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

HUANG ZHENJING,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary of
the Department of Homeland Security,
TODD BLANCE, 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.: 26-cv-3237-BJC-MSB

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

1 INTRODUCTION

2 This Court should grant the petition because Mr. Zhenjing has proven that
3 there is neither “a significant likelihood of removal,” nor that it will happen “in
4 the reasonably foreseeable future.” *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

5 The government agrees that Mr. Zhenjing’s removal order became final 30
6 days after it was issued, on January 2, 2026. ECF No. 4 at 1. It also notes that it
7 requested travel documents from the Chinese Embassy on February 17, 2026, and
8 has not heard back. ECF No. 4, Exhibit 4.

9 The request to the Chinese embassy noted that China, as a legal matter,
10 only had one month to respond under international agreements. *Id.* The fact that it
11 has not responded since February emphasizes the depth of China’s non-
12 cooperation. “China for years has resisted U.S. requests to take back tens of
13 thousands of its citizens who have overstayed or illegally reentered the country.”
14 Michael Martina, *Exclusive: US prepared for visa sanctions on China over*
15 *migrants issue, official says*, Reuters (May 4, 2026).¹ After a brief period of
16 cooperation in 2025, “China has scaled back cooperation in the past six months.”
17 *Id.*

18 Whether this Court does so now, at more than five months since Mr.
19 Zhenjing’s removal order became final, or whether it waits until July 2, when six
20 months have passed, this Court should grant the habeas petition and order Mr.
21 Zhenjing released. Contrary to the government’s arguments, “[a]t no point did
22 the *Zadvydas* Court preclude a noncitizen from challenging their detention before
23 the end of the presumptively reasonable six-month period.” *Huan v. Noem*, No.
24 26-cv-512-JLS-DEB, 2026 WL 412609, *2 (S.D. Cal. Feb. 13, 2026) (granting
25 petition for Chinese national who had been “detained for five months post final
26 order of removal”).

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28 ¹ Available at <https://www.reuters.com/world/us/us-prepared-visa-sanctions-china-over-migrants-issue-official-says-2026-05-05/>.

ARGUMENT

I. There is not a significant likelihood of removal in the reasonably foreseeable future.

Respondents agree that Mr. Zhenjing has now been detained for six months since his removal order issued and five months since it became final. In this last month, because the *Zadvydas* “six-month period is a presumption that can be rebutted,” Mr. Zhenjing can prove outright that his removal is not significantly likely in the reasonably foreseeable future. *Huan*, 2026 WL 412609 at *2.

Regardless, the six-month grace period under *Zadvydas* will soon pass for Mr. Zhenjing. once the burden rests with the government, it certainly cannot prove either criterion. *Zadvydas*, 533 U.S. at 701.

Respondents never address the evidence in Mr. Zhenjing’s habeas petition that ICE itself lists China as one of the 15 most “uncooperative” countries in terms of accepting their nationals for deportation. *See* ECF No. 1 at 2–3, Exhibit D, ICE Report on Uncooperative Countries at 7; *accord* Exhibit C. Even though ICE has requested a travel document more than three months ago, they apparently have not heard back; it is far from clear that China will issue one.

Nevertheless, Respondents claim that they “are working expeditiously to acquire the necessary travel document to effectuate Petitioner’s removal to China.” ECF No. 4 at 1. But good faith efforts to secure a travel document do not themselves satisfy *Zadvydas*. In fact, the petitioner in *Zadvydas* appealed a “Fifth Circuit h[olding] [that] [the petitioner’s] continued detention [was] lawful as long as good faith efforts to effectuate deportation continue and [the petitioner] failed to show that deportation will prove impossible.” 533 U.S. at 702 (cleaned up). The Supreme Court reversed, finding that the Fifth Circuit’s good-faith-efforts standard “demand[ed] more than our reading of the statute can bear.” *Id.*

“[U]nder *Zadvydas*, the reasonableness of Petitioner’s detention does not turn on the degree of the government’s good faith efforts. Indeed, the *Zadvydas*

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

8 Many courts have agreed that requesting travel documents does not itself
9 make removal reasonably likely. *See, e.g., Andreasyan v. Gonzales*, 446 F. Supp.
10 2d 1186, 1189 (W.D. Wash. 2006) (holding evidence that the petitioner’s case
11 was “still under review and pending a decision” did not meet respondents’
12 burden); *Islam v. Kane*, No. CV-11-515-PHX-PGR, 2011 WL 4374226, at *3 (D.
13 Ariz. Aug. 30, 2011), *report and recommendation adopted*, 2011 WL 4374205
14 (D. Ariz. Sept. 20, 2011) (“Repeated statements from the Bangladesh Consulate
15 that the travel document request is pending does not provide any insight as to
16 when, or if, that request will be fulfilled.”); *Khader v. Holder*, 843 F. Supp. 2d
17 1202, 1208 (N.D. Ala. 2011) (granting petition despite pending travel document
18 request, where “[t]he government offers nothing to suggest when an answer might
19 be forthcoming or why there is reason to believe that he will not be denied travel
20 documents”); *Mohamed v. Ashcroft*, No. C01-1747P, 2002 WL 32620339, at *1
21 (W.D. Wash. Apr. 15, 2002) (granting petition despite pending travel document
22 request).

