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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**AIPING LIU,** )  
Petitioner )  
)  
)  
vs. )  
)  
**TODD LYONS,** Acting Director, )  
Immigration and Customs )  
Enforcement, **KRISTI NOEM,** )  
Secretary of United States )  
Department of Homeland Security, )  
**RUBEN PEREZ,** Immigration and )  
Customs Enforcement, Acting )  
Newark Field Office Director, )  
**ANGELA KLAPAKIS,** Field )  
Office Director of the Philadelphia )  
USCIS office, **LUIS SOTO,** )  
Director, Delaney Hall Detention )  
Facility, **PAMELA BONDI,** United )  
States Attorney General, )  
Respondents )

**CASE NO. 25-cv-16289**  
REPLY BRIEF IN SUPPORT OF  
PETITION FOR WRIT OF HABEAS  
CORPUS UNDER 28 U.S.C. § 2241 AND  
COMPLAINT FOR INJUNCTIVE  
AND DECLARATORY RELIEF

TABLE OF CONTENTS

ARGUMENT \_\_\_\_\_ 3  
CONCLUSION \_\_\_\_\_ 7

TABLE OF AUTHORITIES

STATUTES

8 U.S.C. §1231(a)(1)(C) \_\_\_\_\_ 3  
8 U.S.C. §1231(a)(6) \_\_\_\_\_ passim

CASES

Cesar v. Achim, 542 F.Supp.2d 897 (E.D.Wis. 2008) \_\_\_\_\_ 6  
Chun Yat Ma v. Asher, 2012 WL 143229 (W.D.Wash. Apr. 25, 2012) \_\_\_\_\_ 5  
Kevin A.M. v. Essex Cnty. Corr. Facility, No. 21-11212 (SDW), 2021 WL 4772130 at \*2 (D.N.J.  
Oct. 12, 2021) \_\_\_\_\_ 6  
Luma v. Aviles, No. 13-6292 (ES), 2014 WL 5503260, at \*4 (D.N.J. Oct. 29, 2014) \_\_\_\_\_ 6  
Zadvydas v. Davis, 533 U.S. 678 (2001) \_\_\_\_\_ 5

## ARGUMENT

The fundamental flaw in the Government's argument is that Ms. Liu is not within the removal period. The Government concedes on page 4 of its brief that the removal period expired in 1995 without Ms. Liu being detained. However, without citing any statute, regulation or caselaw, the Government asserts that the mandatory detention need not occur when the order of removal becomes final, while citing caselaw that permits the extension of detention commenced during the removal period. The Government does not cite any law of any kind authorizing initiation of detention without a violation of the conditions of supervision. It defies law and common sense to allow the Government to forego the mandatory detention during the removal period in favor of arbitrarily initiating discretionary detention three decades later contrary to statutorily required supervision with conditions.

In fact, the plain language of 8 U.S.C. §1231(a)(1)(C) makes it clear: "the removal period shall be extended by a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure or conspires or acts to prevent the alien's removal subject to an order of removal." (emphasis added). As the Government concedes the removal period began and ended in 1995, even a 90-day extension expired three decades ago. Even if we were in the removal period, detention during the extension of the removal period is conditioned on the alien's refusal to comply, of which there has been no such allegation in over 30 years. The Government concedes detention under 1231(a)(1) is improper.

For this reason, the Government seeks to justify detention under 8 U.S.C. §1231(a)(6). The Government's purported reliance on 8 U.S.C. §1231(a)(6) without recitation of the statute or even asserting any facts that could justify reliance on this subparagraph is preposterous and unsupported

by anything – not even a factual allegation in its brief. 1231(a)(6) reads: “An alien ordered removed...who has been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal, may be detained beyond the removal period and, if released, shall be subject to the terms of supervision in paragraph (3).” Paragraph 3 sets standard conditions of supervision, and does not authorize arbitrary detention without notice or even an allegation of a violation of the conditions.

Ms. Liu has resided under properly imposed statutory conditions of release for 30 years. She has no violations of those conditions. The Government has not alleged or provided any evidence of a violation of those conditions. There is no basis to conclude that she is a risk to the community. Further, at no point during those 30 years did the government allege she is unlikely to comply with the order of removal. The Government has not requested her compliance or made any effort to execute the order of removal. While the present administration would like to erase history and legal precedent, such is not the reality. Not only can the government not meet any burden to justify detention under 1231(a)(6), the government has not even alleged facts that would allow it to assert detention under this paragraph.<sup>1</sup>

