

Kara Hartzler

Federal Defenders of San Diego, Inc.

225 Broadway, Suite 900

San Diego, California 92101-5030

Telephone: (619) 234-8467

Facsimile: (619) 687-2666

kara_hartzler@fd.org

Attorneys for Petitioner

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

SIQI YU,

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 Facility,

Respondents.

Civil Case No.: 26-cv-3233-DMS-DEB

**Traverse in
Support of
Petition for Writ of
Habeas Corpus**

INTRODUCTION

Siqi Yu was born in China and entered the United States on a visitor's visa in 2014. Although he applied for asylum, he was ordered removed in absentia on July 24, 2023. Respondents arrested him on January 28, 2026. He has since filed a habeas petition seeking relief under *Zadvydas v. Davis*, 533 U.S. 678 (2001).

In their return, Respondents make two arguments: 1) that Mr. Yu's claim is "premature" because he has only been "held in immigration custody for five months"; and 2) that "ICE is in the process of obtaining a travel document" such that he cannot show his removal is not significantly likely in the reasonably foreseeable future. ECF No. 4 at 3–4. Neither argument is persuasive.

ARGUMENT

I. The six-month removal period has expired.

Contrary to Respondents' argument, Mr. Yu's habeas petition is not "premature" because the six-month removal period under *Zadvydas* has long since expired. The plain language of the statute states that the six-month removal period begins on the date of the final order of removal regardless of the length of time the individual has spent in detention. That is precisely what this Court recently held in *Baythavong v. Noem*, 26-cv-1138-DMS-MSB (S.D. Cal. Apr. 6, 2026).

The Immigration and Nationality Act states that the government "shall detain" a noncitizen ordered removed during the 90-day "removal period." 8 U.S.C. 1231(a)(2)(A). This removal period "begins on the latest of the following":

- (i) The date the order of removal becomes administratively final.
 - (ii) If the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court's final order.
 - (iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.
- 8 U.S.C. 1231(a)(1)(B). Here, neither (ii) nor (iii) apply because Mr. Yu's removal order is not being "judicially reviewed" and he is being detained "under

1 an immigration process.” Because Mr. Yu’s order of removal became
 2 “administratively final” on July 24, 2023, the plain language of the statute
 3 mandates a finding that the six-month removal period elapsed over a decade ago,
 4 in November 2013. *See also* 8 C.F.R. § 235.3(b)(7) (stating that an expedited
 5 removal order that is “reviewed and approved by the appropriate supervisor” is
 6 “considered final”).

7 That is precisely what this Court recently held in *Baythavong v. Noem*, 26-
 8 cv-1138-DMS-MSB (S.D. Cal. Apr. 6, 2026). There, the noncitizen was ordered
 9 removed and then released on an order of supervision for approximately seven
 10 years. When ICE redetained him, this Court noted that “Respondents failed to cite
 11 any authority to support their position that the presumptively reasonable period of
 12 detention only applies when the individual is actually in detention, i.e., that the
 13 nearly seven-year period in which Petitioner was on supervision is not relevant to
 14 the *Zadyvdas* argument.” *Id.* at *2. “On the contrary,” this Court explained,
 15 “courts have held the presumptively reasonable six-month period of detention
 16 does not stop and re-start if the individual is released and later re-detained.” *Id.* at
 17 *2–3 (citing cases). At least one other judge has since agreed, noting that
 18 “*Baythavong v. Noem* is directly on point here” and granting the habeas petition.
 19 *Nguyen v. Mullin*, 26-cv-2815-JAO-JLB, ECF 6 at 5 (S.D. Cal. May 26, 2026).
 20 Thus, the six-month period here has elapsed.

