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November 24, 2025

The Honorable J. Paul Oetken
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *Zhang v. Genalo, et al.*
No. 25 Cv. 8772 (JPO)

Dear Judge Oetken:

I respectfully submit this letter in accordance with the Court's Order (ECF No. 22) directing Petitioner to submit a reply to the government's Letter of November 19, 2025.

In the aforesaid letter, the government alleges that on October 23, 2025 the United States Marshals Service ("USMS") transferred Petitioner, Zhi Ming Zhang ("Mr. Zhang"), to the custody of Immigration and Customs Enforcement ("ICE"), whereupon ICE transferred Mr. Zhang from Brooklyn to the Elizabeth Federal Detention Facility ("Elizabeth"), where he is currently detained, and therefore Mr. Zhang's habeas petition should have been filed in the Eastern District of New York. We disagree.

At about 6:35 a.m. on October 23, 2025 Mr. Zhang called his son Jeffrey Zhang from the Brooklyn Metropolitan Detention Center ("MDC") to advise him that he was about to be transferred out of MDC and into ICE custody. As soon as the call ended, Jeffrey Zhang called the undersigned to advise him that his father was being transferred.

Mr. Zhang was transferred by USMS into ICE custody in the Eastern District of New York, but ICE did not transport him to Elizabeth — he was taken to ICE's field office at 26 Federal Plaza, New York, New York ("26 Federal Plaza"), where he remained until about 4:30 p.m.. Mr. Zhang was not taken to Elizabeth until about 4:30 p.m. that day. While at 26 Federal Plaza, Mr. Zhang called his friend, Alex Liang, and his son Jeffrey Zhang, from the telephone number (212) 436-9100, the primary telephone number for the ICE Office of the Principal Legal Advisor ("OPLA") for New York City, whose address is 26 Federal Plaza, and advised that he

was detained at that 26 Federal Plaza along with many other recent arrestees. Therefore the Southern District is the appropriate venue for this matter, as Mr. Zhang was detained at 26 Federal Plaza throughout the day on which the petition was filed.[1]

Venue is also proper under 28 U.S.C. § 1391(b)(2) because a substantial portion of the events giving rise to this action occurred in this district. Notably, the government raised no challenge as to venue in its Memorandum of Law in response to the petition. Indeed, the government acknowledged that Mr. Zhang was supervised by ICE in this district, that his Order of Supervision was revoked by an ICE officer at 26 Federal Plaza, and that he was processed at 26 Federal Plaza on October 23, 2025 by ICE officers whose offices are located at 26 Federal Plaza. Moreover, venue in this district does not pose an inconvenience for the parties. Therefore venue is appropriate in this district. *See S.N.C. v. Sessions*, 325 F. Supp. 3d 401, 410 (S.D.N.Y. 2018) (finding habeas venue proper "because 'a substantial part of the events or omissions giving rise to the claim occurred' in this district . . . and because venue in this district does not pose an inconvenience for the parties or otherwise offend other 'traditional venue considerations.'") (*quoting Batista-Taveras v. Ashcroft*, No 03-cv-1968, 2004 WL 2149095, at *6 (S.D.N.Y. Sept. 23, 2004)).

In addition, pursuant to 28 U.S.C. § 2241(d), venue properly lies in this district because throughout the day on October 23, 2025, Mr. Zhang was in the custody of respondent Kenneth Genalo, the ICE Field Office Director whose office is located at 26 Federal Plaza, and Mr. Genalo had control over Mr. Zhang's detention from the moment of his transfer by USMS into ICE custody until at least his transfer to Elizabeth. *See Garcia v. Decker*, No. 20-cv-1345 (LJL), 2020 WL 1435007, at *2 (S.D.N.Y. Mar. 24, 2020) (noting that "[the New York City ICE Field Office Director] is located within this District and, as Director of the ICE NY Field Office, has control over Petitioner's detention"); *Rodriguez Sanchez v. Decker*, 2019 WL 3840977, at *2 (S.D.N.Y. Aug. 15, 2019) (finding that [the New York City ICE Field Office Director] is the proper respondent to a habeas petition brought on behalf of an ICE detainee even though the detainee was physically detained in New Jersey); *Cruz v. Decker*, 2019 WL 6318627, at *6 (S.D.N.Y. Nov. 26, 2019) (as above).

