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9
10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**
12

13 LUJUN WANG,

14 Petitioner,

15 v.

16 MARKWAYNE MULLIN, Secretary of
17 the Department of Homeland Security,
18 TODD BLANCHE, Acting Attorney
19 General, TODD M. LYONS, Acting
20 Director, Immigration and Customs
21 Enforcement, JESUS ROCHA, Acting
22 Field Office Director, San Diego Field
23 Office, CHRISTOPHER LAROSE,
24 Warden at Otay Mesa Detention Center,

25 Respondents.
26
27
28

Civil Case No.: '26CV2686 JES GC

**Petition for a
Writ of Habeas Corpus**

INTRODUCTION

Lujun Wang is a citizen of China who was granted voluntary departure on October 7, 2025. On October 26, 2025, he filed a motion to reopen that automatically converted his voluntary departure into an order of removal. Because ICE has not been able to remove him in the six months since his order of removal, the government cannot show that his removal is significantly likely in the reasonably foreseeable future, and this Court should order his immediate release.

STATEMENT OF FACTS

Mr. Wang was born in China. Exhibit A, Declaration of Lujun Wang, at ¶ 1. Because he was targeted by the government, he left and came to the U.S. to seek asylum. *Id.* at ¶ 1.

Mr. Wang went to Mexico and crossed the U.S. border into Arizona on February 4, 2023. *Id.* at ¶ 2. He was immediately taken into custody, where he asked to apply for asylum. *Id.* at ¶ 2. Several days later, he was paroled into the U.S. and submitted an asylum application to USCIS. *Id.* at ¶ 2.

On May 29, 2025, ICE arrested Mr. Wang in downtown San Diego when I was working as an Uber driver. *Id.* at ¶ 3. He was put in removal proceedings before an immigration judge. *Id.* at ¶ 3.

On October 7, 2025, the immigration judge granted Mr. Wang voluntary departure. *Id.* at ¶ 4. He did not appeal this decision. *Id.* at ¶ 4. However, he filed a motion to reopen on October 26, 2025, which automatically turned his voluntary departure into a final order of removal. *Id.* at ¶ 4.

Mr. Wang filed a pro se habeas corpus petition before this Court in *Wang v. Larose*, 26-cv-1133-JES-BJW. *Id.* at ¶ 5. In an amended petition, he challenged his continued detention on the basis of the revocation of his parole and the fact that his removal was not significantly likely in the reasonably foreseeable future under *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). *Id.* at ¶ 5.

1 On March 20, 2026, this Court denied Mr. Wang's habeas petition. *Id.* at ¶
2 6. As to his parole argument, the Court held that because he had a final order of
3 removal, "the issues raised in the petition related to the validity of detention under
4 § 1226 are no longer properly before it." 26-cv-1133-JES-BJW, Dkt. 13 at 4. As
5 to his *Zadvydas* argument, this Court held that because the "removal period clock
6 started on October 26, 2025," the detention period was "just under five months,
7 which is still within the presumptively reasonable period articulated in *Zadvydas*."
8 *Id.* at ¶ 6.

9 Six months have now passed since Mr. Wang's voluntary departure was
10 converted into a final order of removal, and ICE has not been able to deport him
11 to China. *Id.* at ¶ 7.

12 CLAIM FOR RELIEF

13 I. Mr. Wang's removal is not significantly likely in the reasonably 14 foreseeable future.

15 A. Legal background

16 Federal law requires ICE to detain an immigrant during the "removal
17 period," which typically spans the first 90 days after the immigrant is ordered
18 removed. 8 U.S.C. § 1231(a)(1)-(2). After that, detention becomes discretionary.
19 8 U.S.C. § 1231(a)(6). Ordinarily, this scheme would not lead to excessive
20 detention, as removal happens within days or weeks.

