

1 **Kara Hartzler**
2 Federal Defenders of San Diego, Inc.
3 225 Broadway, Suite 900
4 San Diego, California 92101-5030
5 Telephone: (619) 234-8467
6 Facsimile: (619) 687-2666
7 Kara_hartzler@fd.org
8
9 Attorneys for Petitioners

10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 MUHAMMAD FAROOQ,
13
14 Petitioner,

15 v.

16 KRISTI NOEM, Secretary of the
17 Department of Homeland Security,
18 PAMELA JO BONDI, Attorney General,
19 TODD M. LYONS, Acting Director,
20 Immigration and Customs Enforcement,
21 JESUS ROCHA, Acting Field Office
22 Director, San Diego Field Office,
23 CHRISTOPHER LAROSE, Warden at
24 Otay Mesa Detention Center,
25
26 Respondents.

CIVIL CASE NO.: '26 CV1496 CAB B JW

**Petition for Writ
of
Habeas Corpus**

**[Civil Immigration Habeas Petition
Under 28 U.S.C. § 2241]**

27
28

1 INTRODUCTION

2 Muhammad Farooq suffered persecution and beatings in Pakistan when he
3 converted from being a [REDACTED] He fled Pakistan and
4 crossed the border into the United States on March 26, 2025, to seek asylum. On
5 July 28, 2025, Mr. Farooq had a credible fear interview but received a negative
6 finding and an order of removal. But because Mr. Farooq does not have a passport
7 or any document identifying him as a Pakistani citizen, Respondents have been
8 unable to remove him for eight months. Mr. Farooq must therefore be released,
9 because “there is no significant likelihood of removal in the reasonably
10 foreseeable future.” *Zadvydas v. Davis*, 533 U.S. 678 (2001).

11 STATEMENT OF FACTS

12 Mr. Farooq was born in Pakistan as [REDACTED] Exhibit A, Declaration
13 of Muhammad Farooq, at ¶ 1. As an adult, he was influenced by his friends to
14 convert to become [REDACTED] *Id.* at ¶ 1. But the police told him that if he
15 converted to becoming [REDACTED] he would be killed. *Id.* at ¶ 1. In fact, one night he
16 was beaten unconscious by the police when he was returning from a religious
17 gathering. *Id.* at ¶ 1. As a result, he fled Pakistan in December 2024 and made his
18 way to Mexico.

19 Mr. Farooq crossed into the United States on March 26, 2025, to seek
20 asylum and was arrested about an hour later. *Id.* at ¶ 2. He was taken to a
21 detention center in San Luis, Arizona and held there for eleven-and-a-half months.
22 *Id.* at ¶ 2.

23 While in Arizona, Mr. Farooq was given a credible fear interview on July
24 28, 2025. *Id.* at ¶ 3. He was not told of the results of this interview. *Id.* at ¶ 3.
25 Finally, in September 2025, he asked what had happened with his credible fear
26 interview and was told that he had received a negative credible fear determination
27 and an order of removal. *Id.* at ¶ 3. Although he was supposed to have an
28

1 immigration judge review this negative credible fear determination, he has never
2 seen an immigration judge. *Id.* at ¶ 4.

3 Despite this negative credible fear determination and order of removal,
4 Mr. Farooq has not seen a deportation officer to arrange his removal. *Id.* at ¶ 5. He
5 also does not have a passport or any other document showing that he is from
6 Pakistan. *Id.* at ¶ 5.

7 On about March 4, 2026, Mr. Farooq was transferred to Imperial Regional
8 Detention Center. *Id.* at ¶ 6. [REDACTED]

9 [REDACTED]
10 [REDACTED] but has never received adequate medical treatment for this. *Id.*
11 at ¶ 7.

12 CLAIMS FOR RELIEF

13 This Court should grant this petition and order Mr. Farooq’s immediate
14 release. *Zadvydas v. Davis* holds that immigration statutes do not authorize the
15 government to detain immigrants for whom there is “no significant likelihood of
16 removal in the reasonably foreseeable future.” 533 U.S. 678, 701 (2001).

