

## UNITED STATES DISTRICT COURT

## DISTRICT OF NEVADA

4 Zeng Yijuan,

Case No.: 2:21-cv-00221-APG-VCF

5 Petitioner,

**Order**

6 v.

7 Robert M. Wilkinson,<sup>1</sup> et al.,

8 Respondents.

10 Petitioner Zeng Yijuan, a citizen of the People's Republic of China, has filed a habeas  
11 corpus petition under 28 U.S.C. § 2241 that challenges her detention by the Department of  
12 Homeland Security, Immigration and Customs Enforcement (ICE). ECF No. 1. She has also filed  
13 a motion for appointment of counsel. ECF No. 3. Having conducted an initial review of the  
14 petition, I will direct service of the petition on respondents and grant the motion for appointment  
15 of counsel.

16 Section 3006A of Title 18, U.S. Code, provides that counsel may be appointed for an  
17 impoverished habeas petitioner "whenever the court determines that the interest of justice so  
18 require." 18 U.S.C. § 3006A(a)(2)(B). In deciding whether to appoint counsel, the district court  
19 "must evaluate the likelihood of success on the merits as well as the ability of the petitioner to  
20 articulate his claims pro se in light of the complexity of the legal issues involved." *Weygandt v.*  
21 *Look*, 718 F.2d 952, 954 (9th Cir. 1983); *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997).

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23 <sup>1</sup> Acting U.S. Attorney General Robert M. Wilkinson is substituted for Jeffrey A. Rosen as a  
respondent. *See* Fed. R. Civ. P. 25(d).

1 The Supreme Court has held that a post-removal detention exceeding six months is  
2 presumptively unreasonable. *See Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). According to her  
3 petition, Yijuan was taken into custody on January 6, 2020, and ordered removed on March 16,  
4 2020. Because she has been detained for longer than the presumptively reasonable period,  
5 Yijuan's petition has potential merit. In addition, Yijuan is unable to litigate this case without the  
6 assistance of counsel due to the complexity of the legal issues involved and her claimed inability  
7 to communicate in English. Based on these considerations, I conclude that the interests of justice  
8 require appointment of counsel.

9 **IT IS THEREFORE ORDERED** that Clerk **SHALL SERVE** copies of the petition  
10 (with attached exhibit A<sup>2</sup>) and this order upon respondents as follows:

11 1. By having the United States Marshal serve a copy of the petition and this order on the  
12 United States Attorney for the District of Nevada or on an Assistant United States Attorney or  
13 clerical employee designated by the United States Attorney pursuant to Rule 4(i)(1)(A) of the  
14 Federal Rules of Civil Procedure.

15 2. By sending a copy of the petition and this order by registered or certified mail to the  
16 following: (1) the Honorable Robert M. Wilkinson, Acting Attorney General of the United  
17 States, Department of Justice, 950 Pennsylvania Ave. NW, Washington, DC 20530; (2) the  
18 Honorable Alejandro Mayorkas, Secretary of the U.S. Department of Homeland Security,  
19 Washington, DC 20528; (3) Kerri Ann Quihuis, Field Office Director, United States Immigration  
20 and Customs Enforcement, 501 Las Vegas Blvd. S., Las Vegas, Nevada, 89101; and (4) Jeanne  
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23 <sup>2</sup> Yijuan also attached a news article and two lengthy government reports to her petition. ECF  
No. 1 at 24-138. These items, which provide general information about repatriating detained  
aliens to China, is available for review on the court's docket but need not be included with this  
initial service.

1 M. Kent, Officer in Charge, United States Citizenship and Immigration Services, 5650 Badura  
2 Ave., Suite 100, Las Vegas, Nevada, 89118.

3 Respondents are not required to respond to the petition pending appearance of counsel for  
4 the petitioner.

5 **IT IS FURTHER ORDERED** that petitioner's motion for appointment of counsel (ECF  
6 No. 3) is GRANTED. The Federal Public Defender for the District of Nevada (FPD) is appointed  
7 to represent petitioner. If the FPD is unable to represent the petitioner, due to a conflict of  
8 interest or other reason, then alternate counsel will be appointed. In either case, counsel will  
9 represent the petitioner in all federal-court proceedings relating to this matter, unless allowed to  
10 withdraw.

11 **IT IS FURTHER ORDERED** that the FPD shall have 10 days from the date of entry of  
12 this order to file a notice of appearance, or to indicate to the court its inability to represent the  
13 petitioner in this case.

14 **IT IS FURTHER ORDERED** that the court will establish a schedule for further  
15 proceedings after counsel appears for the petitioner.

16 Dated: February 16, 2021



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17 U.S. District Judge Andrew P. Gordon  
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