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

10 SIKI YU,

Petitioner,

11 v.

12 MARKWAYNE MULLIN, Secretary of
13 the Department of Homeland Security; *et*
al.,

14 Respondents.
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Case No.: 25-cv-03233-DMS-DEB

**RETURN TO PETITION FOR WRIT
OF HABEAS CORPUS**

1 **I. INTRODUCTION**

2 Petitioner Siki Yu has filed a Petition for Writ of Habeas Corpus under 28 U.S.C.
3 § 2241. For the reasons set forth below, the Court should deny Petitioner's requests for
4 relief and dismiss the petition.

5 **II. FACTUAL BACKGROUND**

6 Petitioner is a native and citizen of China. On or about February 24, 2014,
7 Petitioner was admitted to the United States under a nonimmigrant tourist visa for a
8 temporary period not to exceed August 23, 2014. On January 25, 2017, Petitioner was
9 issued a Notice to Appear charging him with removability under the Immigration and
10 Nationality Act (INA) § 237(a)(1)(B) for remaining in the United States for a time
11 longer than permitted. On July 24, 2023, an Immigration Judge ordered Petitioner
12 removed in absentia. Declaration of Concepcion Arredondo ("Arredondo Decl.")
13 at ¶¶ 4-7.

14 On December 3, 2023, Petitioner was arrested for driving under the influence of
15 alcohol. On June 18, 2024, Petitioner was arrested for sexual battery. On October 21,
16 2025, Petitioner was arrested for disorderly conduct. On October 23, 2025, Petitioner
17 was arrested for possession of a stolen vehicle and for evading a peace officer. On
18 December 8, 2025, Petitioner was arrested for being under the influence of a controlled
19 substance. *Id.* at ¶¶ 8-12; Exhibit 4 (RAP Sheet).

20 On January 28, 2026, Petitioner was taken into ICE custody. ICE is not seeking
21 to remove Petitioner to a third country. Since Petitioner's detention in January 2026,
22 ICE has worked diligently to effectuate his removal to China. On March 10, 2026, ICE
23 submitted a travel document request for Petitioner to ERO's Removal and International
24 Operations (RIO). On May 29, 2026, ICE contacted RIO for an update on the travel
25 document request. ICE is awaiting a response from RIO. Once ICE receives a travel
26 document for Petitioner, his removal can be effectuated promptly. *Id.* at ¶¶ 13-18.

27 **III. ARGUMENT**

28 An alien ordered removed must be detained for ninety (90) days pending the

1 government's efforts to secure the alien's removal through negotiations with foreign
2 governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General "shall detain" the alien
3 during the 90-day removal period). The statute "limits an alien's post-removal detention
4 to a period reasonably necessary to bring about the alien's removal from the United
5 States" and does not permit "indefinite detention." *Zadvydas v. Davis*, 533 U.S. 678,
6 689 (2001). The Supreme Court has held that a six-month period of post-removal
7 detention constitutes a "presumptively reasonable period of detention." *Id.* at 683.
8 Release is not mandated after the expiration of the six-month period unless "there is no
9 significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701.

10 In *Zadvydas*, the Supreme Court held: "[T]he habeas court must ask whether the
11 detention in question exceeds a period reasonably necessary to secure removal. It should
12 measure reasonableness primarily in terms of the statute's basic purpose, namely,
13 *assuring the alien's presence at the moment of removal.*" *Id.* at 699 (emphasis added).
14 In so holding, the Court recognized that detention is presumptively reasonable pending
15 efforts to obtain travel documents, because the noncitizen's assistance is needed to
16 obtain the travel documents, and a noncitizen who is subject to an imminent, executable
17 warrant of removal becomes a significant flight risk, especially if he or she is made
18 aware that removal is imminent.