21 **II. An internal request for a travel document does not show that Mr. Yu’s**
 22 **removal is significantly likely in the reasonably foreseeable future.**

23 What’s more, Respondents have not shown that Mr. Yu’s removal is
 24 significantly likely in the reasonably foreseeable future. In their return,
 25 Respondents do not claim that they have a travel document for Mr. Yu—only that
 26 they submitted an internal request for one three months ago. *See* ECF No. 4-2 at ¶
 27 16 (stating that on March 10, 2026, “ICE submitted a travel document request for
 28 Petitioner to ERO’s Removal and International Operations (RIO)”). And though

1 “ICE contacted RIO for an update on the travel document request” on May 29,
2 2026, they have yet to receive a response. ECF No. 4-2 at ¶ 17.

3 This is insufficient. Good faith efforts to secure a travel document do not
4 themselves satisfy *Zadvydas*. In fact, the petitioner in *Zadvydas* appealed a “Fifth
5 Circuit h[olding] [that] [the petitioner’s] continued detention [was] lawful as long
6 as good faith efforts to effectuate deportation continue and [the petitioner] failed
7 to show that deportation will prove impossible.” 533 U.S. at 702 (cleaned up).
8 The Supreme Court reversed, finding that the Fifth Circuit’s good-faith-efforts
9 standard “demand[ed] more than our reading of the statute can bear.” *Id.*

10 Thus, “under *Zadvydas*, the reasonableness of Petitioner’s detention does
11 not turn on the degree of the government’s good faith efforts. Indeed, the
12 *Zadvydas* court explicitly rejected such a standard. Rather, the reasonableness of
13 Petitioner’s detention turns on whether and to what extent the government’s efforts
14 are likely to bear fruit.” *Hassoun v. Sessions*, No. 18-CV-586-FPG, 2019 WL
15 78984, at *5 (W.D.N.Y. Jan. 2, 2019). Accordingly, “the Government is required
16 to demonstrate the likelihood of not only the *existence* of untapped possibilities,
17 but also of a probability of success in such possibilities.” *Elashi v. Sabol*, 714 F.
18 Supp. 2d 502, 506 (M.D. Pa. 2010).

19 Here, then, Respondents’ mere statement that they have made an internal
20 request for a travel document is “insufficient. It is merely an assertion of good-
21 faith efforts to secure removal; it does not make removal likely in the reasonably
22 foreseeable future.” *Gilali v. Warden of McHenry Cnty.*, No. 19-CV-837, 2019
23 WL 5191251, at *5 (E.D. Wis. Oct. 15, 2019). Many courts have agreed that
24 requesting travel documents does not itself make removal reasonably likely. *See,*
25 *e.g., Andreatyan v. Gonzales*, 446 F. Supp. 2d 1186, 1189 (W.D. Wash. 2006)
26 (holding evidence that the petitioner’s case was “still under review and pending a
27 decision” did not meet respondents’ burden); *Islam v. Kane*, No. CV-11-515-
28 PHX-PGR, 2011 WL 4374226, at *3 (D. Ariz. Aug. 30, 2011), *report and*

1 *recommendation adopted*, 2011 WL 4374205 (D. Ariz. Sept. 20, 2011)
2 (“Repeated statements from the Bangladesh Consulate that the travel document
3 request is pending does not provide any insight as to when, or if, that request will
4 be fulfilled.”); *Khader v. Holder*, 843 F. Supp. 2d 1202, 1208 (N.D. Ala. 2011)
5 (granting petition despite pending travel document request, where “[t]he
6 government offers nothing to suggest when an answer might be forthcoming or
7 why there is reason to believe that he will not be denied travel documents”);
8 *Mohamed v. Ashcroft*, No. C01-1747P, 2002 WL 32620339, at *1 (W.D. Wash.
9 Apr. 15, 2002) (granting petition despite pending travel document request). Thus,
10 this Court should grant the petition and order Mr. Yu released.

11 **CONCLUSION**

12 For these reasons, this Court should grant Mr. Yu’s petition and order his
13 release.

14
15 Respectfully submitted,

16 Dated: June 4, 2026

s/ Kara Hartzler

Kara Hartzler
Federal Defenders of San Diego, Inc.
Attorneys for Mr. Yu
Email: kara_hartzler@fd.org