

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Xiao Luo Huang v. Sergio Albarran, et al.

Huang v. Albarran · No. 1:25-CV-01308 JLT EPG · Decided December 15, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 XIAO LUO HUANG, Case No. 1:25-CV-01308 JLT EPG 12 Petitioner,
ORDER RE MOTION FOR RECONSIDERATION OF ORDER DENYING 13 v. REQUEST
FOR TEMPORARY RESTRAINING ORDER 14 SERGIO ALBARRAN, ET AL., (Doc. 14) 15
Respondents. 16 Before the Court for decision is Xiau Luo Huang ‘s request for reconsideration
(Doc.

14) 17 of this Court ‘s October 23, 2025 Order (Doc. 11) denying his earlier motion for a
temporary 18 restraining order (TRO) (Doc. 2) filed in conjunction with his petition for a writ of
habeas corpus 19 (Doc. 1).

As was the case with the initial round of motions filed in this case, the Court has 20 reviewed all
the papers and attachments related to the motion for reconsideration. (Docs. 11, 16, 21 19.)
Though the Court does not agree with all the arguments raised by Petitioner therein, 22 Petitioner
has highlighted district court authorities (see Doc. 14 at 14) that persuade the Court to 23
reconsider its framing of the applicable legal standard.¹ 24 In the interest of expedience, the Court
will not repeat the factual background set forth in 25 its October 23, 2025, order.

(See Doc. 11.) Ultimately, in that order, Court denied the initial TRO 26 27 1 Pursuant to Rule
60(b) of the Federal Rules of Civil Procedure, “[o]n motion and just terms, the court may relieve a
party or its legal representative from a final judgment, order, or proceeding.” Id. Rule 60(b)
indicates such relief may 28 be granted for several reasons including “mistake,” see Fed.

R. Civ. P. 60(b)(1), which includes a mistake of law by 1 request, finding that Petitioner had not
demonstrated entitlement to the requested form of 2 injunctive relief – immediate release –
because: (1) although Petitioner offered some evidence to 3 suggest his removal to China is not
reasonably foreseeable “much of that information [was] 4 dated”; (2) on the other hand, DHS
maintained Petitioner ‘s removal was likely to be secured in 5 the coming weeks and indicated it
had applied for travel documents, assertions that were 6 supported generically by the declaration
of the assigned Deportation Officer; (3) Petitioner had 7 been given a generic, but accurate notice
of the reasons for his re-detention; (4) Petitioner ‘s 8 requests for withholding of removal and
Convention Against Torture protection were previously 9 denied; (5) and Petitioner had been

afforded an informal interview pursuant to regulation, even though that interview was provided several weeks after his re-detention.

(Id. at 8–13 (emphasis added).) Applying the framework set forth in *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001), the 12 Court concluded Petitioner had not yet met his burden. 13 However, as one recent decision from this District indicates, *Zadvydas* is not directly 14 applicable to Petitioner’s circumstances. 15 “[T]his case is not about ICE’s authority to detain in the first place upon an issuance of a final order of removal as in *Zadvydas*.” 16 *Nguyen v. Hyde*, 788 F. Supp. 3d 144, 152 (D.

Mass. 2025). As in *Nguyen*, “[t]his case is about ICE’s authority to re-detain 17 [petitioner] after he was issued a final order of removal, detained, and subsequently released on an [order of supervision].” Id. “[T]his 18 is not your typical first round detainment of an alien awaiting removal. Petitioner was previously detained, then released on 19 supervised release for several years, and his 90-day removal period expired.” *Escalante v. Noem*, No. 9:25-CV-00182-MJT, 2025 WL 20 2206113, at *3 (E.D.

Tex. Aug. 2, 2025). 21 The regulations at 8 C.F.R. §§ 241.13(i) and 241.4(l) apply to non-citizens in petitioner’s situation and outline the process to be 22 followed. Id.; *Escalante*, 2025 WL 2206113, at *3 (“After *Zadvydas*, the immigration regulations were revised to implement 23 administrative review procedures for... those who are re-detained upon revocation of their supervised release.” (citing 8 C.F.R. § 24 241.13)).

