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

HAOXU YIN,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary of
the Department of Homeland Security,
TODD BLANCHE, Acting 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.

Case No.: '26CV2668 GPC GC

**Petition for Writ
of
Habeas Corpus**

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

¹ Federal Defenders of San Diego, Inc., is filing with provisional appointment under Chief Judge Order No. 134. Mr. Yin's financial eligibility for representation is included in this sworn statement.

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1 **I. Introduction**

2 Haoxu Yin is a 20-year-old student who was ordered removed to China in
3 early November 2025. ICE has made no apparent progress in removing him there.
4 Mr. Yin must therefore be released because “there is no significant likelihood of
5 removal in the reasonably foreseeable future.” *Zadvydas v. Davis*, 533 U.S. 678
6 (2001). Furthermore, if ICE decides to try to remove him to a third country, ICE
7 threatens to do so in violation of the Fifth Amendment’s Due Process Clause. This
8 Court should grant this petition on both grounds.

9 **II. Statement of Facts**

10 **A. Mr. Yin was ordered removed to China on November 4, 2025.**

11 Mr. Yin, a Chinese citizen, came to the United States border to seek asylum
12 on January 26, 2025. Exhibit A, Declaration of Haoxu Yin, at ¶¶ 2–3. He has been
13 in detention since. He is currently at the Imperial Regional Detention Center. *Id.*

14 On November 4, 2025, an immigration judge denied Mr. Yin’s applications
15 and ordered him removed to China. Exhibit B (immigration judge order). The
16 judge reserved appeal on Mr. Yin’s behalf; Mr. Yin did not appeal, so the order
17 became administratively final on December 4, 2025. Exhibit B; Exhibit A ¶ 4.

18 Since then, Mr. Yin has cooperated with ICE. He reports, “Since I’ve been
19 deported, each month, ICE gives me a paper to sign. I sign and cooperate.”
20 Exhibit A ¶ 6. ICE has told him “they don’t have [his] travel document and [he]
21 just ha[s] to wait.” *Id.* ¶ 7. He is not sure why he is still in custody: “I don’t know
22 why they don’t have my travel document. I’ve signed and cooperated with
23 everything they’ve asked.” *Id.* ¶ 8.

24 **B. It is often challenging for the United States to deport people to**
25 **China.**

26 China has been “consistently categorized as uncooperative” in accepting its
27 deportees back from the United States. Exhibit C, Office of Inspector General of
28 DHS, *ICE Faces Barriers in Timely Repatriation of Detained Aliens*, at 19 n.32,

29 (March 11, 2019). As a result, as of November 2024, there were nearly 38,000 Chinese citizens with orders of deportation living within the United States who could not be removed to China. Exhibit D (Memorandum from ICE ERO, November 2024).

In the year for which data are most recently publicly available, fiscal year 2022, only 264 Chinese citizens were deported from the U.S. to China. *See* DHS, *2022 Yearbook of Immigration Statistics*.²

C. The government is carrying out deportations to third countries without providing sufficient notice and opportunity to be heard.

If ICE continues to be unable to remove Mr. Yin to China, ICE may try to remove him to a third country. If so, Mr. Yin is in grave danger of removal without due process.

This summer, ICE began removing more immigrants it could not previously remove to third countries, which have often removed those people back to their countries of origin. ICE implemented new nationwide policies to do so. On July 9, 2025, ICE rescinded previous guidance meant to give immigrants a “‘meaningful opportunity’ to assert claims for protection under the Convention Against Torture before initiating removal to a third country.” Exhibit E (July 9, 2025, ICE third-country removal guidance).

Now, ICE may remove an immigrant to a third country without any notice. It may do so if, in the sole view of the State Department, the United States has received “credible” “assurances” from that country that deportees will not be persecuted or tortured. *Id.* at 1. ICE deported approximately twenty people who had been granted withholding of removal or CAT protection to Equatorial Guinea in January without notifying them that they were being deported there under this

² Available at <https://ohss.dhs.gov/topics/immigration/yearbook>.

1 provision. Third Country Deportation Watch, *Equatorial Guinea*, Refugees
 2 International & Human Rights First (Mar. 11, 2026).³

3 If a country fails to credibly promise not to persecute or torture releasees,
 4 ICE may remove immigrants with only 24 hours' notice. "In exigent
 5 circumstances," a removal may take place in six hours, "as long as the alien is
 6 provided reasonably means and opportunity to speak with an attorney prior to the
 7 removal." Exhibit E.

