

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

TAI WAH YEUNG	)	
	)	
PETITIONER,	)	
	)	
vs.	)	Case No. 4:25-CV-179-CDL-AGH
	)	
WARDEN, STEWART DETENTION	)	
CENTER	)	
	)	
Respondent.	)	
	)	

PETITIONER'S REPLY

Mr. Yeung's continued detention violates 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), because, contrary to the government's statements, his removal is not reasonably foreseeable. Mr. Yeung was last taken into ICE custody on November 21, 2024, and for the past eight months, he has dutifully cooperated with ICE's removal efforts. And while the government asserts in its response that it will be able to secure a travel document from China and removal will occur in the foreseeable future, they provide no concrete evidence beyond mere assertions from a deportation officer.

After the expiration of the 90-day removal period, 8 U.S.C. § 1231(a)(3) provides that ICE may release non-citizens on an order of supervision (the

immigration equivalent of supervised release, with strict reporting and other requirements). Alternatively, a non-citizen “may be detained beyond the removal period” if they meet certain criteria, such as being inadmissible or deportable under specified statutory categories. 8 U.S.C. § 1231(a)(6) (emphasis added). Mr. Yeung fits these criteria due to his criminal convictions. After the removal period, even non-citizens with aggravated felony convictions may be “released” if “subject to the terms of supervision” set forth in § 1231(a)(3). *Id.* Therefore, the statutory scheme provides that ICE may continue to detain Mr. Yeung, but that ICE also has the discretion to release him.

Constitutional limits on detention beyond the removal period are well established. Government detention violates due process unless it is reasonably related to a legitimate government purpose. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). “[W]here detention’s goal is no longer practically attainable, detention no longer ‘bear[s][a] reasonable relation to the purpose for which the individual [was] committed.’” *Id.* at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). The Eleventh Circuit interprets *Zadvydas* as requiring the Petitioner to show: “(1) that the six-month period, which commences at the beginning of the statutory removal period, has expired when the § 2241 petition is filed; and (2) evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Gozo v. Napolitano*, 309 F. App’x 344, 346 (11th Cir. 2009); *see*

also Akinwale v. Ashcroft, 287 F.3d 1050, 1052 (11th Cir. 2002) (“[I]n order to state a claim under *Zadvydas* the alien ... must show post-removal detention in excess of six months [and] also must provide evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.”). Once the Petitioner meets these requirements, the burden shifts to the governments to rebut the showing by demonstrating a likelihood of removal.

Here, Mr. Yeung has indisputably been detained for longer than the presumptively reasonable six-month period. Petitioner has also met its initial burden of putting forth a “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Vaz v. Skinner*, 634 Fed. Appx. 778 (11th Cir. 2015) (quoting *Zadyvas*). First, he was previously released from ICE custody with a final removal order in 2009, presumably because ICE concluded at that time that his removal was not foreseeable. ICE re-detained him with the intent to remove him. But now, as the government acknowledged in its response, ICE’s request to secure a travel document remains pending 8 months later with no other information showing the likelihood of removal. China has been a traditionally recalcitrant country and ICE has provided no evidence to suggest this has substantially changed. *See Exhibit A, OIG-19-28 - ICE Faces Barriers in Timely Repatriation of Detained Aliens*. The burden, therefore, has shifted to the Respondent to demonstrate the likelihood of removal.

Pro forma statements that removal is likely do not satisfy the government's burden. The government must rebut a detainee's showing that there is no significant likelihood of removal in the reasonably foreseeable future with "evidence of progress . . . in negotiating a petitioner's repatriation." *Gebrelibanos v. Wolf*, No. 20-cv-1575, 2020 WL 5909487, at *3 (S.D. Cal., Oct. 6, 2020) (internal quotations admitted); *see also Hassoun v. Sessions*, No. 18-CV-586-FPG, 2019 WL 78984, at *4 (W.D.N.Y. Jan. 2, 2019) ("[A]s time passes, the mere existence of possible avenues for removal becomes insufficient to justify further detention; some evidence of progress is required").

Factors courts consider in analyzing the likelihood of removal include "the existence of repatriation agreements with the target country, the target country's prior record of accepting removed aliens, and specific assurances from the target country regarding its willingness to accept an alien." *Hassoun*, 2019 WL 78984 at *4 (citing *Callender v. Shanahan*, 281 F. Supp. 3d 428, 436-37 (S.D.N.Y. 2017)). The government here merely asserts that a request was filed and that there are positive diplomatic relationships with China without any evidence and does not show any evidence of progress of a removal in the reasonably foreseeable future. No evidence is submitted in support of their assertion beyond the Declaration of David Bush, a Deportation Officer.

This declaration fails to meet the government's burden as a signed declaration from an officer is not enough to show the likelihood of removal. The longer a non-citizen is detained, the more evidence the Government needs to put forward to justify continued detention. Specifically, "for detention to remain reasonable [once six months of detention have past], as the period of prior post removal confinement grows, what counts as the 'reasonably foreseeable future' conversely would have to shrink." *Zadvydas*, 533 at 701; *see also Alexander v. Attorney Gen. U.S.*, 495 F. App'x 274, 275 (3d Cir. 2012) ("[T]he longer the alien is detained, the less he must put forward to obtain relief."); *Hassoun*, 2019 WL 78984, at *4 ("[T]he government's burden becomes more onerous the longer an alien is detained, because it must show that removal will be effectuated sooner in the future."). A conclusory statement by itself is not enough to meet this burden.

Even if ICE is engaged in ongoing efforts to secure removal, such efforts alone do not mitigate already prolonged detention, nor do they render removal reasonably foreseeable. *See Shefqet v. Ashcroft*, No. 02-cv-7737, 2003 WL 1964290, at *5 (N.D. Ill. April 28, 2003) ("Even if [ICE] has been making regular efforts to secure Petitioner's travel document . . . at this time there must be some concrete evidence of progress. [ICE] cannot rely on good faith efforts alone."). The likelihood of removal "does not turn on the degree of the government's good faith efforts," but rather "on whether and to what extent the government's efforts are likely to bear

fruit.” *Hassoun*, 2019 WL 78984, at *5. Indeed, the Supreme Court specifically rejected the notion that removal is reasonably foreseeable as long as “good faith efforts” continue, holding that such a standard “would seem to require an alien seeking release to show the absence of any prospect of removal —no matter how unlikely or unforeseeable—which demands more than our reading of the statute can bear.” *Zadvydas*, 533 at 701.

Given the lack of any meaningful progress towards securing travel documents over the course of more than six months and the evidence that insurmountable barriers are blocking his removal, Mr. Yeung’s removal is not reasonably foreseeable. Therefore, this Court should order Mr. Yeung’s immediate release subject to whatever conditions this Court deems appropriate. *See Kacanic*, 2002 WL 31520362, at *5 (noting that combination of criminal probation and ICE’s supervised release conditions “will assure [Petitioner’s] availability if and when [ICE] receives travel papers for the Petitioner”).

Respondent also failed to protect Petitioner’s due process rights. ICE has failed to conduct the 180-day review as required under 8 CFR 241.4. Mr. Yeung last custody review was conducted on March 14, 2025. *See Exhibit B, Decision to Continue Detention*. It is a violation of Petitioner’s due process rights to not review his custody regularly and it is also inconsistent with ICE’s own regulations. 8 C.F.R. 241.13.

Respectfully submitted,

This August 6, 2025.

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CERTIFICATE OF SERVICE

This is to certify that the foregoing **PETITIONER'S REPLY** was served electronically on :

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