23 Additionally, even if ICE will eventually remove Mr. Zhenjing, the
24 government provides zero evidence that removal will happen “in the reasonably
25 foreseeable future.” *Zadvydas*, 533 U.S. at 701. “[D]etention may not be justified
26 on the basis that removal to a particular country is likely *at some point* in the
27 future; *Zadvydas* permits continued detention only insofar as removal is likely in
28 the *reasonably foreseeable* future.” *Hassoun*, 2019 WL 78984, at *6. “The

1 government's active efforts to obtain travel documents from the Embassy are not
 2 enough to demonstrate a likelihood of removal in the reasonably foreseeable
 3 future where the record before the Court contains no information to suggest a
 4 timeline on which such documents will actually be issued.” *Rual v. Barr*, No.
 5 6:20-CV-06215 EAW, 2020 WL 3972319, at *4 (W.D.N.Y. July 14, 2020). “[I]f
 6 DHS has no idea of when it might reasonably expect [Petitioners] to be
 7 repatriated, this Court certainly cannot conclude that [their] removal is likely to
 8 occur—or even that it *might* occur—in the reasonably foreseeable future.” *Singh*
 9 *v. Whitaker*, 362 F. Supp. 3d 93, 102 (W.D.N.Y. 2019).

10 Courts have routinely granted habeas petitions where, as here, there are
 11 problems as to *Zadvydas*’s timing element. *See, e.g., Balza v. Barr*, No. 6:20-CV-
 12 00866, 2020 WL 6143643, at *5 (W.D. La. Sept. 17, 2020), *report and*
 13 *recommendation adopted*, No. 6:20-CV-00866, 2020 WL 6064881 (W.D. La.
 14 Oct. 14, 2020) (“[A] theoretical possibility of eventually being removed does not
 15 satisfy the government’s burden[.]”); *Eugene v. Holder*, No. 408CV346-RH WCS,
 16 2009 WL 931155, at *4 (N.D. Fla. Apr. 2, 2009) (“While Respondents contend
 17 Petitioner *could* be removed to Haiti, it has not been shown that it is significantly
 18 likely that Petitioner *will* be removed in the *reasonably foreseeable* future.”);
 19 *Abdel-Muhti v. Ashcroft*, 314 F. Supp. 2d 418, 426 (M.D. Pa. 2004) (granting
 20 petition because even if “Petitioner’s removal will ultimately be effected . . . the
 21 Government has not rebutted the presumption that removal is not likely to occur
 22 in the reasonably foreseeable future”); *Seretse-Khama v. Ashcroft*, 215 F. Supp.
 23 2d 37, 50 (D.D.C. 2002) (granting petition where the
 24 government had not provided any “evidence . . . that travel documents will be
 25 issued in a matter of days or weeks or even months”).

26 In sum, then, there could be “some possibility that [China] will accept
 27 Petitioner at some point. But that is not the same as a significant likelihood that he
 28 will be accepted in the reasonably foreseeable future.” *Nguyen*, 2025 WL

2419288, at *16. Mr. Zhenjing therefore succeeds under *Zadvydas* and this Court should order his release on conditions set by ICE until China issues a travel document.

II. This Court should order Mr. Zhenjing be subject to certain basic guarantees of due process should the government seek his removal to a third country.

Finally, Respondents do not respond to Mr. Zhenjing's argument that ICE's current third-country removal policy does not provide him "with adequate notice and an opportunity to be heard before removing him to a third country." *Azzo v. Noem*, No. 25-cv-3122-RBM-BJW, 2025 WL 353208, *8 (S.D. Cal. Dec. 10, 2025) (granting habeas petition and enjoining the respondents from removing the petitioner absent the process outlined in *DVD v. U.S. Dep't of Homeland Sec.*, No. 25-10676-BEM, 2025 WL 1453640 (D. Mass. May 21, 2025)). Respondents have no response to his argument that it is proper for this Court to prohibit Respondents from removing him to a third country without first providing him notice of his statutory rights to apply for asylum and withholding from those third countries and a meaningful opportunity to be heard on those claims.

Because the government's current policy allows it to quickly pivot to a new country and deport Mr. Zhenjing to it with between zero and twenty-four hours' notice of a new country, and because that violates due process as Mr. Zhenjing explained in his habeas petition, this Court should grant his petition on this claim as well.

CONCLUSION

For all these reasons, this Court should grant the petition and order Mr. Zhenjing immediately released.

Respectfully submitted,

Dated: June 3, 2026

s/ Jessie Agatstein
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