8 Regardless of how much notice noncitizens receive of the third country ICE
 9 intends to deport them to, ICE "will not affirmatively ask whether the alien is
 10 afraid of being removed to the country of removal." *Id.* (emphasis original).

11 If the noncitizen "does not affirmatively state a fear of persecution or
 12 torture if removed to the country of removal listed on the Notice of Removal
 13 within 24 hours, [ICE] may proceed with removal to the country identified on the
 14 notice." *Id.* at 2.

15 Under this policy, the United States has deported dozens of noncitizens to
 16 prisons and military camps in Rwanda, Eswatini, South Sudan, Ghana, and
 17 Equatorial Guinea. Those who have not been returned to their home countries are
 18 still detained, in countries to which they have never been, without charge.
 19 Nokukhanya Musi & Gerald Imray, *10 more deportees from the US arrive in the*
 20 *African nation of Eswatini*, Associated Press (Oct. 6, 2025)⁴; *see also* Gerald
 21 Imray, *A Cuban man deported by the US to Africa is on a hunger strike in prison,*
 22 *his lawyer says*, Associated Press (Oct. 23, 2025)⁵; Frank Chothia, *Eswatini*
 23 *confirms receiving \$5.1m from the US for accepting deportees*, BBC (Nov. 18,

24
 25
 26 ³ Available at <https://www.thirdcountrydeportationwatch.org/equatorial-guinea>.

27 ⁴ Available at <https://apnews.com/article/eswatini-deportees-us-trump-immigration-74b2f942003a80a21b33084a4109a0d2>.

28 ⁵ Available at <https://apnews.com/article/deported-immigration-migrants-trump-eswatini-8d8aad6dd01bf0e72de06480f3c70859>.

2025)⁶; Nick Alexandra, *The Toll of Trump's African Deportation Agreements*, New Lines Magazine (Dec. 10, 2025).⁷ Others have been returned to their home countries, even though they had received orders protecting them against their return under the Convention Against Torture. *See* Third Country Deportation Watch, *Ghana*, Refugees International & Human Rights First (Dec. 5, 2025);⁸ Sheriff Bojang Jr., *Equatorial Guinea sends eight of Trump's nine deportees home, braces for new arrivals*, The Africa Report (Jan. 16, 2026).⁹

III. This Court has jurisdiction.

This Court has jurisdiction to consider Mr. Yin's claims of unlawful detention under 28 U.S.C. § 2241.

The government's recent argument otherwise, that 8 U.S.C. § 1252(g) strips this Court of jurisdiction, lacks merit. Its argument "would eliminate judicial review of immigration [detainees'] claims of unlawful detention . . . inconsistent with *Jennings v. Rodriguez* and the history of judicial review of the detention of noncitizens under 28 U.S.C. § 2241." *Phan v. Noem*, No. 25-cv-2422-RBM, 2025 WL 2898977, *3 (S.D. Cal. Oct. 10, 2025) (collecting cases agreeing on this jurisdictional point); *accord Sun v. Noem*, No. 25-cv-2433-CAB, 2025 WL 2800037, *2 (S.D. Cal. Sept. 30, 2025).

This Court also has jurisdiction to consider the procedures to which Mr. Yin is entitled in removal proceedings. *See A.A.R.P. v. Trump*, 605 U.S. 91, 94–95 (2025) (confirming jurisdiction to consider due process claims in habeas proceedings for noncitizens threatened with Alien Enemies Act deportations).

⁶ Available at <https://www.bbc.com/news/articles/cq50vjdx368o>.

⁷ Available at <https://newlinesmag.com/reportage/the-toll-of-trumps-african-deportation-agreements/>.

⁸ Available at <https://www.thirdcountrydeportationwatch.org/ghana>.

⁹ Available at <https://www.theafricareport.com/405291/equatorial-guinea-sends-eight-of-trumps-nine-deportees-home-braces-for-new-arrivals/>.

1 **IV. Claim One: Mr. Yin's detention violates *Zadvydas* and 8 U.S.C. § 1231.**

2 **A. Detention is mandatory for 90 days and allowable after six**
 3 **months only if there is a significant likelihood of removal in the**
 4 **reasonably foreseeable future.**

5 Mr. Yin's indefinite detention violates the statute authorizing detention,
 6 8 U.S.C. § 1231(a)(6).

7 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered
 8 a problem affecting people like Mr. Yin: Federal law requires ICE to detain an
 9 immigrant during the "removal period," which typically spans the first 90 days
 10 after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-(2). After that 90-
 11 day removal period expires, detention becomes discretionary—ICE may detain
 12 the immigrant while continuing to try to remove them. *Id.* § 1231(a)(6).

