

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Dengcheng Chen,
Petitioner,

v.

Pamela Bondi et al,
Respondents.

No: 25-CV-8098-JGLC

**PETITIONER'S OPPOSITION TO
RESPONDENTS' MOTION**

INTRODUCTION

Petitioner respectfully opposes the Government's request to vacate the Court's October 8, 2025 stay of removal. The Government has not demonstrated that removal is "imminent" within the meaning of *Zadvydas v. Davis*, 533 U.S. 678 (2001), because it has not provided a concrete removal plan, and the travel document on which its argument rests will expire on January 10, 2026. Once that document expires, the Government concedes it will again have to restart the repatriation process, which is a process that took approximately four months. See So Decl. ¶¶ 32-33. Thus the Government has not shown that removal is reasonably foreseeable in the near term, let alone imminent.

ARGUMENT

To satisfy *Zadvydas*, the Government must demonstrate that detention is reasonably necessary to effectuate removal and that removal is reasonably foreseeable. Courts have consistently rejected assertions of mere administrative progress as insufficient to establish foreseeability where no specific removal arrangements exist. Here, the Government's submission confirms uncertainty rather than imminence. If the travel document expires before ICE removes Mr. Chen, the Government acknowledges that it will have to begin the process anew, with no indication that a new authorization would be issued any faster than the four months previously required. In that circumstance, detention will again extend indefinitely based solely on bureaucratic processing. The expiring document therefore undercuts, rather than supports, the contention that removal is reasonably foreseeable.

The Government also asserts that the Court must vacate its stay because the petition challenges only detention, not removal. But it is precisely because the petition challenges the legality of ongoing detention under *Zadvydas* that the stay remains necessary. A forced

removal during the pendency of the case would effectively moot the petition and deprive the Court of the ability to adjudicate the constitutional claim before it. Courts routinely maintain limited stays in order to preserve jurisdiction to decide detention challenges. Contrary to the Government's argument, 8 U.S.C. § 1252(g) does not strip jurisdiction over detention claims brought under 28 U.S.C. § 2241, nor does it prohibit the Court from preserving the status quo where removal would extinguish the only live controversy. The Government's cited cases involve direct challenges to execution of removal, not independent constitutional challenges to the lawfulness of civil immigration detention.

Nor does the Government's argument that removal is "imminently feasible" withstand scrutiny. The Government has not shown that China has accepted Mr. Chen for transportation on a specific date or flight, that travel logistics have been finalized, or that transportation will in fact occur prior to January 10. The phrase "earliest practicable flight" reflects an aspiration, not a confirmed plan. If the travel document expires before removal is completed, the Government's position would require Mr. Chen to remain in custody

for additional months while ICE applies for replacement documentation. That is the very type of prolonged and speculative detention that *Zadvydas* prohibits.

Equity also favors denying the request. Vacating the stay now risks mooted the petition before the Court can issue a ruling, and it introduces the risk of repeated cycles of detention and release based on fluctuating diplomatic processing. Maintaining the existing stay preserves judicial review, avoids unnecessary procedural complications, and prevents precisely the type of open-ended civil detention that Mr. Chen challenges.

For all of these reasons, because the Government has not shown that removal is presently imminent or reasonably foreseeable, because the travel document on which it relies is expiring within days, because the Government lacks a concrete and confirmed removal plan, and because lifting the stay would risk mooted this case before the Court can adjudicate the legality of Mr. Chen's detention, the motion to vacate the stay of removal should be denied.

Dated: New York, New York
December 24, 2025

Respectfully submitted,

/s/ Theodore N. Cox

Theodore N. Cox, Esq.

Law Office of Theodore N. Cox

325 Broadway, Suite 201

New York, New York 10007

(212) 925-1208

tedcoxecf@gmail.com