Because Ms. Liu was subject to statutorily required conditions of supervision, with which she had been compliant for 30 years, her detention could only be lawful if ICE could demonstrate she was a risk to the community or had failed to assist in her removal. As ICE made no efforts prior to detaining her, and for at least six weeks after detaining her, to remove her or to request her

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<sup>1</sup> It is worth noting that after submission of this Writ and the Government’s response, on or about Nov. 24, 2025, Ms. Liu reported being requested by ICE to sign a document in English. Ms. Liu asked the ICE officer to have the document translated or to contact counsel, but the request was refused. She refused to sign as she does not read English. It is presently unknown what the document was. It may have been an application for a travel document. It may have been consent to be delivered to Sudan. Regardless, it is improper for ICE to insist upon a signature on a life-altering document without ensuring the document is understood. It is anticipated the Government will argue this as an indication of refusal to cooperate with the removal, but such an argument must fail (1) because it occurred weeks after Ms. Liu was detained and (2) because there is no way of knowing what document was presented.

assistance in removal, the detention is unlawful. Decades of policy and procedure at ICE demonstrate that when ICE seeks to remove someone on an Order of Supervision, they must, and until recently have, requested that person to check in with a valid passport and a ticket out of the United States. A non-citizen's refusal to comply with such a request would justify detention pursuant to 1231(a)(6), but where no such request was made, it is impossible to conclude the non-citizen has failed to assist in removal.

Neither of the cases cited by the Government as justification for detention are factually or legally the same as Ms. Liu's. In Zadvydas v. Davis, 533 U.S. 678 (2001), the petitioners were detained during and immediately after their removal proceedings with that detention extended into the post-removal period. In Chun Yat Ma v. Asher, 2012 WL 143229 (W.D.Wash. Apr. 25, 2012), the Respondent had failed to depart in compliance with his acceptance of Voluntary Departure and was not subject to conditions of supervision as required by 1231(a)(3). These cases have no bearing on Ms. Liu's detention 30 years after her order of removal became final and when she was not already in detention.

As the initial detention of Ms. Liu was unlawful, it is not necessary to reach the Government's subsequent argument that there is no limit on how long detention may continue during the "post-removal" period. However, in the event this Court concludes Ms. Liu's detention after 30 years of perfect compliance with the conditions of supervision was lawful, the Government's assertion that detention is presumptively reasonable for six months is also incorrect. This presumption is based on the continued detention immediately following the mandatory detention during the post-removal period. As the Government has conceded the post-removal period expired 30 years ago, and 8 U.S.C. §1231 makes detention beyond 90 days permissible, not mandatory, detention beyond 90 days is presumptively unlawful. Only upon a refusal to assist

with removal, and there is no allegation that Ms. Liu has failed to assist, or that a reasonable due-process-compliant request for her assistance has even been made, would prolonged detention be lawful. Again, the cases cited by the Government are not persuasive as they pertain to persons detained under mandatory detention for aggravated felonies who were detained during and immediately after removal proceedings, not someone like Ms. Liu who complied with a statutorily required order of supervision for 30 years and has no criminal history. See Kevin A.M. v. Essex Cnty. Corr. Facility, No. 21-11212 (SDW), 2021 WL 4772130 at \*2 (D.N.J. Oct. 12, 2021); Luma v. Aviles, No. 13-6292 (ES), 2014 WL 5503260, at \*4 (D.N.J. Oct. 29, 2014); Cesar v. Achim, 542 F.Supp.2d 897 (E.D. Wis. 2008).

Lastly, the Government confounds discretionary enforcement of the order of removal with detention preceding removal. See Respondent's brief at p. 4. The Government, correctly, contends that enforcement of the order of removal is within the government's discretion and may be initiated at any time. The Petitioner has not, and does not, dispute this. ICE would be within its rights, within Constitutional Due Process, and within reason to request Ms. Liu purchase a ticket and obtain a valid passport to depart the United States. ICE would similarly be acting properly to obtain the travel document and make travel arrangements for Ms. Liu. But enforcing the order of removal does not require, and does not entitle, ICE to arbitrarily detain her without demonstrating that she is a risk to the community or failing to assist in her removal. The Due Process right to liberty and freedom, as well as the estoppel principle of having relied on ICE's lawful and proper actions for 30 years, prevent the Government from detaining Ms. Liu even as it elects to pursue the order of removal.

CONCLUSION

Because the Government has not, and cannot, allege facts demonstrating Ms. Liu is a risk to the community or failed to assist in her removal prior to her detention as required by 8 U.S.C §1231a(6), her detention is unlawful.

Dated: December 3, 2025

/s/ Eric M. Mark

Eric M. Mark, Esq.

Attorney for petitioner