IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK
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MAN CHUN YAM,

Petitioner,

v.

KENNETH GENALO, in his official capacity as New York Field Office Director for U.S. Immigration and Customs Enforcement,
RAUL MALDONADO, JR., in his official capacity as Warden,
KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security,
PAMELA BONDI, in her official capacity as Attorney General of the United States,
TODD LYONS, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement,

Respondents.
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CIVIL ACTION NO. 1:26-cv-1341

JURY TRIAL ☐ ~~Yes~~ ▪ No

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

1. This is a petition for a writ of habeas corpus filed on behalf of Man Chun Yam, seeking relief to remedy his prolonged, unlawful detention.
2. The Petitioner, Man Chun Yam, has been detained at the Brooklyn Metropolitan Detention Center ("Brooklyn MDC") in Brooklyn, New York since in or around June 2025.
3. Respondents are detaining Mr. Yam, pending the execution of his final removal order.
4. Upon information and belief, Mr. Yam has fully cooperated with Respondents in their efforts to remove him.
5. To date, Respondents have been unable or unwilling to remove Mr. Yam and thus, he has been detained for more than eight (8) months.

6. It is respectfully submitted that (1) Mr. Yam is not a flight risk or a danger to the community; (2) Mr. Yam is not afflicted with a highly contagious disease; (3) Mr. Yam does not pose security or terrorism concerns to the U.S.; (3) Mr. Yam's release would not pose serious adverse foreign policy consequences; and (4) Mr. Yam is not a specially dangerous individual.
7. His prolonged detention is no longer justified under the U.S. Constitution or the Immigration and Nationality Act (I.N.A.).
8. Mr. Yam respectfully submits that his detention is in violation of his constitutional rights.
9. His prolonged detention is no longer justified under the U.S. Constitution or the Immigration and Nationality Act (I.N.A.).
10. Petitioner seeks an order from this Court declaring his continued and prolonged detention unlawful and ordering Respondents to release Mr. Yam from their custody.

CUSTODY

11. Mr. Yam is in the physical custody of Respondent Kenneth Genalo, Field Office Director for Detention and Removal, U.S. Immigration and Customs Enforcement ("ICE"), the Department of Homeland Security ("DHS"), and Respondent Raul Maldonado Jr., Warden of Brooklyn MDC in Brooklyn, New York.
12. At the time of the filing of this petition, Petitioner is detained at Brooklyn MDC in Brooklyn, New York.
13. Brooklyn MDC contracts with the DHS to detain non-citizens such as Petitioner.
14. Mr. Yam is under the direct control of Respondents and their agents.

JURISDICTION

15. This action arises under the Constitution of the United States, the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et. seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104-208, 110 Stat. 1570.

16. This Court has jurisdiction under 28 U.S.C. 2241, art. I, § 9, cl. 2 of the United States Constitution ("Suspension Clause") and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States.

17. This Court may grant relief pursuant to 28 U.S.C. § 2241, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

18. Venue lies in the United States District Court for the Eastern District of New York, the judicial district where Petitioner is detained, and, therefore, this is the judicial district in which a substantial part of the events or omissions giving rise to the claim occurred. 28 U.S.C. § 1391(e).

PARTIES

19. Petitioner Man Chun Yam is a national and citizen of The People's Republic of China ("China"), whose deportation order became final on September 26, 2001, when the Board of Immigration Appeals ("BIA") dismissed his appeal.

20. Mr. Yam is detained by Respondents pursuant to 8 U.S.C. § 1231, which permits the DHS to detain aliens, such as Petitioner, pending the execution of the alien's removal order.

21. Kenneth Genalo is the Field Office Director for Detention and Removal, ICE, DHS, and is sued in his official capacity as such.

22. Respondent Genalo is a custodial official acting within the boundaries of the judicial district of the United States Court for the Eastern District of New York.

23. Pursuant to Respondent Genalo's direction, Petitioner remains detained.

24. Respondent Raul Maldonado, Jr. is the warden of Brooklyn MDC in Brooklyn, New York, and is sued in his official capacity as such.

25. Respondent Raul Maldonado, Jr. is Petitioner's immediate custodian and resides in the judicial district of the United States Court for the Eastern District of New York.

26. Respondent Kristi Noem is sued in her official capacity as Secretary of the Department of Homeland Security.

27. Respondent Pamela Bondi is sued in her official capacity as Attorney General of the United States.

28. Respondent Todd Lyons is sued in his official capacity as Acting Director of ICE.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

29. Mr. Yam has exhausted his administrative remedies to the extent required by law.

30. He has fully cooperated with Respondents and has not delayed or obstructed his detention.

31. Therefore, Mr. Yam's only remedy is by way of this judicial action.

STATEMENT OF FACTS

32. Petitioner Man Chun Yam is a national and citizen of China who was ordered deported by an Immigration Judge of the Executive Office for Immigration Review ("EOIR") on February 6, 1997.

33. The BIA dismissed Mr. Yam's appeal on September 26, 2001, rendering his deportation order final.

34. Prior to his current detention, Mr. Yam was on an order of supervision with ICE.

35. Mr. Yam is the father of two minor children, who depend on him for support.

36. In recognition of his dependent children and consequent economic necessity, United States Citizenship and Immigration Services ("USCIS") granted an employment authorization document to Mr. Yam in connection with his order of supervision, although he has a final removal order.

37. Mr. Yam was taken into the custody of ICE on or about June 20, 2025, and has been continuously detained ever since then.