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

17 *Zadvydas* held that detention is "presumptively reasonable" for six months.
 18 *Id.* at 701. This presumption is "rebuttable." *Zavvar v. Scott*, No. 25-2104-TDC,
 2025 WL 2592543, *5–*6 (D. Md. Sept. 8, 2025).

19 After six months, courts use a burden-shifting framework. The petitioner
 20 must make a prima facie case for relief: He must prove that there is "good reason
 21 to believe that there is no significant likelihood of removal in the reasonably
 22 foreseeable future." *Zadvydas*, 533 U.S. at 689. If he does so, the burden shifts to
 23 "the Government [to] respond with evidence sufficient to rebut that showing." *Id.*
 24 Ultimately, then, the burden of proof rests with the government: The government
 25 must prove that there is a "significant likelihood of removal in the reasonably
 26 foreseeable future," or the immigrant must be released. *Id.*

27 Good faith is beside the point. "[U]nder *Zadvydas*, the reasonableness of
 28 Petitioner's detention does not turn on the degree of the government's good faith

1 efforts. Indeed, the *Zadvydas* court explicitly rejected such a standard. Rather, the
 2 reasonableness of Petitioner's detention turns on whether and to what extent the
 3 government's efforts are likely to bear fruit.” *Hassoun v. Sessions*, No. 18-CV-
 4 586-FPG, 2019 WL 78984, at *5 (W.D.N.Y. Jan. 2, 2019). “[T]he Government is
 5 required to demonstrate the likelihood of not only the *existence* of untapped
 6 possibilities, but also of a probability of success in such possibilities.” *Elashi v.*
 7 *Sabol*, 714 F. Supp. 2d 502, 506 (M.D. Pa. 2010).

8 Using this framework, Mr. Yin can make all the threshold showings needed
 9 to shift the burden to the government, or prove his petition outright before then.

10 **B. Mr. Yin has been ordered deported since November 4, 2025, and**
 11 **the six-month grace period will expire on June 4, around the**
 12 **time this Court will resolve this petition.**

13 The *Zadvydas* grace period lasts for “*six months* after a final order of
 14 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).

15 Mr. Yin was ordered removed on November 4, 2025. Exhibit B. He did not
 16 appeal, but the immigration judge reserved appeal on his behalf, so the order did
 17 not become administratively final under December 4, 2025. *Id.*

18 Accordingly, his 90-day removal period began then. 8 U.S.C.
 19 § 1231(a)(1)(B). The *Zadvydas* grace period will expire around the time this
 20 Court decides this petition, six months after the removal period began, on June 4,
 21 2025.

22 **C. There is good reason to believe that there is no significant**
 23 **likelihood of Mr. Yin removal in the reasonably foreseeable**
 24 **future, or, alternatively, Mr. Yin can prove no significant**
 25 **likelihood outright.**

26 Under the burden-shifting framework applicable after six months, there
 27 must be “good reason to believe that there is no significant likelihood of removal
 28 in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. This standard
 can be broken down into three parts.

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

11 **“No significant likelihood of removal.”** This component focuses on
 12 whether Mr. Yin will likely be removed: Continued detention is permissible only
 13 if it is “significant[ly] like[ly]” that ICE will be able to remove him. *Zadvydas*,
 14 533 U.S. at 701. This inquiry targets “not only the *existence* of untapped
 15 possibilities, but also [the] probability of *success* in such possibilities.” *Elashi v.*
 16 *Sabol*, 714 F. Supp. 2d 502, 506 (M.D. Pa. 2010) (second emphasis added). In
 17 other words, even if “there remains *some* possibility of removal,” a petitioner can
 18 still meet its burden if there is good reason to believe that successful removal is
 19 not significantly likely. *Kacanic v. Elwood*, No. CIV.A. 02-8019, 2002 WL
 20 31520362, at *4 (E.D. Pa. Nov. 8, 2002) (emphasis added).

21 **“In the reasonably foreseeable future.”** This component of the test
 22 focuses on when Mr. Yin will likely be removed: Continued detention is
 23 permissible only if removal is likely to happen “in the reasonably foreseeable
 24 future.” *Zadvydas*, 533 U.S. at 701. This inquiry places a time limit on ICE’s
 25 removal efforts. If the Court has “no idea of when it might reasonably expect
 26 [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal
 27 is likely to occur—or even that it might occur—in the reasonably foreseeable
 28 future.” *Palma v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at *3

(S.D. Miss. July 7, 2020), *report and recommendation adopted*, 2020 WL 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 Mr. Yin “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. Yin has good reason to think that ICE cannot remove him—or, alternatively, can prove that outright.

