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13 UNITED STATES DISTRICT COURT
 14 DISTRICT OF NEVADA

14 Yiming Luo,
 15 Petitioner,
 16
 17 v.
 18 John Mattos, NSDC Warden; Michael
 Bernacke, Field Director, West Valley City
 Office of ICE ERO; Todd Lyons, ICE
 19 Acting Director; Kristi Noem DHS
 Secretary; Pam Bondi, U.S. Attorney
 20 General
 21 Respondents.

Case No. 2:25-cv-02460-CDS-EJY
**Petitioner's Reply in Support of
 Amended Petition for Writ of
 Habeas Corpus (ECF No. 12) and
 Motion for Preliminary Injunction
 (ECF No. 14)**

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1 Preliminarily, Respondents concede they are required to provide Petitioner
2 constitutionally required process prior to removing Petitioner to a third country.²
3 Therefore, the parties agree Petitioner is likely to succeed in Grounds 3 and 4.

4 In arguing Petitioner is unlikely to succeed on the merits for Grounds 1 and
5 2, Respondents argue Petitioner hasn't demonstrated removal to China or a third
6 country is not reasonably foreseeable. This argument lacks merit.

7 The parties agree that detention by ICE ceases to be presumptively
8 reasonable six months after the order of removal becomes final, and where a
9 petitioner provides good reason to believe that removal is not reasonably
10 foreseeable, and the government doesn't rebut this, the petitioner must be
11 released.³ *Zadvydas v. Davis*, 533 U.S. 678 (2001). Petitioner is not required to
12 “show the absence of *any* prospect of removal—no matter how unlikely or
13 unforeseeable.” *Id.* at 702. He need only show that there is “good reason to believe
14 that there is no significant likelihood of removal in the reasonably foreseeable
15 future.” *Id.* at 701.

16 Here, Respondents concede the six-month mark has passed, so detention is no
17 longer presumptively reasonable (Respondents argue the mark occurred on January
18 2, 2026, rather than December 29, 2025, but this dispute is moot).⁴

19 Respondents argue, “Petitioner has not established the requisite ‘good reason
20 to believe’ that there is no significant likelihood of his removal in the reasonably
21 foreseeable future.”⁵ Contrary to Respondents’ assertion, Luo has met this burden.
22 As Luo alleged in his motion, “ICE does not appear to have a travel document in
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25 ² ECF No. 17 at 6-7.

26 ³ ECF No. 17 at 5.

27 ⁴ ECF No. 17 at 5.

⁵ ECF No. 17 at 6.

1 hand,”⁶ and “upon belief, Respondents have no reasonably foreseeable plans to
2 remove him.”⁷ As Luo alleged in his amended petition, “ICE still cannot remove him
3 to China, and Luo has not received any documents identifying another country of
4 removal, or any plan for removal.”⁸

5 Luo does not speak English. Upon belief, he has met with government
6 officials on at least two occasions since his detention, and each time without an
7 interpreter. Government officials have barely attempted to communicate with him.
8 He does not know of any efforts to remove him. He doesn’t have a passport. Upon
9 belief, Luo and his friends have tried to reach out to the Chinese consulate to obtain
10 his passport but without success.

11 Tellingly, in their Response, Respondents fail to assert any plans—or even
12 any attempts—of removing Luo to China or a third country.

13 This Court has previously found petitioners met their initial burden of
14 showing “good reason,” and found the Government failed to prove removal is likely
15 in the foreseeable future, under similar situations. *See Cavieres Gomez v. Mattos*,
16 Case No: 2:25-cv-00975-GMN-BNW, 2025 WL 3101994, at *5 (D. Nev. Nov. 6, 2025)
17 (petitioner showed good reason where he could not be removed to his country of
18 origin, was not a citizen of any other country, and ICE had not identified a third
19 country that would accept him); *Kazemzadeh v. United States*, Case No. 2:25-cv-
20 01941-JAD-NJK, ECF No. 21 at *6 (D. Nev. Jan. 13, 2025) (granting preliminary
21 injunction and finding “good reasons to believe that that there is no significant
22 likelihood of removal in the reasonably foreseeable future” when Iranian petitioner
23 attempted to contact Iranian official); *Bunnell v. Neom*, Case No. 2:25-cv-02259-

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26 ⁶ ECF No. 14 at 2.