In *Escalante*, the court noted that: 25 Section 241.13(i)(2)[,] [which is] entitled “Revocation for removal[,]” provides that “the Service may revoke an alien 26 27 2 In *Zadvydas*, the Supreme Court set the “presumptively reasonable period of detention” under 8 U.S.C. § 1231(a)(6) at six months. 533 U.S. at 701.

After the detention has surpassed the “presumptively reasonable” 6-month period, and 28 “once the alien provides good reason to believe that his or her removal is not significantly likely in the reasonably 1’s [supervised] release under this section and return the alien to custody if, on account of changed circumstances, the 2 Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable 3 future.” 8 C.F.R. § 241.13(i)(2) (emphasis added).

Section 241.4(b)(4)[,] which is entitled “Service determination 4 under 8 C.F.R. 241.13[,]” states that, after supervised release under section 241.13, “if the Service subsequently 5 determines, because of a change of circumstances, that there is a significant likelihood that the alien may be removed in 6 the reasonably foreseeable future [to the country to which the alien was ordered removed or] a third country, the alien 7 shall again be subject to the custody review procedures under this section.” 8 C.F.R. § 241.4(b)(4) (emphasis 8 added).

9 Escalante, 2025 WL 2206113, at *3. 10 Those regulations indicate that, when ICE revokes release to effectuate removal, “it is [ICE ‘s] burden to show a significant likelihood that the 11 alien may be removed.” Escalante, 2025 WL 2206113, at *3; see also Roble v. Bondi, No. 25-CV-3196 (LMP/LIB), 2025 WL 2443453, at *4 (D. 12 Minn. Aug. 25, 2025) (“[T]he regulations at issue in this case place the burden on ICE to first establish changed circumstances that make removal 13 significantly likely in the reasonably foreseeable future.”); Abuelhawa v. Noem, No. 4:25-CV-04128, 2025 WL 2937692, at *8 (S.D.

Tex. Oct. 16, 14 2025) (“[U]pon revocation of release, the Government bears the burden to show a significant likelihood that the alien may be removed in the 15 reasonably foreseeable future.”); Nguyen, 788 F. Supp. 3d at 150.

As the district court in Escalante found, “[i]mposing the burden of proof on the 16 alien each time he is re-detained would lead to an unjust result and serious due process implications.” Escalante, 2025 WL 2206113, at *3.

Therefore, 17 the Court must determine whether respondents have met their burden to show a changed circumstance indicating a significant likelihood of 18 removal. 19 Yan-Ling X. v. Lyons, No. 1:25-CV-01412-KES-CDB (HC), 2025 WL 3123793, at *3–4 (E.D. 20 Cal. Nov. 7, 2025) 21 As in Yan-Ling, Petitioner held lawful permanent resident status until he was ordered 22 removed after he sustained criminal convictions, including for an aggravated felony.

(See Doc. 11 23 at 1.) Though he was detained on two occasions (in 2011 and 2017-18) while DHS attempted to 24 remove him to China, he was eventually released from both detentions on Orders of Supervision 25 (OSUP) because DHS had not effected his removal. (Id. at 1–2.)

Thus, the question presented 26 here is not whether Petitioner has met his initial burden under Zadvydas, but rather whether 27 Respondents can show a changed circumstance indicating a significant likelihood of removal. 28 The Notice of Revocation of Release issued to Petitioner on September 19, 2025 1 indicated: 2 This letter is to inform you that your case has been reviewed and it has been determined that you will be kept in the custody of U.S. 3 Immigration and Customs Enforcement (ICE) at this time.

This decision has been made based on a review of your file and/or your 4 personal interview on account of changed circumstances in your case. ICE has determined that there is a significant likelihood of 5 removal in the reasonably foreseeable future in your case. 6 (Doc. 9-2 at 21.)