17 I. Count One: Petitioners’ detention violates *Zadvydas* and 8 U.S.C. 18 § 1231.

19 A. Legal background

20 Mr. Farooq’s indefinite detention violates the statute authorizing detention,
21 8 U.S.C. § 1231(a)(6). In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme
22 Court considered a problem affecting similarly situated people. Federal law
23 requires ICE to detain an immigrant during the “removal period,” which typically
24 spans the first 90 days after the immigrant is ordered removed. 8 U.S.C.
25 § 1231(a)(1)-(2). After that 90-day removal period expires, detention becomes
26 discretionary—ICE may detain the migrant while continuing to try to remove
27 them. *Id.* § 1231(a)(6). Ordinarily, this scheme would not lead to excessive
28 detention, as removal happens within days or weeks. But some detainees cannot

1 be removed quickly. Perhaps their removal “simply require[s] more time for
2 processing,” or they are “ordered removed to countries with whom the United
3 States does not have a repatriation agreement,” or their countries “refuse to take
4 them,” or they are “effectively ‘stateless’ because of their race and/or place of
5 birth.” *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1104 (9th Cir. 2001). In these and
6 other circumstances, detained immigrants can find themselves trapped in
7 detention for months, years, decades, or even the rest of their lives.

8 If federal law were understood to allow for “indefinite, perhaps permanent,
9 detention,” it would pose “a serious constitutional threat.” *Zadvydas*, 533 U.S. at
10 699. In *Zadvydas*, the Supreme Court avoided the constitutional concern by
11 interpreting § 1231(a)(6) to incorporate implicit limits. *Id.* at 689.

12 As an initial matter, *Zadvydas* held that detention is “presumptively
13 reasonable” for at least six months. *Id.* at 701. This acts as a kind of grace period
14 for effectuating removals.

15 Following the six-month grace period, courts must use a burden-shifting
16 framework to decide whether detention remains authorized. First, the petitioner
17 must make a prima facie case for relief: She must prove that there is “good reason
18 to believe that there is no significant likelihood of removal in the reasonably
19 foreseeable future.” *Id.*

20 If she does so, the burden shifts to “the Government [to] respond with
21 evidence sufficient to rebut that showing.” *Id.* Ultimately, then, the burden of
22 proof rests with the government: The government must prove that there is a
23 “significant likelihood of removal in the reasonably foreseeable future,” or the
24 immigrant must be released. *Id.*

25 **B. The six-month grace period expired.**

26 As an initial matter, the six-month grace period has expired. The *Zadvydas*
27 grace period lasts for “*six months* after a final order of removal—that is, *three*
28 *months* after the statutory removal period has ended.” *Kim Ho Ma v. Ashcroft*, 257

1 F.3d 1095, 1102 n.5 (9th Cir. 2001). Here, it appears that Mr. Farooq was ordered
2 removed on or about July 28, 2025. *Id.* at ¶ 3. Accordingly, his 90-day removal
3 period began on that date. 8 U.S.C. § 1231(a)(1)(B). The *Zadvydas* grace period
4 thus expired on January 28, 2026.

5 **C. There is good reason to believe that there is no significant**
6 **likelihood of removal in the reasonably foreseeable future.**

7 Because the six-month grace period has passed, this Court must evaluate
8 Petitioner’s *Zadvydas* claim using the burden-shifting framework. At the first
9 stage of the framework, there must be “good reason to believe that there is no
10 significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*,
11 533 U.S. at 701. This standard can be broken down into three parts.