38. Therefore, Mr. Yam has now been in detention for more than eight (8) months pending his removal.

39. Respondents continue to detain Mr. Yam even though it is now clear that Respondents cannot remove him from the U.S.

40. It is respectfully submitted that (1) Mr. Yam is not a flight risk or a danger to the community; (2) Mr. Yam is not afflicted with a highly contagious disease; (3) Mr. Yam does not pose security or terrorism concerns to the U.S.; (3) Mr. Yam's release would not pose serious adverse foreign policy consequences; and (4) Mr. Yam is not a specially dangerous individual.

41. Mr. Yam has deep roots in this community. He has two U.S. citizen children, who depend on him for support.

42. Prior to his arrest, Mr. Yam was working, paying his taxes, and providing for his family. His continued detention deprives his family of his companionship and income.

43. Respondents' decision to detain Mr. Yam is no longer legally justifiable and is capricious and arbitrary.

44. Accordingly, it is respectfully submitted that the time is ripe for the Court to consider the merits of Mr. Yam 's request for release.

CLAIMS FOR RELIEF

COUNT ONE: CONSTITUTIONAL CLAIM

45. Petitioner alleges, and incorporates by reference paragraphs 1 through 44 above.

46. Petitioner's detention violates his right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution.

47. Noncitizens who have been mandatorily detained in immigration detention for an unreasonably prolonged period must be released, absent clear and convincing evidence that the detained person is dangerous or a flight risk, and that no conditions of release can reasonably mitigate that danger or flight risk.

48. The U.S. Supreme Court has stated that "[f]reedom from . . . government custody [and] detention lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (*citing Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)).

49. The Supreme Court further noted in *Zadvydas* that "[a] statute permitting indefinite detention of a [noncitizen] would raise a serious constitutional problem." *Id.* at 690.

50. The Due Process clause applies to all persons in the United States, "whether their presence here is lawful, unlawful, temporary, or permanent." *Id.* at 693; *see also Plyler v. Doe*, 457 U.S. 202, 210 (1982) ("[Noncitizens], even [noncitizens] whose presence in this country is unlawful, have long been recognized as 'persons' guaranteed due process of law by the Fifth and Fourteenth Amendments.").

51. Congress authorizes the DHS to detain noncitizens during a statutorily defined "removal period," during which the Department may effectuate the noncitizen's removal from the United States. 8 U.S.C. § 1231(a)(1).

52. The removal period typically lasts for ninety days and starts at the latest of: (1) the date an order of removal becomes administratively final; (2) if a removal order is judicially reviewed and a stay of removal has been ordered, the date of the court's final order; or (3) the date the noncitizen is released from any detention other than for immigration purposes. 8 U.S.C. § 1231(a)(1)(B).

53. Under 8 U.S.C. § 1231(a)(2), noncitizens subject to final orders of removal "shall" be detained during the first ninety days—the "removal period"—and they "shall" be removed during that period under § 1231(a)(1).

54. Under 8 U.S.C. § 1231(a)(6), however, the government "may" continue detention beyond the 90-day removal period if a noncitizen falls within certain broad categories of removability or is determined "to be a risk to the community or unlikely to comply with the order of removal." 8 U.S.C. § 1231(a)(6).

55. The Supreme Court in *Zadvydas*, to avoid the serious due process concerns that would be presented by permitting detention for an indefinite period, construed U.S.C. § 1231(a)(6) to authorize detention only where it is significantly likely that removal will occur in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 689.

56. The Supreme Court construed § 1231(a)(6) to authorize detention only for a "period reasonably necessary to secure removal" – a period that the Court determined to be presumptively six months. *Id.* at 699-701.

57. After a noncitizen meets his or her initial burden to show that no such likelihood of removal exists, the burden shifts to the Government to "respond with evidence sufficient to rebut [the noncitizen's] showing." *Id.* at 701. If the government cannot do so, the individual must be released.

58. The Supreme Court in *Zadvydas* also ruled that "for detention to remain reasonable, as the period of prior post-removal confinement grows, what counts as the 'reasonably foreseeable future' conversely would have to shrink." *Id.*

59. DHS's inability to effectuate Mr. Yam's removal provides threshold evidence that there is not a significant likelihood of removal in the foreseeable future. *Id.* at 276 (quoting *Zadvydas*, 533 U.S. at 701) (after a presumptively reasonable period of six months and the noncitizen showed evidence of no significant likelihood of removal, the government must then "respond with evidence to rebut that showing")

60. For these reasons, Petitioner's continued detention without, at minimum, a constitutionally adequate individualized hearing violates the Due Process Clause of the Fifth Amendment

COUNT TWO: STATUTORY CLAIM

61. Petitioner alleges, and incorporates by reference paragraphs 1 through 60 above.

62. Petitioner's continued detention violates the Immigration and Nationality Act and the U.S. Constitution.

COUNT THREE: ATTORNEY'S FEES AND COSTS

63. If he prevails, Petitioner requests attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412.

CERTIFICATION AND CLOSING

64. Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

PRAYER FOR RELIEF

65. **WHEREFORE**, Petitioner prays that this Court grant the following relief: (1) Assume jurisdiction over this matter; (2) Issue an interim order directing Respondents not to transfer Petitioner to another detention facility outside the jurisdiction of this Court during the pendency of this action; (3) Issue an order directing Respondents to show cause why the writ should not be granted; (4) Issue a writ of habeas corpus ordering Respondents to release Mr. Yam on his own recognizance or under parole, a low bond or reasonable conditions of supervision show; (5) Award Petitioner reasonable costs and attorney's fees; and, (6) Grant any other relief which this Court deems just and proper.

Dated: Flushing, New York
March 8, 2026

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Dated: Flushing, New York
March 8, 2026

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