IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

FILED
FEB 25 2026
Clerk, U.S. District Court
By: Deputy Clerk

WAN XIN JIANG
Pro Se, Petitioner

V.

CRYSTAL CARTER, DO OFFICER,
TODD LYONS, PAM BONDI,
and KRISTI NOEM
Respondents.

Case No. 26-3006-JWL

TRAVERSE TO RESPONDENTS' RETURN TO WRIT OF HABEAS CORPUS

I. INTRODUCTION

Petitioner respectfully submits this Traverse in response to Respondents' Return. Respondents' argument mischaracterize factual posture of this case. Properly understood, Petitioner's continued detention is unconstitutional and unlawful under Zadvydas v. Davis, the Fifth Amendment and longstanding civil-detention principles.

Petitioner, WAN XIN JIANG, has been continuously detained since June 5th, 2025, post-removal-order, for a period exceeding one hundred and eighty days (about nine months). CRYSTAL CARTER, Warden-FCI Leavenworth and his immediate custodian is located in this district (Kansas). The Writ of Habeas Corpus is brought under 28 U.S.C. § 2241 challenging the lawfulness of continued detention post-removal-order. Respondents' Return fails to rebut Petitioner's showing that his continued detention violates 8 U.S.C. § 1231(a)(6) as interpreted by Zadvydas v. Davis, 533 U.S. 678 (2001), and violates substantive due process. Instead, the government relies on speculative future removal, repeated identity verifications, internal communication between ERO and ICE REO and the "mere delay" theory.

Petitioner, through this traverse, respectfully counters Respondents' argument and demonstrates this that his continued detention now more than six months in detention for removal purposes violates 8 U.S.C. § 1231, Zadvydas v. Davis, and the Due Process. Because Respondents cannot demonstrate a significant likelihood of removal in the reasonably foreseeable future, the Court should order Petitioner's immediate release under appropriate supervision.

II. FCTUAL CORRECIONS

Petitioner, in his Habeas petition filling alleged that a removal order was entered in the year 2004. Petitioner further alleged that the Order of Removal become administratively final in the year 2004. However, Respondents have asserted that the Order of Removal was entered in the year 2006, and it became final following the Judge's denial of the Motion to Reconsider in the same year. Here, Petitioner does not deny the facts presented by the Respondents and corrects his testimony that Order of Removal to China become administratively final in the year 2006.

Furthermore, Petitioner in his habeas filling alleged that he was taken into custody on or about May 23, 2004, but Respondents have corrected this mistake, which occurred on May 23, 2025. However, Petitioner's claim of been detained for more than six months post-removal-order remains a fact. Petitioner apologizes for this typo error and corrects his detention starting date to May 23, 2025.

III. RESPONDENTS MISAPPLY ZADVYDAS AND THE BURDEN-SHIFTING FRAMEWORK

4. A. Petitioner Has Made the Required Initial Showing

Respondents incorrectly argue that Petitioner must prove certainty of non-removal. That is not the standard. Under Zadvydas, once detention exceeds six-months, Petitioner need only provide "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." Zadvydas, 533 U.S. at 701.

Petitioner has met and exceeded this burden.

B. ICE's Failures Demonstrate Lack of Foreseeable Removal

Respondents argue that Petitioner's detention is lawful because the unsuccessfully have attempted his removal to the Republic of China, and the internal inquiries between ERO and ICE REO regarding Petitioner's Travel Document. Here the undisputed facts show:

1) No timeline for the issuance of a Travel Document
2) China has not agreed to issue a Travel Document
3) No alternative options have been presented by the Government
4) No explanation has been provided regarding the delay; and
5) No solution to the current barriers have been presented.

Respondents' assertion that ICE is working diligently does not alter this reality. Zadvydas explicitly rejected the idea that ongoing diplomatic efforts alone justify continued detention. "The prospect of indefinite detention is not cured by the fact that Attorney General may someday find a country willing to accept the alien." Zadvydas, 533 U.S. at 699.