21 But some detainees cannot be removed quickly. There are many reasons
22 why this may be. Perhaps their removal "simply require[s] more time for
23 processing," or they are "ordered removed to countries with whom the United
24 States does not have a repatriation agreement," or their countries "refuse to take
25 them," or they are "effectively 'stateless' because of their race and/or place of
26 birth." *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1104 (9th Cir. 2001). In these and
27
28

1 other circumstances, detained immigrants can find themselves trapped in
2 detention for months, years, decades, or even the rest of their lives.

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

7 *Zadvydas* held that detention is “presumptively reasonable” for six months.
8 *Id.* at 701. Further, *Zadvydas*’s six-month presumptively reasonable period is “just
9 that—a presumption,” which can be rebutted with evidence. *Trinh v. Homan*, 333
10 F. Supp. 3d 984, 994 (C.D. Cal. 2018). “If there comes a point during the six-
11 month period at which it is ‘no longer reasonably foreseeable’ that a person will
12 actually be removed, then detention ‘is no longer authorized,’” and the petitioner
13 must be released. *Cruz Medina v. Noem*, 794 F. Supp. 3d 365, 376 (D. Md. 2025)
14 (quoting *Zadvydas*, 533 U.S. at 699–700).

15 “At no point did the *Zadvydas* Court preclude a noncitizen from
16 challenging their detention before the end of the presumptively reasonable six-
17 month period.” *Trinh*, 466 F. Supp. 3d at 1092. Instead, *Zadvydas* analogized to
18 the “similar” rule in *County of Riverside v. McLaughlin*, 500 U.S. 44, 56–58
19 (1991), in which the Court “adopt[ed] [a] presumption, based on lower court
20 estimate of time needed to process arrestee, that 48-hour delay in probable-cause
21 hearing after arrest is reasonable, hence constitutionally permissible.” *Zadvydas*,
22 533 U.S. at 701 (describing *Riverside*). *Riverside*’s 48-hour rule “is a rebuttable
23 presumption.” *Cesar*, 542 F. Supp. 2d at 904. It stands to reason that “the
24 *Zadvydas* presumption, like the *Riverside* presumption, is rebuttable.” *Munoz-*
25 *Saucedo*, 789 F. Supp. 3d at 397.

26 The *Zadvydas* standard can be broken down into two parts relevant here:

27 “**Significant likelihood of removal.**” This component focuses on whether
28 Mr. Wang will likely be removed: Continued detention is permissible only if it is

1 “significant[ly] like[ly]” that ICE will be able to remove him. *Zadvydas*, 533 U.S.
 2 at 701. This inquiry targets “not only the existence of untapped possibilities, but
 3 also [the] probability of success in such possibilities.” *Elashi v. Sabol*, 714 F.
 4 Supp. 2d 502, 506 (M.D. Pa. 2010) (second emphasis added).

5 In other words, even if “there remains some possibility of removal,” a
 6 petitioner can still meet its burden if successful removal is not significantly likely.
 7 *Kacanic v. Elwood*, No. CIV.A. 02-8019, 2002 WL 31520362, at *4 (E.D. Pa.
 8 Nov. 8, 2002) (emphasis added).

9 “**In the reasonably foreseeable future.**” This component of the test
 10 focuses on when Mr. Wang will likely be removed: Continued detention is
 11 permissible only if removal is likely to happen “in the reasonably foreseeable
 12 future.” *Zadvydas*, 533 U.S. at 701. This inquiry places a time limit on ICE’s
 13 removal efforts.

14 If the Court has “no idea of when it might reasonably expect [Petitioner] to
 15 be repatriated, this Court certainly cannot conclude that his removal is likely to
 16 occur—or even that it might occur—in the reasonably foreseeable future.” *Palma*
 17 *v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at *3 (S.D. Miss. July
 18 7, 2020), report and recommendation adopted, 2020 WL 4876859 (S.D. Miss.
 19 Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d 93, 102 (W.D.N.Y.
 20 2019)). Thus, even if this Court concludes that Mr. Wang “would eventually
 21 receive” a travel document, he can still meet his burden by giving good reason to
 22 anticipate sufficiently lengthy delays. *Younes v. Lynch*, 2016 WL 6679830, at *2
 23 (E.D. Mich. Nov. 14, 2016).

