

FILED
Clerk
District Court
JUN 02 2025

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS

for the Northern Mariana Islands
By JP
(Deputy Clerk)

JIANG GUANG ZHANG,

Petitioner,

v.

ANTHONY C. TORRES, Commissioner,
Commonwealth of the Northern Mariana
Islands Department of Corrections,

Respondent.

Case No. 1:25-cv-00002
(Related Case: 1:23-cr-00004)

ORDER GRANTING WRIT OF
HABEAS CORPUS

This matter came before the Court on May 30, 2025 for a hearing on Petitioner Jiang Guang Zhang's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. Upon receiving the Petition and after granting the Petitioner's application to proceed in district court without prepaying fees or costs on May 28, 2025, the Court directed the United States Marshals Service to serve the Petition and related materials and ordered the parties to appear for a hearing on May 30, 2025. (*See* Order, ECF No. 5.) At the hearing, Petitioner was present and represented by counsel, Joe W. McDoulett. Respondent appeared without counsel. Assistant United States Attorney Albert Flores, Jr. was present on behalf of the United States Government but did not appear for Respondent.

I. FACTUAL BACKGROUND

The following facts are derived from the Petition (Pet., ECF No. 2) and Petitioner's Memorandum in Support (Mem., ECF No. 3), which was supported by exhibits (ECF Nos. 3-1-3-5); in addition to information provided to the Court by United States Marshal Robert Wilhite and Commonwealth of the Northern Mariana Islands ("CNMI") Department of Corrections Commissioner Anthony C. Torres, the Respondent (Mins., ECF No. 6). While the

1 Court did not receive sworn testimony from any witnesses, the parties affirmed that these facts
2 are undisputed.

3 1. State Sentence Discrepancy:

- 4 a) On December 15, 2022, the Defendant entered a plea of guilty in the CNMI
5 Superior Court under NMI Rules of Criminal Procedure 11(e)(1)(C) in
6 CNMI Criminal Case Number 22-0092 (JCO 1–2, ECF No. 3-2) pursuant
7 to a written Notice of Plea Agreement filed with the court on the same date
8 (CNMI Plea 4, ECF No. 3-1).
- 9 b) On page four of the Plea Agreement, paragraph one, it states, “Defendant
10 shall be sentenced to five (5) years, of which three (3) years shall be
11 suspended, and two (2) years shall be served day for day without the
12 possibility of parole, early release, weekend release, or other similar
13 programs. Defendant shall receive credit for time served of twenty-eight
14 (28) days.” (*Id.* at 5.)
- 15 c) On December 16, 2022, the CNMI Superior Court issued its Judgment of
16 Conviction and Commitment Order (“JCO”). In paragraph one of the
17 “sentence,” the JCO incorrectly states, in pertinent part, “Defendant shall
18 be sentenced to a term of imprisonment of five (5) years, all suspended
19 except three (3) years shall be served day for day without the possibility of
20 parole, early release, weekend release, or other similar programs.” (JCO
21 3.)

- 22 2. The Petitioner was given credit for time served of twenty-eight (28) days and
23 was remanded to the CNMI Department of Corrections (“DOC”) “forthwith.”
24 (*Id.*)