First, six months of effort have borne no fruit. ICE has apparently tried to request travel documents, and Mr. Yin has done everything in his power to aid ICE. Exhibit A ¶¶ 6–8. Yet six months later, there is no indication that China has agreed to issue a travel document.

Second, there is a good explanation for this state of affairs: ICE has named China one of the top 15 most uncooperative countries in the world, due to their “[l]ack of cooperation . . . in accepting the return of their nationals.” Exhibit C at 8. Tellingly, there are nearly 38,000 Chinese nationals with final removal orders living in the United States. *Id.* at 3.

Because China is notoriously uncooperative, and because ICE has made no progress in persuading China to accept Mr. Yin, he has met his burden.

D. The remedy for a *Zadvydas* violation is immediate release on conditions set by ICE under § 1231(a)(3).

As noted earlier, *Zadvydas* interpreted 8 U.S.C. § 1231(a)(6), which permits ICE to detain immigrants past the removal period if certain conditions are met. 533 U.S. at 698. Applying the constitutional avoidance canon, the Supreme Court held that immigrants may no longer be held under 8 U.S.C. § 1231(a)(6), but must be released when removal proves unforeseeable. *Id.* at 700–01.

Section 1231(a)(6) dictates what happens next: “An alien ordered removed . . . if released, shall be subject to the terms of supervision in paragraph (3).”

Paragraph (3) states that “[i]f the alien does not leave or is not removed within the removal period, the alien, pending removal, shall be subject to supervision under regulations prescribed by the Attorney General,” including several conditions that must be imposed. 8 U.S.C. § 1231(a)(3). The Attorney General has delegated authority to officials within ICE. *See* 8 C.F.R. § 241.5(a).

Thus, an immigrant released from detention under § 1231(a)(6) as interpreted in *Zadvydas* is subject to conditions set by ICE under § 1231(a)(3).

V. Claim 2: ICE may not remove Mr. Yin to a third country without adequate notice and an opportunity to be heard.

Because there is no current likelihood that Mr. Yin will be removed to China, ICE might instead try to remove Mr. Yin to a third country. If so, it would do so under a policy that violates the Fifth Amendment, the Convention Against Torture, and implementing regulations.

A. Due process requires notice and an opportunity to be heard before deportation to third countries.

As noted, U.S. law enshrines mandatory protections against dangerous and life-threatening removal decisions through the withholding of removal statute and implementations of the Convention Against Torture. *See* 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. §§ 208.16, 1208.16 (withholding); FARRA 2681-822 (codified as 8 U.S.C. § 1231 note; 28 C.F.R. § 200.1; *id.* §§ 208.16-208.18, 1208.16-1208.18 (CAT)).

Further, the third country removal statute involves a “four-stage inquiry set forth in § 1231(b)(2).” *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1006 (W.D. Wash. 2019) (summarizing cases on this point); *see also Hadera v. Gonzales*, 494 F.3d 1154, 1156–59 (9th Cir. 2007) (explaining the stages). The first step is a noncitizen designates “one country to which the noncitizen wants to be removed.” *Aden*, 409 F. Supp. 3d at 1006. If the noncitizen does not designate a country, or that country does not accept them, then “the IJ may at step two designate a country of which the noncitizen is a subject, national, or citizen.” *Id.* at 1007. If

1 “no country satisfies” that requirement, the step three allows designation and
2 removal to a number of other countries. 8 U.S.C. § 1231(b)(2)(E). The
3 government can proceed to the fourth stage—removal to “another country”—only
4 if it determines it is “impracticable, inadvisable, or impossible to remove the alien
5 to each country described” in the third stage. 8 U.S.C. § 1231(b)(2)(E)(vii).

6 When pursuing a third-country removal subject to all the above constraints,
7 the government must provide notice of the third country removal and an
8 opportunity to respond. Due process requires “written notice of the country being
9 designated” and “the statutory basis for the designation, i.e., the applicable
10 subsection of § 1231(b)(2).” *Aden*, 409 F. Supp. 3d at 1019.

