

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS

YING YANG,

*Petitioner,*

v.

PAMELA BONDI, in her official capacity as  
U.S. Attorney General;

MARCOS CHARLES, in his official  
capacity as Acting Executive Associate  
Director, Enforcement and Removal  
Operations;

TODD M. LYONS, in his official capacity as  
Acting Director, Immigration and Customs  
Enforcement;

KRISTI NOEM, in her official capacity as  
Secretary of the U.S. Department of  
Homeland Security;

JOE M. SMITH, in his official capacity as  
Warden of Joe Corley Processing Center.


*Respondents.*

Civil No: 4:25-cv-5603

**VERIFIED  
PETITION FOR  
WRIT OF HABEAS  
CORPUS AND  
COMPLAINT FOR  
DECLARATORY  
AND INJUNCTIVE  
RELIEF**

Agency Case No.



1. Petitioner Ying Yang (A  ("Mr. Yang" or "Petitioner"), hereby petitions this Court under 28 U.S.C. § 2241, *et seq.*, to issue a Writ of Habeas Corpus ordering Mr. Yang's immediate release from the unlawful custody of the

U.S. Department of Homeland Security, United States Immigration and Customs Enforcement ("ICE").

2. This case presents an egregious violation of statutory and constitutional limits on immigration detention that threatens the liberty of all individuals subject to immigration enforcement. Mr. Yang 's removal order became administratively final on September 29, 2009 - over sixteen years ago. The 90-day “removal period” mandated by 8 U.S.C. § 1231(a)(1) expired on December 28, 2009. The six-month presumptively reasonable detention period under *Zadvydas v. Davis*, 533 U.S. 678 (2001), expired on March 29, 2010 — also, over fifteen years ago.

3. Despite these clear temporal limitations, ICE arrested and detained Mr. Yang on June 1, 2025, claiming authority that expired over sixteen years ago. The government's position—that it can warehouse detention authority indefinitely and deploy it at will decades later—would eviscerate the statutory scheme Congress created and render meaningless the Supreme Court's constitutional safeguards against indefinite detention.

### **JURISDICTION**

4. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction), the Administrative Procedure Act, 5 U.S.C. § 701 *et seq.*, and Article I, Section 9, Clause 2 of the U.S. Constitution. *See Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001).

### **VENUE**

5. Venue is proper in that Mr. Yang is currently being detained at Joe Corley Processing Center, located at 500 Hilbig Road, Conroe, TX 77301.

### **PARTIES**

6. Petitioner, Ying Yang is a native and citizen of the People's Republic of China ("China"). He is currently under the ICE custody.

7. Respondent, Pamela Bondi is the duly appointed, qualified, and confirmed Attorney General of the United States, and as such is the official charged with the enforcement of the laws of the United States.

8. Respondent, Marcos CHARLES, is the Acting Executive Associate Director, Enforcement and Removal Operations. Is responsible for the enforcement and removal of aliens including petitioner.

9. Respondent, Todd M. LYONS, is the Acting Director, Immigration and Customs Enforcement. He is responsible for the administration of ICE functions relating to detention and removal of aliens including maintain and enforcing petitioner's condition of supervision.

10. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS"). Secretary Noem's responsibilities are set forth in 8 U.S.C. §§1103(a)(1)-(3), among which are: to administer and enforce the Immigration Act and all other laws relating to the immigration and naturalization of aliens; to

control, direct and supervise all employees; to establish such regulations, issue such instructions, and perform such other acts deemed necessary for carrying out her authority; and to require any employee of the Service of the Department of Justice to perform or exercise any other the powers, privileges, or duties conferred or imposed by this Act or regulations issued there under upon any other employee of the Service.

11. Respondent, Joe M. Smith, is the Warden of Joe Corley Processing Center. He is responsible for the maintaining and enforcement of the detention of aliens including Petitioner.

### **BACKGROUND**

12. Mr. Yang is a 35-year-old native and citizen of the People's Republic of China who is currently detained in ICE custody at Joe Corley Processing Center.