- 1 3. On or about May 9, 2025, Petitioner's counsel from the CNMI Public
2 Defender's Office detected the error in the JCO because the Petitioner had
3 determined he should be close to release and had inquired about the pending
4 release date with DOC. (Mem. ¶ 3.)
- 5 4. On May 9, 2025, the CNMI Attorney General's Office, through Chief
6 Prosecutor Chester Hinds, and the Petitioner, through his counsel Assistant
7 Public Defender Karie Comstock, requested that the CNMI Superior Court
8 amend its order to correctly reflect the sentence that should have been imposed
9 pursuant to the Plea Agreement. (Stip., ECF No. 3-3.)
- 10 5. On May 15, 2025, the JCO was amended by the CNMI Superior Court to
11 accurately reflect the sentence as two (2) years to be served with credit for
12 twenty-eight (28) days of time served. (Am. JCO 1, ECF No. 3-4.)
- 13 6. Following the correction of the JCO, the Petitioner's sentence in CNMI
14 Criminal Case Number 22-0092 ended on November 17, 2024.¹
- 15 7. Petitioner was transferred to federal custody of the United States Marshals
16 Service on May 16, 2025. (*See* Booking Sheet, ECF No. 3-5.)
- 17 8. Federal Sentence Details: Petitioner was sentenced to six (6) months of
18 imprisonment in his federal criminal case, which was to run consecutively to
19 the state sentence. (*United States v. Zhang*, Case No. 1:23-cr-00004, Judgment
20 2, ECF No. 79.) The Court recommended to the Bureau of Prisons that the
21 sentence be served in Saipan. (*Id.*) Upon release from imprisonment, Petitioner
22 sentence be served in Saipan. (*Id.*) Upon release from imprisonment, Petitioner
23 sentence be served in Saipan. (*Id.*) Upon release from imprisonment, Petitioner
24 sentence be served in Saipan. (*Id.*) Upon release from imprisonment, Petitioner
25 sentence be served in Saipan. (*Id.*) Upon release from imprisonment, Petitioner

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27 ¹ In his Petition, Petitioner had stated the end date of the sentence imposed in his CNMI Superior Court
28 criminal case to be November 18, 2024. (Pet. 2.) However, U.S. Marshal Robert Wilhite advised that the
 correct calculation of the end of the term of imprisonment is November 17, 2024.

1 was to be placed on supervised release for a period of three (3) years and was
2 directed to report to immigration officials for the commencement of deportation
3 proceedings. (*Id.* at 3, 5.)

4 9. Petitioner was sentenced in the federal criminal case as Jiang Guang Zhang. (*Id.*
5 at 1.) Petitioner was named in the CNMI Superior Court criminal case as Jian
6 Guang Zhang. (*See, e.g.*, JCO 1.) In his Petition, Petitioner included Jian Guang
7 Zhang as another name he has used. (Pet. ¶ 1(b).) No question of identity has
8 been raised. The Court finds that Jiang Guang Zhang and Jian Guang Zhang are
9 the same person.
10

11 10. Detention Credit: Petitioner was detained from November 17, 2024 to May 16,
12 2025 at the CNMI DOC, yet this period was neither credited toward his federal
13 sentence nor counted towards the completion of his sentence under CNMI
14 Criminal Case Number 22-0092.
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16 11. U.S. Marshal Robert Wilhite advised the Court that as of the hearing held on
17 May 30, 2025, Petitioner had been detained for a total of six months and thirteen
18 days between November 17, 2024 and May 30, 2025, which, if ordered by the
19 Court to constitute credit toward the service of the sentence imposed, would
20 satisfy the term of imprisonment ordered in *United States v. Zhang*, Case No.
21 1:23-cr-00004.
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23 12. Petitioner's federal sentence would have been fully satisfied on May 17, 2025
24 if he had been granted credit for the time served from November 17, 2024 to
25 May 16, 2025, the period succeeding the transfer of custody from the CNMI
26 sentence to the federal sentence.
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II. ANALYSIS

This Court has jurisdiction over this Petition under 28 U.S.C § 2241(a), which states that “[w]rits of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions.” The writ extends to prisoners who are in custody for an order, decree, or judgment of a court or judge of the United States. *See* 28 U.S.C. § 2241(c)(2). Because Petitioner is challenging the manner, location, or conditions of his sentence’s execution, this Court may consider his Petition pursuant to 28 U.S.C. § 2241. *See Hernandez v. Campbell*, 204 F.3d 861, 864 (9th Cir. 2000). Further, this Court has jurisdiction to proceed to the merits of the petition because Petitioner is currently incarcerated at the CNMI Department of Corrections, and the CNMI DOC is within the district of the Northern Mariana Islands. *See United States v. Giddings*, 740 F.2d 770, 772 (9th Cir. 1984).