11 The government must also “ask the noncitizen whether he or she fears
12 persecution or harm upon removal to the designated country and memorialize in
13 writing the noncitizen’s response. This requirement ensures DHS will obtain the
14 necessary information from the noncitizen to comply with section 1231(b)(3) and
15 avoids [a dispute about what the officer and noncitizen said].” *Id.* “Failing to
16 notify individuals who are subject to deportation that they have the right to apply
17 for asylum in the United States and for withholding of deportation to the country
18 to which they will be deported violates both INS regulations and the constitutional
19 right to due process.” *Andriasian*, 180 F.3d at 1041.

20 If the noncitizen claims fear, measures must be taken to ensure that the
21 noncitizen can seek asylum, withholding, and relief under CAT before an
22 immigration judge in reopened removal proceedings. The amount and type of
23 notice must be “sufficient” to ensure that “given [a noncitizen’s] capacities and
24 circumstances, he would have a reasonable opportunity to raise and pursue his
25 claim for withholding of deportation.” *Aden*, 409 F. Supp. 3d at 1009
26 (citing *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976) and *Kossov v. I.N.S.*, 132
27 F.3d 405, 408 (7th Cir. 1998)).
28

1 “[L]ast minute” notice of the country of removal will not suffice,
2 *Andriasian*, 180 F.3d at 1041; *accord Najjar v. Lunch*, 630 Fed. App’x 724 (9th
3 Cir. 2016). For good reason: To have a meaningful opportunity to apply for fear-
4 based protection from removal, immigrants must have time to prepare and present
5 relevant arguments and evidence to the relevant agencies: first, the asylum officer
6 within USCIS, and, if that fails, the immigration judge. Telling a person where
7 they may be sent, without giving them a chance to look into country conditions
8 and the possibility they may be deported to yet another country, does not give
9 them a meaningful chance to determine whether and why they have a credible
10 fear.

11 **B. The July 6, 2025 memo’s removal policies violate the Fifth**
12 **Amendment, 8 U.S.C. § 1231, the Convention Against Torture,**
and implementing regulations.

13 The policies in the currently effective July 6, 2025, memo do not adhere to
14 these requirements. The operative memo “contravenes Ninth Circuit law.”
15 *Nguyen*, 796 F. Supp. 3d at 728 (explaining how the July 9, 2025 ICE memo
16 contravenes Ninth Circuit law on the process due to noncitizens in detail); *see*
17 *also Azzo v. Noem*, No. 25-cv-3122-RBM-BJW, 2025 WL 3535208, *6–*8 (S.D.
18 Cal. Dec. 10, 2025) (same).

19 Most critically, current policy does not require ICE to notify immigrants
20 that they have a right to apply for withholding of deportation from the new third
21 country to which they will be deported. Exhibit E (ICE ““will not affirmatively
22 ask whether the alien is afraid of being removed to the country of removal”).

23 This is in direct conflict with controlling Ninth Circuit law. “Failing to
24 notify individuals who are subject to deportation that they have the right to apply
25 . . . for withholding of deportation to the country to which they will be deported
26 violates both INS regulations and the constitutional right to due process,”
27 *Adriasian*, 180 F.3d at 1041.

28

1 Next, under the policy, ICE need not give immigrants *any* notice or *any*
2 opportunity to be heard before removing them to a country that—in the State
3 Department’s estimation—has provided “credible” “assurances” against
4 persecution and torture. Exhibit E. By depriving immigrants of any chance to
5 challenge the State Department’s view, this policy violates “[t]he essence of due
6 process,” “the requirement that a person in jeopardy of serious loss be given
7 notice of the case against him and opportunity to meet it.” *Mathews v. Eldridge*,
8 424 U.S. 319, 348 (1976) (cleaned up).

9 Then, even when the government has obtained no credible assurances
10 against persecution and torture, the government can still remove the person with
11 between 6 and 24 hours’ notice, depending on the circumstances. *See* Exhibit E.
12 Practically speaking, there is not nearly enough time for a detained person to
13 assess their risk in the third country and develop evidence to support any credible
14 fear—let alone a chance to file a motion to reopen with an IJ. An immigrant may
15 know nothing about a third country, like Eswatini or South Sudan, when they are
16 scheduled for removal there.

17 If given the opportunity to investigate conditions, immigrants may find
18 credible reasons to fear persecution or torture—like keeping deportees indefinitely
19 and without charge in solitary confinement, or extreme instability raising a high
20 likelihood of death—in many of the third countries that have agreed to removal of
21 thus far.