12 **“Good reason to believe.”** The “good reason to believe” standard is a
13 relatively forgiving one. “A petitioner need not establish that there exists no
14 possibility of removal.” *Freeman v. Watkins*, No. CV B:09-160, 2009 WL
15 10714999, at *3 (S.D. Tex. Dec. 22, 2009). Nor does “[g]ood reason to
16 believe’ . . . place a burden upon the detainee to demonstrate no reasonably
17 foreseeable, significant likelihood of removal or show that his detention is
18 indefinite; it is something less than that.” *Rual v. Barr*, No. 6:20-CV-06215 EAW,
19 2020 WL 3972319, at *3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401
20 F. Supp. 3d 420, 430 (W.D.N.Y. 2019)). In short, the standard means what it says:
21 Petitioners need only give a “good reason”—not prove anything to a certainty.

22 **“No significant likelihood of removal.”** This component focuses on
23 whether petitioners will likely be removed: Continued detention is permissible
24 only if it is “significant[ly] like[ly]” that ICE will be able to remove him.
25 *Zadvydas*, 533 U.S. at 701. This inquiry targets “not only the *existence* of
26 untapped possibilities, but also [the] probability of *success* in such possibilities.”
27 *Elashi v. Sabol*, 714 F. Supp. 2d 502, 506 (M.D. Pa. 2010) (second emphasis
28 added). In other words, even if “there remains *some* possibility of removal,” a

1 petitioner can still meet its burden if there is good reason to believe that
2 successful removal is not significantly likely. *Kacanic v. Elwood*, No. CIV.A. 02-
3 8019, 2002 WL 31520362, at *4 (E.D. Pa. Nov. 8, 2002) (emphasis added).

4 **“In the reasonably foreseeable future.”** This component of the test
5 focuses on when petitioners will likely be removed: Continued detention is
6 permissible only if removal is likely to happen “in the reasonably foreseeable
7 future.” *Zadvydas*, 533 U.S. at 701. This inquiry places a time limit on ICE’s
8 removal efforts. If the Court has “no idea of when it might reasonably expect
9 [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal
10 is likely to occur—or even that it might occur—in the reasonably foreseeable
11 future.” *Palma v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at *3
12 (S.D. Miss. July 7, 2020), *report and recommendation adopted*, 2020 WL
13 4876859 (S.D. Miss. Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d
14 93, 102 (W.D.N.Y. 2019)). Thus, even if this Court concludes that the petitioners
15 “would *eventually* receive” a travel document, they can still meet their burden by
16 giving good reason to anticipate sufficiently lengthy delays. *Younes v. Lynch*,
17 2016 WL 6679830, at *2 (E.D. Mich. Nov. 14, 2016).

18 Mr. Farooq has good reason to think that ICE cannot remove him, since
19 eight months of effort have borne no fruit. This is likely because Mr. Farooq has
20 not passport or other document showing that he is from Pakistan. *Id.* at ¶ 5. Thus,
21 Mr. Farooq has met his initial burden. And because the government cannot show
22 that his removal is significantly likely in the reasonably foreseeable future, this
23 Court should order his immediate release.

24 **II. This Court must hold an evidentiary hearing on any disputed facts.**

25 Resolution of a prolonged-detention habeas petition may require an
26 evidentiary hearing. *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009).
27 Petitioners hereby request such a hearing on any material, disputed facts.

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

III. Prayer for relief

For the foregoing reasons, Petitioners respectfully request that this Court:

1. Order Respondents to immediately release Petitioners from custody;
2. Enjoin Respondents from re-detaining Petitioners unless and until ICE obtains a travel document for their removal; and
3. Order all other relief that the Court deems just and proper.

Respectfully submitted,

Dated: March 10, 2026

/s/ Kara Hartzler

Kara Hartzler
Federal Defenders of San Diego, Inc.
Email: Kara.Hartzler@fd.org

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I, the undersigned, will cause the attached Petition for a Writ of Habeas Corpus to be emailed to the U.S. Attorney’s Office for the Southern District of California at USACAS.Habeas2241@usdoj.gov when I receive the court-stamped copy.

Date: March 10, 2026

/s/ Kara Hartzler
Kara Hartzler