27 ⁷ ECF No. 14 at 6.

⁸ ECF No. 12 at 4.

1 GMN-EJY, 2025 WL 3707588, at *7 (D. Nev. Dec. 22, 2015) (granting temporary
2 restraining order when Petitioner alleges calling Iranian consulate and being
3 informed Iran will not accept him, and the Government has failed to effectual
4 removal and “has identified no other possible countries for his removal”). Similarly,
5 Luo demonstrates good reason to believe that removal is not reasonably foreseeable,
6 and the government doesn’t rebut this, so he is likely to succeed on the merits of
7 Grounds 1 and 2.

8 **B. Petitioner demonstrates irreparable harm in the absence of the**
9 **injunctive relief.**

10 In his motion, Luo argues he would suffer irreparable harm because he has
11 been detained, cannot work to support his family, and that the unlawful detention
12 itself constitutes extreme hardship, citing *Hernandez v. Sessions*, 872 F.3d 976, 999
13 (9th Cir. 2017). Respondents argue, “because Petitioner’s alleged harm ‘is
14 essentially inherent in detention, the Court cannot weigh this strongly in favor of
15 Petitioner, citing *Lopez Reyes v. Bonnar*, No. 18-CV-07429-SK, 2018 WL 7474861, at
16 *10 (N.D. Cal. Dec. 24, 2018).⁹ Respondents misread *Lopez Reyes*. The petitioner in
17 *Lopez Reyes* argued irreparable harm in the form of “psychological distress and the
18 risk that he might not be able to see his sibling again,” rather than the detention
19 itself being the irreparable harm. *Id.* Regardless, the *Lopez Reyes* court found for
20 the petitioner and granted the temporary restraining order. In other words, *Lopez*
21 *Reyes* doesn’t support Respondents’ argument.

22 Notably, the *Lopez Reyes* court determined petitioner’s “private interest is
23 strong” due to his detention, citing *Zadvydas*. *Id.* Indeed, “Freedom from
24 imprisonment—from government custody, detention, or other forms of physical
25 restraint—lies at the heart of the liberty’ that the Fifth Amendment Due Process

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27 ⁹ ECF No. 17 at 7-

1 Clause Protects.” *Zadvydus*, 533 U.S. at 690. “The deprivation of constitutional
2 rights ‘unquestionably constitutes irreparable injury.’” *Melendres v. Arpaio*, 695
3 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)).
4 Thus, because Luo’s continued detention is unconstitutional, he will be irreparably
5 harmed in the absence of injunctive relief.

6 **C. The balance of hardships and the public interest favor**
7 **Petitioner.**

8 The parties agree that these two factors merge in this case.¹⁰ Petitioner has
9 demonstrated that his continuing detention violates the law. It would not be “in the
10 public’s interest to allow the [Government] . . . to violate the requirements of federal
11 law, especially when there are no adequate remedies available.” *Ariz. Dream Act*
12 *Coal. V. Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014) (quoting *Valle del Sol Inc. v.*
13 *Whiting*, 732 F.3d 1006) (9th Cir. 2013)). “The public interest in enforcement of
14 immigration laws, although significant, does not override the public interest in
15 protecting the safeguards of the Constitution.” *Domingo-Ros v. Archambeault*, No.
16 25-cv-1208, 2025 WL 1425558, at *5 (S.D. Cal. May 18, 2025).

17 Respondents argue granting injunctive relief would “would negatively impact
18 the public interest by jeopardizing ‘the orderly and efficient administration of this
19 country’s immigration laws’ by requiring ‘the Court to severely restrict the
20 discretion of the Attorney General,’” citing *Sasso v. Milhollan*, 735 F. Supp. 1045,
21 1049 (S.D. Fla. 1990).¹¹ In *Sasso*, the petitioner sought injunctive relief to change
22 the venue for his deportation hearing, challenging 8 U.S.C. § 1252(c). *Id.* at 1046. In
23 contrast, Luo isn’t challenging the discretion of the Attorney General or that
24 statute. Thus, *Sasso* is inapposite and Respondents’ argument lacks merit.