22 Immigrants may also have ample reason to challenge DHS’s determination
23 under § 1231(b)(2)(E)(vii) that each other country with which the immigrant has
24 connections is “impracticable, inadvisable, or impossible to remove the alien to.”
25 DHS must consider whether to remove him there before proceeding to the final
26 step of the third-country removal statute. *See Hadera*, 494 F.3d at 1156–59
27 (explaining this process).
28

Due process requires an adequate chance to identify and raise these threats to health and life. Because “[f]ailing to notify individuals who are subject to deportation that they have the right to apply . . . for withholding of deportation to the country to which they will be deported violates both INS regulations and the constitutional right to due process,” *Adriasian*, 180 F.3d at 1041, this Court must prohibit the government from removing Mr. Yin without these due process safeguards.

VI. 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). Mr. Yin hereby requests such a hearing on any material, disputed facts.

VII. Prayer for relief

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

1. Order and enjoin Respondents to immediately release Petitioner from custody;
2. Enjoin Respondents from re-detaining Petitioner under 8 U.S.C. § 1231(a)(6) unless and until Respondents obtain a travel document for his removal;
3. Enjoin Respondents from re-detaining Petitioner without first following all procedures set forth in 8 C.F.R. §§ 241.4(*l*), 241.13(i), and any other applicable statutory and regulatory procedures;
4. Enjoin Respondents from removing Petitioner unless they provide the following process:
 - a. written notice to both Petitioner and Petitioner’s counsel in a language Petitioner can understand;
 - b. a meaningful opportunity, and a minimum of ten days, to raise a fear-based claim for CAT protection prior to removal;
 - c. if Petitioner is found to have demonstrated “reasonable fear”

of removal to the country, Respondents must move to reopen
Petitioner's immigration proceedings; and

d. if Petitioner is not found to have demonstrated a "reasonable
fear" of removal to the country, a meaningful opportunity, and
a minimum of fifteen days, for the Petitioner to seek reopening
of his immigration proceedings; and

5. Order all other relief that the Court deems just and proper.

Respectfully submitted,

Dated: April 27, 2026

/s/ Jessie Agatstein

JESSIE AGATSTEIN

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Email: Jessie_Agatstein@fd.org

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: April 27, 2026

/s/ Jessie Agatstein
Jessie Agatstein

Exhibit A

Jessie Agatstein
Cal. Bar No. 319817
Federal Defenders of San Diego, Inc.
225 Broadway, Suite 900
San Diego, California 92101-5030
Telephone: (619) 234-8467
Facsimile: (619) 687-2666
jessie_agatstein@fd.org

Attorneys for Mr. Yin¹

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

HAOXU YIN,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary of
the Department of Homeland Security,
TODD BLANCHE, Acting Attorney
General, TODD M. LYONS, Acting
Director, Immigration and Customs
Enforcement, JESUS ROCHA, Acting
Field Office Director, San Diego Field
Office, JEREMEY CASEY, Warden at
Imperial Regional Detention Center,

Respondents.

Civil Case No.:

**Declaration of Haoxu Yin in support
of petition for writ of habeas corpus**

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

I declare the following is true and correct under penalty of perjury:

1. My name is Haoxu Yin. I just turned 20 years old. I have been detained since January 2025. I do not have any savings or assets. I am just a student. I cannot afford an attorney.

2. My A-number is  I came to the United States border from

¹ Federal Defenders of San Diego, Inc., is filing with provisional appointment under Chief Judge Order No. 134. Mr. Yin's financial eligibility for representation is included in this sworn statement.

1 China to seek asylum.

2 3. I have been in detention since January 26, 2025, when I arrived at the
3 border. I am currently detained at the Imperial Regional Detention
4 Center.

5 4. The immigration judge denied my application and ordered me
6 removed to China on November 4, 2025. I did not appeal.

7 5. I am not a citizen or national of any country other than China. I was
8 born in Huaibei City, China. My mother and my father are citizens of
9 China. I do not know of any reason why a country other than China
10 would accept me.

11 6. Since I've been ordered deported, each month, ICE gives me a paper
12 to sign. I sign and cooperate.

13 7. ICE has told me they don't have my travel document and I just have
14 to wait.

15 8. I don't know why they don't have my travel document. I've signed
16 and cooperated with everything they've asked.

