

Liao Kun
A 240 514 352
El Paso SPC
8915 Montana Ave.
EL PASO, TX 79925

DETAINED

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

FILED
NOV 13 2025
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY *[Signature]*
DEPUTY CLERK

Liao Kun
Petitioner,

v.

Angel Garite
ASSISTANT FIELD OFFICE DIRECTOR
EL PASO SERVICE PROCESSING CENTER

Maria De Anda- Ybarra
ICE FIELD OFFICE DIRECTOR

Kristi Noem
SECRETARY OF THE DEPARTMENT
OF HOMELAND SECURITY

Pamela Bondi
ATTORNEY GENERAL

Respondents.

No. 3:25-CV-00418-LS

**MOTION TO RECONSIDER
THE MOTION FOR APPOINTMENT OF COUNSEL
PURSUANT TO 18 U.S.C. § 3006A**

**UNITED STATES DISTRICT COURT
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Liao Kun, A240 514 352

Petitioner,

v.

No. 3:25-CV-00418-LS

Angel Garite

**ASSISTANT FIELD OFFICE DIRECTOR
EL PASO SERVICE PROCESSING CENTER**

Respondents.

**MOTION TO RECONSIDER
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PURSUANT TO 18 U.S.C. § 3006A**

Petitioner requests that this Court reconsider the motion to appoint a counsel to represent Petitioner in this habeas action.

The Court Should Exercise Its Discretion to Appoint Counsel due to Petitioner has shown financial need, the complexity of his case, lack of English ability, lack of experience of practice the laws, a district court may appoint counsel in a habeas proceeding under 28 U.S.C § 2241 when the "interests of justice so require."

18 U.S.C. § 3006A(a)(2)(B). Courts have often examined three elements in determining whether appointment of counsel is neccessary: 1) the likelihood of success on the merits, 2) the complexity of the legal issues involved in the case, 3) and the ability of the Petitioner to present the case in light of its complexity. See, e.g., *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983); *Saldina v. Thornburgh*, 775 F. Supp. 507, 511 (D. Conn.

1991).

Petitioner has been held in custody for more than 30 months since he got detained after he crossed the border. He has been held in custody for 21 months since being ordered removed to China, and removal in the reasonable foreseeable future is unlikely because he submitted his passport at the first place when he got detained after he had crossed the border, but he hasn't been removed yet. And also he has not had any connection with any other countries, thus he will unlikely be accepted by the other countries. Under the Supreme Court's decision in *Zadvydas*, Petitioner's continued detention is presumptively unreasonable. Thus, Petitioner has a high likelihood of success on the merits.

His removal proceedings have presented many legal issues, including lack of notice and information about his detention and his proceedings, prolonged detention, daily abuse, discrimination, arbitrary disciplinary and housing changing, obstacle to the court, etc. His case is very complex.

Besides Petitioner didn't speak English before he came to the United States, he had only graduated from a high school in China and he is 43 years old. Even though he has been working very hard on his case and studying English, but it's far less than what a lawyer could contribute to his case. Petitioner's paperwork looks like full of points and arguments about the facts and the laws, which were just copies that he had searched from the cases. It doesn't mean he has such ability to defend himself, especially those paperwork he submitted to the Court is English version, which means that he has to translate them into Chinese at first in his mind so he could understand what those points and arguments are presenting and then speak out in English when he response or argue the issues during the hearing. There also has so many English words on his paperwork he don't even understand, despite he cannot organize a correct English sentence at the most of the time when he is speaking, even he would have an interpreter, it wouldn't help that much.

Moreover, Petitioner would encounter great difficulty in presenting this habeas corpus case alone. The House Report on the predecessor to § 3006A(a)(2)(B) recognized that habeas corpus proceedings often present "serious and complex issues of law and fact" that would necessitate the assistance of counsel. H.R. Rep. No. 1546, 91st Cong. 2d Sess, (1970), reprinted in 1970 U.S.C.C.A.N. 3982, 3993. In addition, the congressional report on § 3006A(2)(B) stated that a court should appoint counsel when "necessary to insure a fair hearing." *Id.* The complexity of a habeas case will pose an especially great obstacle for Petitioner.

In light of the complicated issues involved in habeas cases and Petitioner's inability to adequately present the case at bar, as well as Petitioner's likelihood of success on the merits, this Court should exercise its discretion to appoint counsel under 18 U.S.C. 3006A(a)(2)(B).

Respectfully submitted,

Liao Kun
Liao Kun - Petitioner

11-7
Dated

CERTIFICATE OF SERVICE

I Liao Kun, hereby certify that I sent the foregoing along with any attached with the United States District Court the Clerk of the Court for the Western District Of Texas El Paso Division by priority mail on 11-7, 2025. I further certify that Petitioner will serve a copy of the foregoing and any attached pages to DHS/ICE Office of Chief Counsel - EPD by the El Paso SPC's internal mailing system to the address 11541 Montana Avenue, Suite O, EL PASO, TX 79936, on 11-7, 2025.

Liao Kun
Liao Kun - Petitioner

11-7
Date

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El Paso SPC
8915 Montana Avenue
El Paso, TX 79925

Detained

No. 3:25-CV-00418-LS

**UNITED STATES DISTRICT COURT
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DECLARATION OF TIMELY FILING

I, Liao Kun, is detained at the El Paso SPC [and has been] since May 30, 2023.

Pursuant to Fed. R. App. P. 25(a)(2)(A)(iii) ("Inmate Filing"), it provides that "if an institution has a system designed for legal mail, an inmate confined there must use that system to receive the benefit of this Rule 25(a)(2)(A)(iii)." And it is accompanied by: a declaration in compliance with 28 U.S.C. § 1746, setting out the date of deposit and stating that first-class postage is being prepaid; or evidence (such as a postmark or date stamp) showing that the paper was so deposited and that postage was so deposited and that postage was prepaid; or the Court of Appeals exercises its discretion to permit the later filing of a declaration that satisfies Rule 25(a)(2)(A)(iii).

I, Liao Kun, declare that the El Paso SPC maintains a designated legal-mail system; that I used this system to deposit THE MOTION TO RECONSIDER HIS MOTION FOR APPOINTMENT OF COUNSEL following his Habeas Corpus petition, along with a Declaration of timely filing pursuant to 28 U.S.C. § 1746 for delivering to the El Paso Division Clerk Office on 11.7, 2025; that first-class postage is being prepaid either by me or by the institution on my behalf.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted this on 11.7, 2025.

Liao

Petitioner, Liao Kun

