025, ICE took Zhang into custody at 26 Federal Plaza under 8 U.S.C. § 1231, and served Zhang with a Warrant of Removal/Deportation (Form I-205), Warning to Alien Ordered Removed or Deported (Form I-294), Notice of Custody Determination (Form I-286), and Notice of Revocation of Order of Supervision (Form I-200) signed by Assistant Field Officer Darius Robinson, and Detainee Locator Notice. In accordance with ICE's 2021 Civil Immigration Enforcement Priorities ("CIEP") pursuant to Executive Order 13993, and the prioritization of detention and removal of aliens with final orders of removal and criminal histories, Zhang's detention followed ICE review of his file, including review of his multiple criminal arrests and convictions, verbal confirmation from HSI that his Deferred Action status had ended in 2023. ICE provided Consular Notice of Zhang's detention to the People's Republic of China.

25. On March 2, 2025, Zhang was transferred to the Buffalo (Batavia) Service Processing Center in Batavia, New York.

26. On March 9, 2025, Zhang was transferred to the IAH Polk Adult Detention Center in Livingston, Texas.

27. On March 17, 2025, Zhang was transferred to Joe Corley Processing Center in Conroe, Texas.

28. On April 7, 2025, the Honorable Brian M. Cogan, U.S District Judge for the Eastern District of New York, issued a warrant for Zhang's arrest. ICE received a detainer notice the following day advising of Zhang's pending sentencing for the 2019 conspiracy conviction.

29. On June 22, 2025, pursuant to the EDNY Arrest Warrant, ICE released Zhang to the custody of the U.S. Marshals Service pending adjudication of his criminal case. He was detained at the Federal Bureau of Prisons, MDC Brooklyn.

30. On October 23, 2025, the Honorable Brian M. Cogan, U.S District Judge for the Eastern District of New York, sentenced Zhang upon his 2019 conviction for Conspiracy to Traffic in Counterfeit Goods and Attempted Smuggling to time-served, two years of supervised release, a $200 special assessment, $151,261 in restitution, and a $1,030,00 forfeiture money judgment.

31. On October 23, 2025, the United States Marshal's Service returned Zhang to ICE custody and transported to Elizabeth Contract Detention Facility in Elizabeth, New Jersey, where he remains detained pending his removal from the United States. On the same day, Zhang filed the instant Petition for a Writ of Habeas Corpus.

32. On November 4, 2025, Zhang completed identification verification documents required by ICE and the Consulate of China to obtain travel documents. These documents have been submitted to an ICE contractor for translation into English and further ICE review. ICE is actively engaged in the process of gathering Zhang's information to obtain current travel documents to secure Zhang's removal to China.

33. Once the Chinese Embassy provides the requested travel document, ICE will be prepared to effectuate Zhang's final removal order.

—NOTHING FURTHER ON THIS PAGE—

34. ICE is unaware of any impediments to effectuating Zhang's removal to China once it again obtains a travel document.

Pursuant to 28 U.S.C. § 1746, I declare under the penalty of perjury that the foregoing statements are true and correct.

Executed at New York, New York
this 6th day of November 2025.

ROCCO KISH
Deportation Officer
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security