While it is generally required that a federal prisoner exhaust federal administrative remedies, *see Tucker v. Carlson*, 925 F.2d 330, 332 (9th Cir. 1991), the Ninth Circuit has recognized that exhaustion of administrative remedies is not required where it would be futile or cause irreparable injury, *Terrell v. Brewer*, 935 F.2d 1015, 1019 (9th Cir. 1991) (Exhaustion is not required if “(1) administrative remedies would be futile . . . or (3) the administrative procedure is clearly shown to be inadequate to prevent irreparable injury.”). A district court has the authority to excuse the failure to exhaust administrative remedies and reach the merits. *See Brown v. Rison*, 895 F.2d 533, 535 (9th Cir. 1990) (“Where exhaustion of administrative remedies is not jurisdictional, the district court must determine whether to excuse the faulty exhaustion and reach the merits, or require the petitioner to exhaust his administrative remedies before proceeding in court.”), *overruled on other grounds by Reno v. Koray*, 515 U.S. 50, 54–55 (1995).

1 In the present case, Petitioner has not exhausted his administrative remedies. However,
2 Petitioner has already and will continue to suffer irreparable injury for every day that he is held
3 in federal custody beyond May 17, 2025 for the sentence imposed in his federal criminal case.
4 Petitioner's immigration proceedings will not commence until he is considered to have fully
5 satisfied his federal sentence and is transferred to the custody of the United States Department
6 of Homeland Security. The Court finds that Petitioner's failure to exhaust his administrative
7 remedies is excused in light of Petitioner's ongoing, irreparable harm.
8


9 "A defendant shall be given credit toward the service of a term of imprisonment for any
10 time he has spent in official detention prior to the date the sentence commences . . . as a result
11 of the offense for which the sentence was imposed . . . that has not been credited against another
12 sentence." 18 U.S.C. § 3585(b). Petitioner's sentence under CNMI Criminal Case No. 22-0092
13 was satisfied on November 17, 2024. Petitioner remained in detention at the CNMI Department
14 of Corrections after that date. Petitioner's federal sentence in *United States v. Zhang*, Case No.
15 1: 23-cr-00004, was recommended by the Court to be served at the CNMI Department of
16 Corrections. (See Judgment 2.) Petitioner was in official detention for over six months
17 following the satisfaction of his CNMI sentence. In accordance with 18 U.S.C. § 3585(b),
18 Petitioner must be given credit for those days. According to U.S. Marshal Robert Wilhite, as
19 of May 30, 2025, Petitioner has served six months and thirteen days in detention at the CNMI
20 DOC beyond the termination of his sentence imposed in *CNMI v. Zhang*, CNMI Criminal Case
21 Number 22-0092; this period of time exceeds the time he should have served for his federal
22 sentence imposed in *United States v. Zhang*, Case No. 1:23-cr-00004.
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25 Therefore, based on the facts before the Court, and FOR GOOD CAUSE SHOWN, the
26 Court HEREBY GRANTS the Petition for a Writ of Habeas Corpus.
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1 It is therefore ORDERED and DECREED that:

- 2 1. Petitioner is given credit for time served from November 17, 2024 to May 30, 2025
3 towards the satisfaction of the federal sentence imposed in *United States v. Zhang*,
4 Case No. 1:23-cr-00004.
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6 2. Based on this credit for time served, Petitioner has served six months of imprisonment
7 in satisfaction of the federal sentence imposed in *United States v. Zhang*, Case No.
8 1:23-cr-00004.
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10 3. Petitioner shall be transferred from the custody of the United States Marshals Service
11 to the custody of the United States Department of Homeland Security, Immigration
12 and Customs Enforcement, effective May 30, 2025, for immigration proceedings.

13 IT IS SO ORDERED this 2nd day of June, 2025.

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15 RAMONA V. MANGLONA
16 Chief Judge
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