19 The Supreme Court also held that the detention could exceed six months: "This
20 6-month presumption, of course, does not mean that every alien not removed must be
21 released after six months. To the contrary, an alien may be held in confinement until it
22 has been determined that there is no significant likelihood of removal in the reasonably
23 foreseeable future." *Id.* at 701. "After this 6-month period, once the alien provides good
24 reason to believe that there is no significant likelihood of removal in the reasonably
25 foreseeable future, the Government must respond with evidence sufficient to rebut that
26 showing and that the noncitizen has the initial burden of proving that removal is not
27 significantly likely." *Id.*

28 Here, the Petition should be denied as premature. Petitioner brings this challenge

1 after being held in immigration custody for approximately 5 months. “*Zadvydas* places
2 the burden on the alien to show, *after a detention period of six months*, that there is
3 ‘good reason to believe that there is no significant likelihood of removal in the
4 reasonably foreseeable future.’” *Pelich v. INS*, 329 F. 3d 1057, 1059 (9th Cir. 2003)
5 (quoting *Zadvydas*, 533 U.S. at 701) (emphasis added); *see also Xi v. INS*, 298 F.3d
6 832, 840 (9th Cir. 2003). Though Petitioner is correct that his order of removal became
7 final years ago, he was ordered removed in-absentia, arrested for numerous state law
8 violations, and has lived in multiple states. Since finally being taken into custody on
9 January 28, 2026, ICE has been able to meaningfully start the process of effectuating
10 his removal. See Arredondo Decl. at ¶¶ 13-18. Accordingly, the Court should not find
11 that Petitioner’s detention has become unreasonable after only 5 months.

12 Even if Petitioner’s detention had already extended beyond six months, Petitioner
13 cannot show that there is no significant likelihood of removal in the reasonably
14 foreseeable future. ICE is in the process of obtaining a travel document and is merely
15 waiting for RIO to coordinate with the Chinese embassy so it is premature for Petitioner
16 to seek administrative or judicial review of that process. Evidence of progress, even
17 slow progress, in negotiating a petitioner’s repatriation will satisfy *Zadvydas* until the
18 petitioner’s detention grows unreasonably lengthy. *See, e.g., Sereke v. DHS*, Case No.
19 19-cv-1250-WQH-AGS, ECF No. 5 at 5 (S.D. Cal. Aug. 15, 2019) (“The record at this
20 stage in the litigation does not support a finding that there is no significant likelihood
21 of Petitioner’s removal in the reasonably foreseeable future.”); *Marquez v. Wolf*, Case
22 No. 20-cv-1769-WQH-BLM, 2020 WL 6044080, at *3 (S.D. Cal. Oct. 13, 2020)
23 (denying petition because “Respondents have set forth evidence that demonstrates
24 progress and the reasons for the delay in Petitioner’s removal”).

25 To the extent Petitioner is challenging ICE’s decision to detain him for the
26 purpose of removal, such a challenge is precluded by statute. *See* 8 U.S.C. § 1252(g)
27 (“Except as provided in this section and *notwithstanding any other provision of law*
28 (statutory or nonstatutory), *including section 2241 of Title 28, or any other habeas*

1 *corpus provision*, and sections 1361 and 1651 of such title, no court shall have
 2 jurisdiction to hear any cause or claim by or on behalf of any alien arising from the
 3 decision or action by the Attorney General to commence proceedings, adjudicate cases,
 4 or *execute removal orders* against any alien under this chapter.”) (emphasis added); *see*
 5 *also Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999) (“There
 6 was good reason for Congress to focus special attention upon, and make special
 7 provision for, judicial review of the Attorney General’s discrete acts of “commenc[ing]
 8 proceedings, adjudicat[ing] cases, [and] execut[ing] removal orders”—which represent
 9 the initiation or prosecution of various stages in the deportation process.”); *Limpin v.*
 10 *United States*, 828 Fed. App’x 429 (9th Cir. 2020) (holding district court properly
 11 dismissed under 8 U.S.C. § 1252(g) “because claims stemming from the decision to
 12 arrest and detain an alien at the commencement of removal proceedings are not within
 13 any court’s jurisdiction”).

14 IV. CONCLUSION

15 For the foregoing reasons, the Court should deny Petitioner’s requests for relief
 16 and dismiss the petition as premature under *Zadvydas*.

17 DATED: June 3, 2026

18 Respectfully submitted,

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 20 United States Attorney

21 *s/ Hunter V. Norton*
 22 HUNTER V. NORTON
 23 Assistant United States Attorney

24 Attorney for Respondents
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