17
18 This declaration was interpreted into my native language, Mandarin, and read
19 to me in its entirety. I give my attorney the authority to sign on my behalf that the
20 above is true and correct under penalty of perjury on April 27, 2026, at 10:30 AM,
21 from Imperial Regional Detention Center to San Diego, California,

22
23 */s/ Jessie Agatstein, on behalf of Haoxu Yin.*

Exhibit B

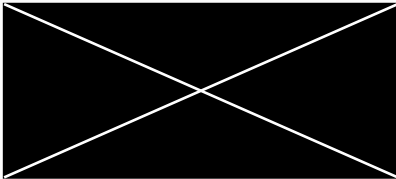


UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMPERIAL IMMIGRATION COURT

Respondent Name:

YIN, HAOXU

To:



A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

11/04/2025

- ☐ Unable to forward - no address provided.
- ☒ Attached is a copy of the **decision of the Immigration Judge**. This decision is final unless an appeal is filed with the Board of Immigration Appeals within 30 calendar days of the date of the mailing of this written decision. See the enclosed forms and instructions for properly preparing your appeal. Your notice of appeal, attached documents, and fee or fee waiver request must be mailed to:
- Board of Immigration Appeals
Office of the Clerk
P.O. Box 8530
Falls Church, VA 22041
- ☐ Attached is a copy of the decision of the immigration judge as the result of your Failure to Appear at your scheduled deportation or removal hearing. This decision is final unless a Motion to Reopen is filed in accordance with Section 242B(c)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1252B(c)(3) in deportation proceedings or section 240(b)(5)(c), 8 U.S.C. § 1229a(b)(5)(c) in removal proceedings. If you file a motion to reopen, your motion must be filed with this court:
- Immigration Court
- ☐ Attached is a copy of the decision of the immigration judge relating to a Reasonable Fear Review. Pursuant to 8 C.F.R. § 1208.31(g)(1), no administrative appeal is available.
- ☐ Attached is a copy of the decision of the immigration judge relating to a **Credible Fear Review**. This is a final order. No appeal is available.
- ☐ Other:

Date:



Immigration Judge: EICHENBERGER, COLIN 11/04/2025

Certificate of Service

This document was served:

Via: ☐ M] Mail | ☐ P] Personal Service | ☐ E] Electronic Service | ☐ U] Address Unavailable

To: ☐] Alien | ☐] Alien c/o custodial officer | ☐ E] Alien atty/rep. | ☐ E] DHS

Respondent Name : YIN, HAOXU | A-Number : 

Riders:

Date: 11/04/2025 By: Beltran, Vanessa, Court Staff

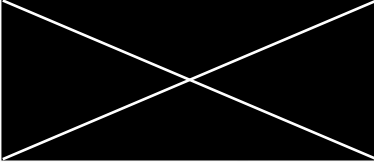


UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMPERIAL IMMIGRATION COURT

Respondent Name:

YIN, HAOXU

To:



A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

11/04/2025

ORDER OF THE IMMIGRATION JUDGE

- ☒ This is a summary of the oral decision entered on 11/04/2025. The oral decision in this case is the official opinion, and the immigration court issued this summary for the convenience of the parties.
- ☐ Both parties waived the issuance of a formal oral decision in this proceeding.

I. Removability

The immigration court found Respondent ☐ removable ☒ inadmissible under the following Section(s) of the Immigration and Nationality Act (INA or Act): 212(a)(6)(A)(i)

The immigration court found Respondent ☐ not removable ☐ not inadmissible under the following Section(s) of the Act:

II. Applications for Relief

Respondent's application for:

A. Asylum/Withholding/Convention Against Torture

- ☒ Asylum was ☐ granted ☒ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☒ Withholding of Removal under INA § 241(b)(3) was ☐ granted ☒ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☒ Withholding of Removal under the Convention Against Torture was ☐ granted ☒ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Deferral of Removal under the Convention Against Torture was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Respondent knowingly filed a frivolous application for asylum after notice of the consequences. *See* INA § 208(d)(6); 8 C.F.R. §1208.20

B. Cancellation of Removal

- ☐ Cancellation of Removal for Lawful Permanent Residents under INA § 240A(a) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Cancellation of Removal for Nonpermanent Residents under INA § 240A(b)(1) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Special Rule Cancellation of Removal under INA § 240A(b)(2) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

C. Waiver

- ☐ A waiver under INA § was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

D. Adjustment of Status

- ☐ Adjustment of Status under INA § was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

E. Other

III. Voluntary Departure

- ☐ Respondent's application for ☐ pre-conclusion voluntary departure under INA § 240B(a) ☐ post-conclusion voluntary departure under INA § 240B(b) was ☐ denied.
- ☐ Respondent's application for ☐ pre-conclusion voluntary departure under INA § 240B(a) ☐ post-conclusion voluntary departure under INA § 240B(b) was ☐ granted, and Respondent is ordered to depart by . The respondent must post a \$ bond with DHS within five business days of this order. Failure to post the bond as required or to depart by the required date will result in an alternate order of removal to taking effect immediately.
- ☐ The respondent is subject to the following conditions to ensure his or her timely departure from the United States:
- ☐ Further information regarding voluntary departure has been added to the record.
- ☐ Respondent was advised of the limitation on discretionary relief, the consequences for failure to depart as ordered, the bond posting requirements, and the consequences of filing a post-order motion to reopen or reconsider:

