

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION**

**YUK CHUN KWONG**

**PETITIONER**

**VS.**

**CIVIL ACTION NO. 5:25-cv-00152-DCB-RPM**

**RAFAEL VERGARA<sup>1</sup>**

**RESPONDENT**

**RESPONSE IN OPPOSITION TO PETITION  
FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241**

Respondent Raphael Vergara, by and through the United States Attorney for the Southern District of Mississippi and the undersigned Assistant United States Attorney for said District, hereby submits the Response in Opposition to Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241.

**INTRODUCTION**

Petitioner Yuk Chun Kwong (“Kwong” or “Petitioner”) is a 61-year-old native and citizen of Hong Kong who claims to have entered the United States without inspection in the 1970s. *See* Pet. (ECF No. 1) at ¶ 9, 15. In 2010, Kwong was ordered removed by an immigration judge and a final order of removal was entered. *Id.* at ¶ 20.

Kwong, who was detained in March 2025, filed the instant habeas petition alleging he should be entitled to a bond hearing and released pending his imminent removal. *See* Pet. (ECF No. 1) at Counts 1-6. Yet Kwong is subject to detention pending his removal and ICE has properly

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<sup>1</sup> Per the Order (ECF No. 2) entered December 12, 2025, the only proper respondent to this habeas petition is Warden Rafael Vergara and all other named respondents were terminated.

detained him until his removal is completed.

### **ARGUMENT**

#### **BACKGROUND**

Kwong admittedly entered the United States without inspection in the 1970s. *See* Pet. (ECF No. 1) at ¶ 9, 15. In 1995, Kwong pleaded guilty to racketeering conspiracy and conspiracy to possess with intent to distribute heroin in excess of one kilogram. *Id.* at ¶ 18. Kwong served 26 years in federal custody. *Id.* at ¶ 19. In 2010, Kwong was ordered removed by an immigration judge and a final order of removal was entered. *Id.* at ¶ 20.

Upon Kwong's release from federal custody in 2021, he was placed in ICE custody for removal but was unable to be removed at that time due to issues with Hong Kong accepting him based on the identifying documentation, so Kwong was placed on supervised release. *Id.* at. ¶¶ 21-22.

On March 12, 2025, Kwong was detained by ICE and placed into custody for removal. *Id.* at. ¶¶ 27-28. There is no dispute Kwong is subject to a final order of removal.

### **ARGUMENT**

Once an alien is subject to a final order of removal, as is Kwong, then 8 U.S.C. § 1231 provides that the Attorney General has 90 days after an order of removal becomes final in which to effect an alien's removal. Although ICE has 90 days to remove an alien after he is ordered removed under 8 U. S. C. § 1231(a)(1)(A), the Supreme Court has held that § 1231 permits the detention of criminal aliens beyond 90 days, for a period reasonably necessary to bring about that alien's removal from the United States. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

As one court explained of Section 1231:

the INA generally gives the government 90 days to remove or deport aliens found to be removable and, while this was usually sufficient, the government was

not always able to achieve removal within this “removal period.” *Id.* at 683. In those circumstances, 8 U.S.C. § 1231(a)(6) authorizes the government to continue detention but it contains no time limitation or other constraint. *Id.* Invoking the constitutional avoidance canon, a majority of the Supreme Court held that Section 1231(a)(6) should be interpreted to include an implied time limitation, allowing detention only for the period “reasonably necessary to bring about the alien’s removal.” *Id.* at 689.

*Rojas v. Olson*, 2025 WL 3033967 at \*12 (E.D. Wis. Oct. 30, 2025) (quoting *Zadvydas v. Davis*, 533 U.S. 678 (2001)). Under *Zadvydas*, Respondent may detain Kwong for “a period reasonably necessary to bring about that alien’s removal from the United States.” *Zadvydas*, 533 U.S. at 689. ICE is currently working to remove Kwong and is awaiting a response from Hong Kong as to travel documents to effect Kwong’s removal. *See* Declaration of Charles Ward, attached as Exh. “A.”

Even though more than six months has passed since Kwong’s initial detention, *Zadvydas* does not mandate immediate release. Rather, if the alien has not been removed within six months, he or she must then show “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future”, and, upon such a showing, the United States must come forward and either rebut this showing or release the alien. *Jennings v. Rodriguez*, 138 S. Ct. 830, 843 (2018). “[A]n alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701; *see also Singh v. Gillis*, 2020 WL 4551669, \*2 (S.D. Miss. June 24, 2020), *report and recommendation adopted by* 2020 WL 4550946 (S.D. Miss. Aug. 6, 2020). Consequently, an alien “may be detained beyond the removal period” to accomplish removal where there is a significant likelihood of removal in the reasonably foreseeable future, though he cannot be detained indefinitely. *Id.* Here, Kwong, who has been ordered removed, is being detained pending removal and ICE is actively seeking his removal, having submitted a travel document to Hong Kong to

request suitable travel documents for Kwong and by contacting the Great Britain consulate as to petitioner's British nationality. *See* Exh. "A" at ¶¶ 7-8. Kwong has not shown that "there is no significant likelihood of removal in the reasonably foreseeable future." *Jennings*, 138 S. Ct. at 843. His petition should be denied and dismissed.

**CONCLUSION**

For the reasons explained above, Petitioner's petition for writ of habeas corpus, and to the extent he seeks declaratory and injunctive relief, should be denied. Petitioner is properly detained pending his imminent removal based on his final order of removal.

Dated: January 5, 2026

Respectfully submitted,

J.E. BAXTER KRUGER  
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**CERTIFICATE OF SERVICE**

I, Gregg Mayer, Assistant U.S. Attorney, hereby certify that, on this day, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which sent notice to all counsel of record.

January 5, 2026

GREGG MAYER  
Assistant United States Attorney