13. Mr. Yang entered the United States in or about December 2007.

14. Subsequently, Mr. Yang filed an application for political asylum based on his religious belief. And he was then placed in removal proceedings. On September 29, 2009, an immigration judge issued a removal order against him. Mr. Yang's appeal to the Board of Immigration Appeals was dismissed on November 21, 2011.

15. On March 14, 2013, Mr. Yang married his U.S. citizen wife, Mei Mei Zheng ("Ms. Zheng"). They have two children together: J.Y., born in September 2013, and I.Y., born in April 2017. (*See Exhibits A, B, C and D*).

16. On December 13, 2021, Ms. Zheng filed an I-130 family petition on behalf of Mr. Yang, which was approved on January 25, 2023. Subsequently, on April 25, 2024, Mr. Yang filed an I-212 Application to Reapply for Admission After Deportation or Removal, which was approved on December 2, 2024. Mr. Yang then submitted an I-601A provisional unlawful presence waiver and received the I-601A receipt on September 10, 2025. (*See Exhibits E, F and G*).

17. On June 1, 2025, ICE suddenly appeared at Mr. Yang's residence, and he was detained by ICE.

18. During his detention, on September 12, 2025, his wife, Ms. Zheng, received a notice that Mr. Yang's I-601A biometrics appointment was scheduled for October 2, 2025. She promptly sent these documents to his place of detention, Joe Corley Processing Center. Mr. Yang also notified the detention center staff about his upcoming I-601A biometrics, but no one responded. This left Mr. Yang feeling helpless and concerned that his I-601A application might be adversely affected. (*See Exhibits H*).

19. Today, November 19, 2025, Mr. Yang is still detained by ICE at the Joe Corley Processing Center.

20. Mr. Yang now files a petition for a writ of habeas corpus, requesting release on the grounds that he has been detained for almost six months, and his removal is not reasonably foreseeable.

## **LEGAL ARGUMENT**

### **COUNT I: VIOLATION OF 8 U.S.C. § 1231 - DETENTION BEYOND STATUTORY AUTHORITY**

21. The Immigration and Nationality Act creates a carefully structured detention scheme with mandatory temporal boundaries that ICE has flagrantly violated in detaining Mr. Yang.

#### **A. The Plain Language of Section 1231 Prohibits Mr. Yang's Current Detention**

22. Under 8 U.S.C. § 1231(a)(1)(B)(i), when a removal order becomes administratively final, a 90-day "removal period" begins. The statute's command during this period is unequivocal: "During the removal period, the Attorney General shall detain the alien." 8 U.S.C. § 1231(a)(2) (emphasis added). The word "during" temporally limits mandatory detention to this specific 90-day window.

23. When the removal period expires without successful removal, the statute dictates a mandatory result: "[I]f the alien does not leave or is not removed within the removal period, the alien, pending removal, shall be subject to supervision under regulations prescribed by the Attorney General." 8 U.S.C. § 1231(a)(3) (emphasis added). Congress chose the mandatory "shall" rather than the permissive "may," leaving no discretion for continued detention absent specific statutory authorization.

24. The Supreme Court has consistently recognized that "shall" creates mandatory obligations. In *Jennings v. Rodriguez*, 583 U.S. 281, 301 (2018), the Court emphasized that "the word 'shall' usually connotes a requirement" as opposed to discretion. This mandatory language forecloses any attempt by ICE to create detention authority where none exists.

25. Mr. Yang's 90-day removal period expired on December 28, 2009. For the past sixteen years, he has been entitled to supervision, not detention, as a matter of statutory law.

**B. ICE Cannot Manipulate Statutory Time Limits Through Strategic Delay**

26. The government cannot circumvent these temporal limitations by waiting decades to arrest someone whose removal period has long expired. Federal courts have rejected such manipulation. As the Southern District of New York held in *Farez-Espinoza v. Chertoff*, 600 F. Supp. 2d 488, 500 (S.D.N.Y. 2009), when addressing ICE's attempt to "arbitrarily trigger the removal period" by delaying arrest: ICE cannot manipulate statutory timelines to manufacture detention authority that has expired.

27. Similarly, in *Ulysse v. Department of Homeland Security*, 291 F. Supp. 2d 1318, 1325 (M.D. Fla. 2003), the court rejected ICE's argument that the removal period begins upon arrest rather than when the order becomes final, finding "no indication in the statute or regulations" supporting this position and recognizing

that accepting it would grant the agency unlimited discretion to extend detention indefinitely through strategic delays.

