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Attorneys for Petitioner

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

SIQI YU,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary of
the Department of Homeland Security,
TODDLE 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.

CIVIL CASE NO.:

'26CV3233 DMS DEB

**Petition for Writ
of
Habeas Corpus**

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

1 INTRODUCTION

2 Siqi Yu was ordered removed in absentia over two years ago. Since then,
3 ICE has not removed him to China. This Court should order him immediately
4 released because “there is no significant likelihood of removal in the reasonably
5 foreseeable future.” *Zadvydas v. Davis*, 533 U.S. 678 (2001).

6 STATEMENT OF FACTS

7 Mr. Yu was born in China. Exhibit A, Declaration of Siqi Yu at ¶ 1. In
8 2014, he entered the United States on a B1/B2 tourist visa. *Id.* at ¶ 1. He
9 overstayed this visa and lived in New York, Florida, and California. *Id.* at ¶ 1.

10 Mr. Yu applied for asylum through USCIS but was denied and placed in
11 removal proceedings. *Id.* at ¶ 2. Although he hired a lawyer, she missed one of his
12 hearings, and Mr. Yu was ordered removed in absentia on July 24, 2023. *Id.* at
13 ¶ 2.

14 During this time, Mr. Yu opened a spa in Palm Springs, California. *Id.* at
15 ¶ 3. On January 28, 2026, he was walking in Indio, California, when three Border
16 Patrol agents approached him and asked to see his work permit. *Id.* at ¶ 3. They
17 arrested Mr. Yu and took him to an immigration detention center in Imperial,
18 California. *Id.* at ¶ 3.

19 Mr. Yu has been detained in immigration custody for four months. *Id.* at
20 ¶ 4. Several weeks ago, an ICE agent came to visit Mr. Yu and said it would “take
21 a while” for him to be deported. *Id.* at ¶ 4.

22 CLAIMS FOR RELIEF

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

27

28

1 **I. Count One: Petitioner’s detention violates *Zadvydas* and 8 U.S.C.**
 2 **§ 1231.**

3 **A. Legal background**

4 Mr. Yu’s continued incarceration violates the statute authorizing detention,
 5 8 U.S.C. § 1231(a)(6). In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme
 6 Court considered a problem affecting similarly situated people. Federal law
 7 requires ICE to detain an immigrant during the “removal period,” which typically
 8 spans the first 90 days after the immigrant is ordered removed. 8 U.S.C.
 9 § 1231(a)(1)-(2). After that 90-day removal period expires, detention becomes
 10 discretionary—ICE may detain the migrant while continuing to try to remove
 11 them. *Id.* § 1231(a)(6). Ordinarily, this scheme would not lead to excessive
 12 detention, as removal happens within days or weeks. But some detainees cannot
 13 be removed quickly. Perhaps their removal “simply require[s] more time for
 14 processing,” or they are “ordered removed to countries with whom the United
 15 States does not have a repatriation agreement,” or their countries “refuse to take
 16 them,” or they are “effectively ‘stateless’ because of their race and/or place of
 17 birth.” *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1104 (9th Cir. 2001). In these and
 18 other circumstances, detained immigrants can find themselves trapped in
 19 detention for months, years, decades, or even the rest of their lives.

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

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

27 Following the six-month grace period, courts must use a burden-shifting
 28 framework to decide whether detention remains authorized. First, the petitioner

1 must make a prima facie case for relief: She must prove that there is “good reason
2 to believe that there is no significant likelihood of removal in the reasonably
3 foreseeable future.” *Id.*

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

9 **B. The six-month grace period has expired.**

10 As an initial matter, the six-month grace period has expired for Mr. Yu. The
11 *Zadvydas* grace period lasts for “*six months* after a final order of removal—that is,
12 *three months* after the statutory removal period has ended.” *Kim Ho Ma v.*
13 *Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th Cir. 2001). Here, Mr. Yu’s order of
14 removal became final on July 24, 2023—two years and ten months ago.
15 Accordingly, his 90-day removal period began on that respective date. 8 U.S.C.
16 § 1231(a)(1)(B). The *Zadvydas* grace period thus expired on October 24, 2023.
17 The threshold requirement is therefore met.

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

20 Because the six-month grace period has expired, this Court must evaluate
21 Petitioner’s *Zadvydas* claim using the burden-shifting framework. At the first
22 stage of the framework, there must be “good reason to believe that there is no
23 significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*,
24 533 U.S. at 701. This standard can be broken down into three parts.

25 “**Good reason to believe.**” The “good reason to believe” standard is a
26 relatively forgiving one. “A petitioner need not establish that there exists no
27 possibility of removal.” *Freeman v. Watkins*, No. CV B:09-160, 2009 WL
28 10714999, at *3 (S.D. Tex. Dec. 22, 2009). Nor does “[g]ood reason to

believe’ . . . place a burden upon the detainee to demonstrate no reasonably foreseeable, significant likelihood of removal or show that his detention is indefinite; it is something less than that.” *Rual v. Barr*, No. 6:20-CV-06215 EAW, 2020 WL 3972319, at *3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401 F. Supp. 3d 420, 430 (W.D.N.Y. 2019)). In short, the standard means what it says: Petitioner need only give a “good reason”—not prove anything to a certainty.

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

“In the reasonably foreseeable future.” This component of the test focuses on when Petitioner will likely be removed: Continued detention is permissible only if removal is likely to happen “in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. This inquiry places a time limit on ICE’s removal efforts. If the Court has “no idea of when it might reasonably expect [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal is likely to occur—or even that it might occur—in the reasonably foreseeable 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 the Petitioner “would *eventually* receive” a travel document, he can still meet his burden by

1 giving good reason to anticipate sufficiently lengthy delays. *Younes v. Lynch*,
2 2016 WL 6679830, at *2 (E.D. Mich. Nov. 14, 2016).

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

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

9 Resolution of a prolonged-detention habeas petition may require an
10 evidentiary hearing. *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009).

11 Petitioner hereby requests such a hearing on any material, disputed facts.

12 **III. Prayer for relief**

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

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

18
19 Respectfully submitted,

20 Dated: May 26, 2026

/s/ Kara Hartzler

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: May 26, 2026

/s/ Kara Hartzler
Kara Hartzler