As the Court noted in its prior order, the Deportation Officer assigned to the 7 matter indicated in his initial declaration that: 8 On October 8, 2025, ICE submitted a travel document for Petitioner. ICE requested that the Chinese government issue 9 Petitioner a passport or other suitable travel document within seven days.

The Chinese government has recently been fulfilling travel 10 document requests within forty-five to sixty days, but sometimes less. 11 12 (Doc. 9-1, ¶ 23 (emphasis added).) This statement, without equivocation, suggested that a travel 13 document had been requested from the Chinese government. Even at that time, the Court noted 14 that ICE had not, “pointed to specific information suggesting rates of travel document issuance 15 from China in recent weeks or months, whether and at what rates any such documents have been 16 issued to Chinese nationals with criminal records, and/or how quickly those documents were 17 produced.” (Doc.

11 at 12.) 18 As part of the opposition to the motion for reconsideration, Respondents have submitted 19 an updated declaration from the assigned Deportation Officer designed in part to “clarify” his 20 prior declaration because it “may have inadvertently implied that, on October 8, 2025, I submitted 21 the travel document request directly to the Chinese government.” (Doc.

16-1 at para 6.) He now 22 declares that on October 8, 2025, he “prepared a travel document request” and submitted that 23 request to ICE’s designated point of contact within the Enforcement and Removal Operations 24 Office in San Francisco, which “is locally responsible for reviewing and approving travel 25 document requests” before they are submitted to the Removal and International Operations (RIO) 26 division at ERO Headquarters for further approval and processing.

(Doc. 16-1 at ¶ 6.) On October 27 31, 2025, ERO San Francisco submitted the locally approved travel document request to RIO. 28 (Id., ¶ 7.) On November 10, 2025, RIO further approved the travel document request, and on 1 November 13, 2025, RIO submitted a nationality verification request, as part of the travel 2 document request, to the National Immigration Administration (NIA) in Beijing, China.

(Id., 3 ¶¶ 7–8.) According to the Deportation Officer, nationality verification usually takes a minimum 4 of 30 days, and the verification request for Petitioner remains pending. (Id. at ¶ 9.) ICE 5 anticipates that we will receive the confirmed nationality verification for Petitioner from China on 6 or shortly after December 13, 2025. (Id.) Once the NIA verifies Petitioner ‘s nationality, the 7 Deportation Officer anticipates that RIO will promptly submit the verified travel document 8 request to the Chinese Embassy in Washington, D.C., who typically issues a travel document 9 within 7-10 days of receiving the verified travel document request.

(Id., ¶ 10.) Accordingly, ICE 10 anticipates that we will receive a travel document to remove Petitioner to China on or shortly 11 after December 20, 2025. (Id.) 12 These details, viewed alongside the adjusted standard of decision, suggest that 13 Respondents may be unable to demonstrate that changed circumstances justified petitioner ‘s re- 14 detention (or justify continued detention).

Though the assigned Deportation Officer continues to maintain that the “Chinese government has recently been fulfilling travel document requests within forty-five to sixty days, but sometimes less,” Respondents have yet to explain why those documents will issue on this timeline for this Petitioner.

Thus, the Court ORDERS: 1. No later than December 23, 2025, Respondents SHALL show cause why Respondent should not be granted some form of immediate relief. Respondents are specifically directed to address why they believe the Chinese government will issue travel documents for Petitioner now, given his criminal history and prior, unsuccessful attempts deport him to China.

2. Given the fact that Petitioner may be receiving a custody review on December 17, 2025 (see Doc. 9-2 at 24) and considering the updated timeline for the issuance of travel documents set forth in the Deportation Officer’s declaration, facts on the ground may either prove or undermine Respondents’ prior assertions regarding the likelihood of removability.

Respondents SHALL also provide detailed, updated information about the progress of any application for Petitioner’s travel documents. IT IS SO ORDERED. Dated: December 15, 2025
Cerin | Tower TED STATES DISTRICT JUDGE