28. Accepting the government's implied position—that it can detain Mr. Yang sixteen years after his final removal order —would create a regime of shadow detention authority. ICE could maintain lists of individuals with decades-old removal orders and strategically detain them whenever politically expedient regardless of whether removal is actually possible.

**COUNT II: VIOLATION OF DUE PROCESS UNDER THE FIFTH  
AMENDMENT AND *ZADVYDAS* v. *DAVIS***

29. Even if this Court were to find some residual detention authority under Section 1231(a)(6)—which Petitioner disputes—Mr. Yang's detention violates the constitutional limits established by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001).

30. In *Zadvydas*, the Court interpreted § 1231(a)(6) to authorize detention only for a period reasonably necessary to secure removal, and no longer. The Court held that detention beyond six months after the removal period expires is presumptively unreasonable unless the government can establish that removal is significantly likely to occur in the reasonably foreseeable future. This rule was adopted to avoid the grave constitutional concerns raised by indefinite civil detention, which offends both substantive due process and the longstanding principle that immigration detention must bear a reasonable relation to its purpose of effectuating removal.

31. Here, Mr. Yang has already been detained for almost six months since June 1, 2025. The government has not shown—and cannot show—that his removal is reasonably foreseeable. Absent such a showing, continued detention violates both the statutory framework as construed in *Zadvydas* and the constitutional protections against indefinite civil confinement.

32. After the six-month period expires, the government bears the burden of demonstrating by clear and convincing evidence that removal is reasonably foreseeable. *Zadvydas*, 533 U.S. at 701. The government cannot possibly meet this burden when:

- a) Sixteen years have passed without removal. The sheer passage of time creates an overwhelming presumption that removal is not reasonably foreseeable. If removal were possible, it would have occurred within the sixteen years since the order became final.
- b) China has consistently refused to accept its nationals subject to removal from the United States, particularly those who sought political asylum. There is no evidence this policy has changed regarding Mr. Yang.
- c) Upon information and belief, ICE has not obtained and cannot obtain travel documents from China for Mr. Yang's removal.

33. The government cannot rely on speculation or hope that someday, somehow, China might change its position. *Zadvydas* requires concrete evidence that removal is reasonably foreseeable in the immediate future, not theoretical possibility at some indefinite point.

34. Accordingly, Mr. Yang's continued detention is unlawful, and this Court should grant habeas relief under 28 U.S.C. § 2241.

### **C. The Government's Position Would Eviscerate Constitutional Protections**

35. If the government can restart the six-month clock whenever it chooses to detain someone, then *Zadvydas's* protections become meaningless. Under this theory, ICE could release someone for decades, then re-detain them and claim a fresh six-month period of presumptively reasonable detention. This would mean someone whose removal order became final in 1970 could be detained today with the same constitutional justification as someone whose order became final yesterday.

36. Such an interpretation defies both logic and law. The Supreme Court's concern in *Zadvydas* was preventing indefinite civil detention, which it characterized as raising serious constitutional problems. The Court emphasized that detention becomes increasingly difficult to justify as time passes without removal. If ICE could reset the constitutional clock at will by strategically delaying

detention, it would create precisely the indefinite detention problem *Zadvydas* sought to prevent.

**COUNT III: ABSENCE OF ANY LEGITIMATE  
GOVERNMENT INTEREST IN DETENTION**

37. The Fifth Amendment prohibits deprivation of liberty without due process of law. This protection extends to all persons within United States territory, including aliens subject to removal orders. *Zadvydas*, 533 U.S. at 693. In the civil detention context, the government must demonstrate a special justification that outweighs the individual's fundamental liberty interest.

**A. Mr. Yang's Poses No Flight Risk**

38. The government cannot credibly claim Mr. Yang poses a flight risk when he has:

- Resided continuously in the United States for over 18 years;
- With his U.S. citizen wife, raises two children, ages 8 and 12 who depend on him;
- Maintained continuous employment and paid taxes;
- Never attempted to evade immigration authorities;

39. A person with such deep roots in the community, facing no reasonable prospect of removal, has every incentive to remain and pursue available legal remedies rather than flee.

