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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

HUANYAN YAN, Petitioner, v. KRISTI NOEM, Secretary of the Department of Homeland Security, PAMELA JO BONDI, Attorney General, TODD M. LYONS, Acting Director, Immigration and Customs Enforcement, JESUS ROCHA, Acting Field Office Director, San Diego Field Office, JEREMY CASEY, Warden at Imperial Regional Detention Center, Respondents.	CIVIL CASE NO.'26CV1703 LL MMP **Petition for Writ of Habeas Corpus** **[Civil Immigration Habeas Petition Under 28 U.S.C. § 2241]**

INTRODUCTION

Huanyuan Yan was ordered removed nine months ago and did not appeal. In the nine months since, ICE has been unable to remove him to China. This Court should order immediately order him released because "there is no significant likelihood of removal in the reasonably foreseeable future." *Zadvydas v. Davis*, 533 U.S. 678 (2001).

STATEMENT OF FACTS

Mr. Yan was born in China and came to the U.S. seeking asylum. Exhibit A, Declaration of Huanyuan Yan at ¶ 1. He crossed the border on February 4, 2024, and turned himself in to Border Patrol. *Id.* at ¶ 1. ICE released him on parole two days later. *Id.* at ¶ 1.

Mr. Yan went to Los Angeles and attended all his court hearings. *Id.* at ¶ 2. But when he was at his immigration court hearing in May 2025, ICE arrested Mr. Yan and took him into custody. *Id.* at ¶ 2. They terminated his removal proceedings and put him in expedited removal. *Id.* at ¶ 2.

ICE transferred Mr. Yan to Imperial Regional Detention Center, where he received a negative credible fear determination. *Id.* at ¶ 3. The immigration judge affirmed this decision, and his order of removal became final on June 18, 2025. *Id.* at ¶ 2. Mr. Yan did not appeal this decision. *Id.* at ¶ 3.

ICE has not spoken to Mr. Yan or visited him since June 2025. *Id.* at ¶ 4. He has now been detained for nine months since his final order of removal. *Id.* at ¶ 4.

CLAIMS FOR RELIEF

This Court should grant this petition and order Mr. Yan's immediate release. *Zadvydas v. Davis* holds that immigration statutes do not authorize the government to detain immigrants for whom there is "no significant likelihood of removal in the reasonably foreseeable future." 533 U.S. 678, 701 (2001). And due

process requires ICE to provide notice and an opportunity to be heard before any removal to a third country.

I. Count One: Petitioner's detention violates *Zadvydas* and 8 U.S.C. § 1231.

A. Legal background

Mr. Yan's continued incarceration violates the statute authorizing detention, 8 U.S.C. § 1231(a)(6). In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered a problem affecting similarly situated people. Federal law requires ICE to detain an immigrant during the "removal period," which typically spans the first 90 days after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-(2). After that 90-day removal period expires, detention becomes discretionary—ICE may detain the migrant while continuing to try to remove them. *Id.* § 1231(a)(6). Ordinarily, this scheme would not lead to excessive detention, as removal happens within days or weeks. But some detainees cannot be removed quickly. Perhaps their removal "simply require[s] more time for processing," or they are "ordered removed to countries with whom the United States does not have a repatriation agreement," or their countries "refuse to take them," or they are "effectively 'stateless' because of their race and/or place of birth." *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1104 (9th Cir. 2001). In these and other circumstances, detained immigrants can find themselves trapped in detention for months, years, decades, or even the rest of their lives.

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

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

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

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

B. The six-month grace period has long since expired.

As an initial matter, the six-month grace period has long since expired for Mr. Yan. The *Zadvydas* grace period lasts for "*six months* after a final order of removal—that is, *three months* after the statutory removal period has ended." *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th Cir. 2001). Here, Mr. Yan's order of removal became final on June 18, 2025—nine months ago. Accordingly, his 90-day removal period began on that respective date. 8 U.S.C. § 1231(a)(1)(B). The *Zadvydas* grace period thus expired three months ago—on December 18, 2025. The threshold requirement is therefore easily met.

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

Because the six-month grace period is about to expire, this Court must evaluate Petitioner's *Zadvydas* claim using the burden-shifting framework. At the first stage of the framework, there must be "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701. This standard can be broken down into three parts.

"Good reason to believe." The "good reason to believe" standard is a relatively forgiving one. "A petitioner need not establish that there exists no

1 possibility of removal." *Freeman v. Watkins*, No. CV B:09-160, 2009 WL
2 10714999, at *3 (S.D. Tex. Dec. 22, 2009). Nor does "'[g]ood reason to
3 believe' . . . place a burden upon the detainee to demonstrate no reasonably
4 foreseeable, significant likelihood of removal or show that his detention is
5 indefinite; it is something less than that." *Rual v. Barr*, No. 6:20-CV-06215 EAW,
6 2020 WL 3972319, at *3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401
7 F. Supp. 3d 420, 430 (W.D.N.Y. 2019)). In short, the standard means what it says:
8 Petitioner need only give a "good reason"—not prove anything to a certainty.

9 **"No significant likelihood of removal."** This component focuses on
10 *whether* Petitioner will likely be removed: Continued detention is permissible
11 only if it is "significant[ly] like[ly]" that ICE will be able to remove him.
12 *Zadvydas*, 533 U.S. at 701. This inquiry targets "not only the *existence* of
13 untapped possibilities, but also [the] probability of *success* in such possibilities."
14 *Elashi v. Sabol*, 714 F. Supp. 2d 502, 506 (M.D. Pa. 2010) (second emphasis
15 added). In other words, even if "there remains *some* possibility of removal," a
16 petitioner can still meet its burden if there is good reason to believe that
17 successful removal is not significantly likely. *Kacanic v. Elwood*, No. CIV.A. 02-
18 8019, 2002 WL 31520362, at *4 (E.D. Pa. Nov. 8, 2002) (emphasis added).

19 **"In the reasonably foreseeable future."** This component of the test
20 focuses on <u>when</u> Petitioner will likely be removed: Continued detention is
21 permissible only if removal is likely to happen "in the reasonably foreseeable
22 future." *Zadvydas*, 533 U.S. at 701. This inquiry places a time limit on ICE's
23 removal efforts. If the Court has "no idea of when it might reasonably expect
24 [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal
25 is likely to occur—or even that it might occur—in the reasonably foreseeable
26 future." *Palma v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at *3
27 (S.D. Miss. July 7, 2020), *report and recommendation adopted*, 2020 WL
28 4876859 (S.D. Miss. Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d

93, 102 (W.D.N.Y. 2019)). Thus, even if this Court concludes that the Petitioner "would *eventually* receive" a travel document, he can still meet his burden by giving good reason to anticipate sufficiently lengthy delays. *Younes v. Lynch*, 2016 WL 6679830, at *2 (E.D. Mich. Nov. 14, 2016).

Mr. Yan has good reason to think that ICE cannot remove him, since nine months of effort have borne no fruit. Thus, he has met his initial burden. And because the government's failure to remove him for nine months shows that his removal is not significantly likely in the reasonably foreseeable future, this Court should immediately grant his habeas petition.

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

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

III. Prayer for relief

For the foregoing reasons, Petitioner respectfully requests that this Court:

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

Respectfully submitted,

Dated: March 18, 2026

/s/ Kara Hartzler

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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 18, 2026

/s/ Kara Hartzler
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