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[1] We filed the habeas in this Court because it was a certainty that Mr. Zhang would be detained at New York City, even if temporarily, because 26 Federal Plaza is the location of ICE's New York City headquarters and newly arrested persons from any of the five boroughs and also the adjoining counties are processed and detained at this facility, sometimes for several days, before being transferred elsewhere, as it is the only ICE detainee processing facility in New York City, to the best of our knowledge. At the time of Mr. Zhang's arrest on October 23, 2025, ICE was housing dozens of detainees in makeshift quarters at 26 Federal Plaza. We filed at the earliest opportunity because we were concerned that ICE would promptly transfer Mr. Zhang to a facility Louisiana or Texas, where he was housed until the Department of Justice had him returned to the Eastern District by writ.

With respect to the length of Mr. Zhang's detention by ICE, the government claims that Mr. Zhang's claim is premature because, although he was arrested by ICE on February 27, 2025 and has been detained since, he has only been in ICE custody for 144 days, and therefore ICE has another 36 days to effect his removal without triggering the presumption of unreasonableness set forth in *Zadvydas v. Davis,* 533 U.S. 678 (2001). The government argues that Mr. Zhang's detention by ICE was interrupted by a four-month period during which he was in USMS custody, eliding the fact that but for ICE's detainer, Mr. Zhang would not have spent a day in USMS custody between June and October 2025, as he was at liberty at the time of his arrest by ICE and was it was expected that he would be sentenced to time served in his Eastern District matter pursuant to the parties' submissions in that case.[2] The government fails to explain why, after four months of endeavoring to secure a travel document for Mr. Zhang, it suspended those endeavors in June and only resumed them on October 2025.

In *Zadvydas* the Supreme Court determined that the statutory purpose of detention after a removal order is entered is "assuring the alien's presence at the moment of removal." *Zadvydas v. Davis*, 533 U.S. at 682. The petitioners in *Zadvydas* were individuals who remained in legacy INS custody after the conclusion of their immigration proceedings while the agency attempted to remove them. Mr. Zhang, on the other hand, was on an Order of Supervision for 13 years before ICE detained him in February 2025. His presence at the moment of removal could not have been a matter of concern, since he never failed to report to ICE as instructed — in fact, he was taken into custody during a routine check-in with his deportation officer at 26 Federal Plaza. In any event, if Respondents have indeed endeavored to secure travel documents for his removal, there is no reason why Mr. Zhang must be in jail while they do so, there is no reason why they did not continue to do so while he was in USMS custody, and it is evident that keeping Mr. Zhang in government custody for nearly nine months did nothing to further this purpose.

Attached to this letter are the following documents, which corroborate the allegations set forth above concerning the time and place of Mr. Zhang's arrest and detention by Respondents on October 23, 2025.

(1) Smartphone screen captures of telephone calls placed on 10/23/25 by Mr. Zhang to Jeffrey Zhang and Alex Liang, and from Jeffrey Zhang to Edgar Loy Fankbonner

(2) Contact information for ICE OPLA New York City Field Office, available at: https://www.ice.gov/field-office/office-principal-legal-advisor-new-york

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[2] The basis for Mr. Zhang's sentence was discussed at length during the conference conducted by this Court on November 13, 2025.

(3) Declaration of Jeffrey Zhang

(4) Declaration of Alex Liang

With respect to the question of delegation, we rely on our prior submissions and on the arguments set forth during our November 13, 2025 conference with the Court, and note only that the purported delegation order submitted by the government is identical with the order relief upon by the government in the matter of *E.M.M. v. Almodovar*, in which Judge Garnett held that the revocation of an order of supervision signed by Assistant Field Officer ("AFOD") Darius Robinson violated 8 C.F.R. § 241.4(l)(1), (2). *E.M.M. v. Almodovar,* No. 25-cv-8212 (MGG), 2025 WL 3077995 (S.D.N.Y. Nov. 4, 2025). The government avers that Darius Robinson is the same AFOD who revoked Mr. Zhang's Order of Supervision. If that is so, there is nothing to distinguish Mr. Zhang's matter from *E.M.M. v. Almodovar;* but there is nothing in the government's submission showing that AFOD Robinson was involved in Mr. Zhang's case, as the exhibits submitted with the government's return are signed by various other deportation officers.

In light of the foregoing, we respectfully renew our prayer that this Court enter an order releasing Mr. Zhang from Respondents' custody and enjoining Respondents from redetaining him.

Respectfully submitted,

/s/ Edgar Loy Fankbonner
Edgar Loy Fankbonner
Attorney for Petitioner