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26 ¹⁰ ECF No. 17 at 8.

27 ¹¹ ECF No. 17 at 8.

1 Furthermore, Respondents concede it is “always in the public interest to
2 protect constitutional rights,” citing *Phelps-Roper v. Nixon*, 545 F.3d 685, 690 (8th
3 Cir. 2008).¹² Here, injunctive relief would protect Petitioner’s constitutional right to
4 due process because the *Zadvydas* Court held freedom from detention “lies at the
5 heart of the liberty” that the due process clause protects. 533 U.S. at 690.

6 Respondents also concede that if Petitioner has demonstrated a likelihood of
7 success on the merits, then there is a presumption of public interest in Petitioner’s
8 favor.¹³ As argued above in sub-section A *supra*, Petitioner will likely succeed in
9 proving Grounds 1 and 2 of his amended petition because his continued detention
10 violates due process and 8 U.S.C. § 1231(a)(6), and Respondents already conceded
11 that Petitioner deserves due process rights prior to third country removal under
12 Grounds 3 and 4. Therefore, the balance of hardships and the public interest favor
13 Petitioner.

14 And because Petitioner also demonstrates he is likely to succeed on his claims
15 and that he would be irreparably harmed without injunctive relief, Petitioner meets
16 all the factors for preliminary injunction for this Court to grant Petitioner’s motion.

17 **D. This Court should not impose a bond requirement.**

18 Respondents do not ask this Court to impose a bond if this Court orders
19 injunctive relief.
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26 ¹² ECF No. 17 at 8.

27 ¹³ ECF No. 17 at 8.

1 **II. This Court should also grant the Petition.**

2 In their Response, Respondents incorporate their arguments regarding the
3 first factor of the motion (likelihood of success on the merits) to the arguments
4 against the Amended Petition of Writ of Habeas Corpus under 28 U.S.C. § 2241
5 (ECF No. 12). Petitioner does the same.

6 In Grounds 1 and 2, Petitioner argues his continued detention violates due
7 process under *Zadvydas* and 8 U.S.C. § 1231(a)(6). Respondents argue Petitioner
8 hasn't satisfied his burden under *Zadvydas* "to demonstrate that there is no
9 significant likelihood of removal in the reasonably foreseeable future, nor has he
10 alleged facts showing that DHS's ongoing efforts to effectuate removal have reached
11 an impasse."¹⁴ But as argued in Section I(A) *supra*, Luo knows of no plan or attempt
12 by the Government to remove him to China or a third country. His own attempts to
13 obtain a passport from China have been denied by the Chinese consulate. At the
14 same time, Respondents fail to assert any effort to remove him. Therefore, this
15 Court should grant Grounds 1 and 2 of the amended petition.

16 In Grounds 3 and 4, Petitioner argues that any attempt to remove him to a
17 third country without due process violates due process, the Administrative
18 Procedure Act, and ICE's own policies. Respondents also concede Petitioner
19 deserves due process protections prior to removal to a third country.¹⁵ Therefore,
20 this Court should grant Grounds 3 and 4 of the amended petition.

21 **CONCLUSION**

22 For those reasons, Petitioner Yiming Luo requests that this Court issue a
23 preliminary injunction, grant his amended petition, and order him to be
24 immediately released.

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¹⁴ ECF No. 17 at 9.

¹⁵ ECF No. 17 at 6-7.

1 Dated January 14, 2026.

2 Respectfully submitted,

3 Rene L. Valladares
4 Federal Public Defender

5 /s/ Ron Y. Sung

6 Ron Y. Sung
7 Assistant Federal Public Defender

8 /s/ Ebise Bayisa

9 Ebise Bayisa
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been filed on January 14, 2026. I certify that some of the participants in the case are not registered electronic filing system users. I have mailed the foregoing document by First-Class Mail, postage pre-paid, or have dispatched it to a third-party commercial carrier for delivery within three calendar days, to the following person:

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