24 **B. The presumption that Mr. Wang’s detention is reasonable ended**
 25 **on April 26.**

26 On October 7, 2025, an immigration judge granted Mr. Wang voluntary
 27 departure, and on October 26, 2025, he filed a motion to reopen. See Exhibit A at
 28 ¶ 4. Under the regulations, “if the alien files a post-order motion to reopen or

1 reconsider during the period allowed for voluntary departure, the grant of
2 voluntary departure shall terminate automatically and the alternate order of
3 removal will take effect immediately.” 8 C.F.R. § 1240.26(c)(3)(iii). So
4 Mr. Wang’s order of removal became final on October 26, 2025, the day he filed
5 a motion to reopen. Thus, the presumption that his detention is reasonable
6 concluded on April 26, 2026, at which point the government must put forward
7 evidence to meet the *Zadvydas* standard.

8 **C. Mr. Wang’s personal experience and ICE’s historical experience**
9 **provide good reason to believe that he will not be removed in the**
10 **reasonably foreseeable future.**

11 Under any standard, there is no significant likelihood that Mr. Wang will be
12 removed in the reasonably foreseeable future.

13 First, China is not likely to issue Mr. Wang a travel document. ICE has
14 named China one of the top 15 most uncooperative countries in the world, due to
15 their “[l]ack of cooperation . . . in accepting the return of their nationals.” Exhibit
16 B, ICE Uncooperative Countries Report at 8. Tellingly, there are over 35,000
17 Chinese nationals with final removal orders living in the United States. *Id.* at 3.
18 Thus, China’s demonstrated reticence supports the conclusion that Mr. Wang will
19 not be removed in the reasonably foreseeable future.

20 Second, ICE has not made any progress in removing Mr. Wang in the last
21 six months. And even if ICE were making efforts behind the scenes, none have
22 borne fruit. That matters, because *Zadvydas* itself made clear that good faith
23 efforts do not themselves show that removal is significantly likely. The petitioner
24 in *Zadvydas* appealed a “Fifth Circuit h[olding] [that] [the petitioner’s] continued
25 detention [was] lawful as long as good faith efforts to effectuate deportation
26 continue and [the petitioner] failed to show that deportation will prove
27 impossible.” 533 U.S. at 702 (cleaned up). The Supreme Court reversed, finding
28 that the Fifth Circuit’s good-faith-efforts standard “demand[ed] more than our

1 reading of the statute can bear.” *Id.* Thus, “under *Zadvydas*, the reasonableness of
 2 Petitioner's detention does not turn on the degree of the government's good faith
 3 efforts. Indeed, the *Zadvydas* court explicitly rejected such a standard. Rather, the
 4 reasonableness of Petitioner's detention turns on whether and to what extent the
 5 government's efforts are likely to bear fruit.” *Hassoun v. Sessions*, No. 18-CV-
 6 586-FPG, 2019 WL 78984, at *5 (W.D.N.Y. Jan. 2, 2019).

7 For all of these reasons, Mr. Wang has shown good reason to believe that
 8 his removal is not significantly likely in the reasonably foreseeable future. This
 9 Court should grant the petition and order his immediate release.

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

11 Resolution of a detention-based habeas petition may require an evidentiary
 12 hearing. *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009). Mr. Wang
 13 hereby requests such a hearing on any material, disputed facts.

14 **III. Prayer for relief**

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

- 16 1. Order Respondents to immediately release Petitioner from custody;
- 17 2. Order that prior to any re-detention of Petitioner, Respondents provide
 18 evidence of a valid travel document and a confirmed date for
 19 Petitioner's departure within two weeks; and
- 20 3. Order any other relief that the Court deems just and proper.

21 Respectfully submitted,

22
 23 Dated: April 27, 2026

s/ Kara Hartzler

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