**B. Mr. Yang Poses No Danger to the Community**

40. The government cannot manufacture a public safety justification - *ex post facto* -- where none exists. Mr. Yang has been a productive, member of society for about two decades.

**C. Removal Is Not Reasonably Foreseeable**

41. As detailed above, removal to China is not reasonably foreseeable after sixteen years of demonstrated impossibility. Detention cannot be justified to facilitate a removal that will never occur.

42. The claim in the Notice of Revocation of Supervision that ICE had already obtained a travel document is demonstrably false.

43. The government's detention of Mr. Yang serves no legitimate purpose and violates both procedural and substantive due process. As the Supreme Court recognized in *Zadvydas*, detention's justification is "weak or nonexistent where removal seems a remote possibility at best." 533 U.S. at 690. After twenty-one years, removal is not merely remote—it is impossible.

**COUNT IV:  
ARBITRARY AND CAPRICIOUS ACTION UNDER  
THE APA**

44. ICE's detention of Mr. Yang constitutes arbitrary and capricious agency action in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A). The decision to detain someone after 15 years, without evidence of changed

circumstances, without following required procedures, and without any legitimate purpose, represents the paradigm of arbitrary government action.

**IRREPARABLE HARM AND NEED FOR  
EMERGENCY RELIEF**

45. Every day of unlawful detention constitutes irreparable injury to Mr. Yang fundamental liberty interests that cannot be adequately compensated through monetary damages. *Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects").

46. The harm is particularly acute given Mr. Yang's age (35 years old), his role as father to two U.S. citizen minor children, his status as the primary breadwinner for his family, and the psychological trauma of indefinite detention after building a life in the United States for over a decade. Moreover, his wife suffers from asthma, gastritis, vasomotor rhinitis, benign paroxysmal vertigo, GERD, insomnia, and osteoarthritis of the knee, making her highly dependent on Mr. Yang's presence and care. (*See Exhibits A, B, C, D, and J*).

47. Mr. Yang faces additional irreparable harm through the loss of employment that supports his family; the separation from his minor U.S. citizen children during critical developmental years; the inability to support his U.S. citizen spouse; the deterioration of his physical and mental health in detention; the loss of his home and stability built over decades; and the disruption of the family-run restaurant,

where he plays a critical role in handling the physically demanding work. (*See Exhibits I*).

48. The balance of hardships overwhelmingly favors Mr. Yang, as Respondents suffer no cognizable harm from complying with federal law and releasing someone who poses no flight risk or danger and cannot be removed.

49. The public interest strongly favors enforcing statutory limits and constitutional protections. Permitting ICE to circumvent temporal limitations and detain people decades after removal periods expire undermines the rule of law and threatens the liberty of countless individuals with old removal orders.

### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court:

A. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Mr. Yang from custody;

B. Declare that Mr. Yang's detention violates:

- 8 U.S.C. § 1231's temporal limitations;
- The Due Process Clause of the Fifth Amendment;
- The Supreme Court's holding in *Zadvydas v. Davis*;
- The Administrative Procedure Act;

C. Enter a permanent injunction prohibiting Respondents from re-detaining Mr. Yang absent clear and convincing evidence that removal to China has become imminently feasible;

D. In the alternative, order an immediate bond hearing at which the government bears the burden of proving by clear and convincing evidence that Mr. Yang poses a flight risk or danger that cannot be mitigated by conditions of release;

E. Award Petitioner his costs and reasonable attorneys' fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412;

F. Retain jurisdiction to ensure compliance with this Court's orders;

G. Grant such other and further relief as this Court deems just and proper.

Dated: November 20, 2025

Respectfully submitted,

/s/Brian Scott Green

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**VERIFICATION**

I, Theodore N. Cox, counsel for Petitioner Jing Yang, hereby verify under penalty of perjury pursuant to 28 U.S.C. § 1746 that the factual allegations in this petition are true and correct to the best of my knowledge, information, and belief, based upon the records available and information provided by Petitioner.

Dated: November 20, 2025

Respectfully submitted,

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