C. Petitioner Has Fully Cooperated Throughout Detention

Under § 1231(a)(1)(c), detention may be extended only if the noncitizen acts to prevent removal. When cooperation exists, continued detention is unlawful: "Where an alien has cooperated fully and removal is not foreseeable, continued detention exceeds statutory authority." Rajigah v. Conway, 268 F. Supp 2d 159, 165 (E.D.N.Y. 2003).

Petitioner believes that once "detainee" shows facts indicating no realistic removal (about nine months of detention and no non-cooperation being the cause etc.), the Respondents must produce competent evidence of removal (such as consulate acceptance, TD, flight booking and etc.). Petitioner believes that he has shown enough to trigger that burden.

IV. THE GOVERNMENT HAS FAILED TO SHOW REMOVAL IS LIKELY IN THE REASONABLY FORESEEABLE FUTURE

A. Speculative or Conclusory Assertions Are Insufficient

Under Zadvydas, the Government must provide specific, non-speculative evidence that removal is likely in the reasonably foreseeable future. General references to ongoing efforts pending communication, or theoretical cooperation does not satisfy this standard. here, Respondent has offered no:

Travel document issuance timeline
Confirmation or acceptance by China
Scheduled removal date
Evidence resolving known barriers to removal

Absent such proof, continued detention becomes indefinite, which the constitution forbids.

B. Continued Detention Serves No Legitimate Purpose

The Supreme Court made clear that once removal is no longer reasonably foreseeable, detention ceases to serve its civil purpose and becomes punitive. Zadvydas, 533 U.S. at 690. At this stage, supervision under conditions of release is the required alternative.

V. RESPONDENTS HAVE NOT REBUTTED PETITIONER'S SHOWING

A. "Respondents continues to make efforts to obtain travel documents" Is Not Evidence of Foreseeable Removal

Respondents' claim of rebutted is solely on ICE's future continues efforts. On page 6 of the Respondents' Response, Government asserts: "Respondents continues to make efforts to obtain travel documents for Petitioner for deportation." yet, right before this assertion, Respondents admit that "this Court recently ruled that failed or delayed attempts to obtain travel documents, without additional facts to show when travel documents will be approved or that the travel request will be approved very soon is simply insufficient to rebut the presumption of release after Petitioner has been detained for more than six months. Paulos v. Noem..." but still fail to show what this Honorable Court requires to rebut Petitioner's showing once the six months post removal have passed.

"General assertions that ICE continues to make efforts to remove an alien do not satisfy the governments' burden absent evidence of a realistic prospect of success. Abdi v. Nielsen, 287 F. Supp. 3d 327, 334 (W.D.N.Y 2018). Respondents identify no country willing to accept Petitioner, no travel document in progress, and no anticipated timeline. That is not rebuttal; it is speculation.

VI. PETITIONER'S STATUS AS A LAWFUL PERMANENT RESIDENT ENTITLES HIM TO FULL FIFTH AMENDMENT PROTECTION

Respondents reliance on Esahaqzada (Case No. 25-3145-JWL) is misplaced. In that case, the court dealt with an "inadmissible" alien. Petitioner however, entered the United States legally as a refugee in 1985 and was a lawful Permanent Resident (LPR).

The Supreme Court has long held that "once an alien gains admission to our country and begins to

develop the ties that go with permanent residence, his constitutional status changes accordingly." Landon v. Plasencia, 459 U.S. 21, 32 (1982). Unlike inadmissible aliens at the border, Petitioner has a vested interest in his liberty that cannot be stripped away by an indefinite administrative hold. His claim is not merely "statutory" but constitutional.

VII. RESPONDENTS' "MERE DELAY" THEORY FAILS

Respondents cite Dusabe v. Jones to argue that "mere delay" in obtaining travel documents does not trigger an inference that removal is not foreseeable. However, Respondents ignore the cumulative history of this case. DHS has not been able to secure a travel document during the current NINE months of detention, but for the previous 20 years since the removal order was entered.

A "bureaucratic delay" ceases to be "mere" and becomes "indefinite" when it repeats across multiple years. As the Supreme Court noted in Zadvydas, "the longer the custody, the greater the procedural safeguards that may be required." 533 U.S. at 701. When a country repeatedly refuses to issue documents over a span of years, the "reality of bureaucratic delays" shifts from a temporary huddle to permanent barrier.