If Respondent fails to voluntarily depart within the time specified or any extensions granted by the DHS, Respondent shall be subject to a civil monetary penalty as provided by relevant statute, regulation, and policy. *See* INA § 240B(d)(1). The immigration court has set

- ☐ the presumptive civil monetary penalty amount of \$3,000.00 USD
- ☐ \$ USD instead of the presumptive amount.

If Respondent fails to voluntarily depart within the time specified, the alternate order of removal shall automatically take effect, and Respondent shall be ineligible, for a period of

10 years, for voluntary departure or for relief under sections 240A, 245, 248, and 249 of the Act, to include cancellation of removal, adjustment of status, registry, or change of nonimmigrant status. *Id.* If Respondent files a motion to reopen or reconsider prior to the expiration of the voluntary departure period set forth above, the grant of voluntary departure is automatically terminated; the period allowed for voluntary departure is not stayed, tolled, or extended. If the grant of voluntary departure is automatically terminated upon the filing of such a motion, the penalties for failure to depart under section 240B(d) of the Act shall not apply.

If Respondent appeals this decision, Respondent must provide to the Board of Immigration Appeals (Board), within 30 days of filing an appeal, sufficient proof of having posted the voluntary departure bond. The Board will not reinstate the voluntary departure period in its final order if Respondent does not submit timely proof to the Board that the voluntary departure bond has been posted.

In the case of conversion to a removal order where the alternate order of removal immediately takes effect, where Respondent willfully fails or refuses (1) to depart from the United States pursuant to the immigration court's order, (2) to make timely application in good faith for travel or other documents necessary to depart the United States, (3) to present themselves at the time and place required for removal by the DHS, or (4) conspires to or takes any action designed to prevent or hamper their departure pursuant to the order of removal, Respondent shall be subject to a civil monetary penalty for each day Respondent is in violation, pursuant to INA § 274D and 8 C.F.R. § 280.53(b)(14). If Respondent is removable pursuant to INA § 237(a), then Respondent shall be further fined and/or imprisoned for up to 10 years. See INA § 243(a)(1). Further, any Respondent that has been denied admission to, removed from, or has departed the United States while an order of exclusion, deportation, or removal is outstanding and thereafter enters, attempts to enter, or is at any time found in the United States shall be fined or imprisoned not more than two years, or both. 8 U.S.C. § 1326(a).

IV. Removal

- ☒ Respondent was ordered removed to CHINA
- ☐ In the alternative, Respondent was ordered removed to
- ☒ Respondent was advised of the penalties for failure to depart pursuant to the removal order:

If Respondent is subject to a final order of removal and willfully fails or refuses (1) to depart from the United States pursuant to the immigration court's order, (2) to make timely application in good faith for travel or other documents necessary to depart the United States, (3) to present themselves at the time and place required for removal by the DHS, or (4) conspires to or takes any action designed to prevent or hamper their departure pursuant to the order of removal, Respondent shall be subject to a civil monetary penalty for each day Respondent is in violation, pursuant to INA § 274D and 8 C.F.R. § 280.53(b)(14). If Respondent is removable pursuant to INA § 237(a), then Respondent shall be further fined and/or imprisoned for up to 10 years. See INA § 243(a)(1). Further, any Respondent that has been denied admission to, removed from, or has departed the United States while an order of exclusion, deportation, or removal is outstanding and thereafter enters, attempts to enter, or is at any time found in the United States shall be fined or imprisoned not more than two years, or both. 8 U.S.C. § 1326(a).

V. Other

- ☐ Proceedings were ☐ dismissed ☐ terminated with prejudice
☐ terminated without prejudice ☐ administratively closed.
- ☐ Respondent's status was rescinded under INA § 246.
- ☐ Other:



Immigration Judge: EICHENBERGER, COLIN 11/04/2025

Appeal: Department of Homeland Security: ☒ waived ☐ reserved
Respondent: ☐ waived ☒ reserved

Appeal Due: 12/04/2025

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : YIN, HAOXU | A-Number : 

Riders:

Date: 11/04/2025 By: Beltran, Vanessa, Court Staff