VIII. PENDING REMOVAL EFFORTS DO NOT DEFEAT A ZADVYDAS CLAIM

A. Respondents Assert: "Respondents has worked diligently to obtain travel documents for Petitioner."

Respondents' claim that they have been "diligent" in seeking removal does not resolve the constitutional question. Zadvydas does not ask whether DHS is trying, it asks whether removal is significantly likely in reasonably foreseeable future. "Good-faith efforts do not justify continued detention when there is no realistic prospect of removal." Zadvydas, 533 U.S. at 699. Where, as here, detention has exceeded more than nine months and removal has not occurred, DHS bears the burden of producing concrete, non-speculative evidence that removal will occur soon. General assurances are insufficient.

As courts have repeatedly held:

"The government cannot rely on the mere absence of refusal to justify continued detention." Seretse-Khama v. Ashcroft, 215 F. Supp. 2d 37, 50 (D.D.C. 2002).

What matters is affirmative evidence of acceptance, not speculative hope. See:

Bah v. Cangemi, 489 F. Supp. 2d 905, 916 (D. Minn. 2007) "Speculation that removal might occur someday is insufficient."

Diligence alone cannot overcome constitutional limits. The Supreme Court was explicit:

"The Governments' detention authority is not limitless, even when it acts in good faith." Zadvydas, 533 U.S. at 696.

More importantly, Respondents do not allege flight risk or danger, which further undermines continued detention. As the Supreme Court noted:

"Preventive detention without a finding of danger or flight risk raises serious due process concerns." Zadvydas, 533 U.S. at 690.

Courts routinely order release where no individualized justification exists. See:

Ngo v. INS, 192 F.3d 390, 398 (3d Cir. 1999)
Tijani v. Willis, 430 F.3d 1241, 1247 (9th Cir. 2005)

IX. THE GOVERNMENT BEARS THE BURDEN AND HAS FAILED TO CARRY IT

On page seven of the Government's Response, Respondents assert that Petitioner has failed to meet his burden to show there is no significant likelihood of removal in the reasonably foreseeable future by citing Nasr v. LaRocca case. This argument improperly reverses the burden.

Once Petitioner made a prima facie showing, which he has, the burden is shifted to the Government. Respondents have failed to provide:

An acceptance by his home country China
A travel document issuance
A scheduled removal
Any timeline

As the Supreme Court held:

"Where the Government fails to rebut the showing, continued detention violates the statute." Zadvydas, 533 U.S. at 701.

Here, Petitioner has met his burden by showing:

China has not accepted to issue a TD after such prolonged detention
DHS has provided no timeline, assurance, or concrete progress

Furthermore, Respondents' claim that removal may occur at some unknown future date is precisely the type of reasoning rejected in Zadvydas:

"The Constitution does not permit detention based on the remote possibility that removal may someday occur." Zadvydas, 533 U.S. at 699

X. CONTINUED DETENTRION VIOLATES SUBSTANTIVE DUE PROCESS

Respondents assert: "Although Petitioner argues that his continued detention violates due process, petitioner is not entitled to any process beyond that granted in the applicable immigration statues, which he does not dispute he received."

Civil immigration detention is permissible only so long as it bears a reasonable relationship to its purpose effectuating removal.

"When detention no longer serves its purported purpose, it becomes punishment and violates due process." Zadvydas, 533 U.S. at 690.

Here:

Removal is not foreseeable;
Detention has become indefinite;
Petitioner poses no flight risk or danger warranting extraordinary detention

XI. REQUEST FOR RELIEF

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

1. Grant the Petition for Writ of Habeas Corpus;
2. Order Petitioner's immediate release from ICE custody under reasonably conditions of supervision;
3. Enjoin Respondents from continued detention absent evidence of imminent removal;
4. Grant any further relief the Court deems just and proper.

#. VERIFICATION

I WAN XIN JIANG, declare under penalty of perjury under the laws of the United States that I am the Petitioner in the above-entitled action, that I have read the foregoing Traverse to Respondents' Response to the Writ of Habeas Corpus and know the contends, therefore; and that the same is true and correct to the best of my knowledge, information and belief.

Wan Xin Jiang 2-21-2026

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