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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

HONGHUA CAO,

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 Center,

Respondents.

Case No.: '26CV4132 LEK JLB

Petition for Writ of Habeas Corpus

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

[1] Federal Defenders of San Diego, Inc., is filing with provisional appointment under Chief Judge Order No. 134. Mr. Cao's financial eligibility for representation is included in a sworn statement attached to this petition.

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I. Introduction

Honghua Cao is a Chinese citizen who has been detained at Imperial Regional Detention Center since December 2025, when immigration officers pulled him over on the I-10 and arrested him. He agreed to voluntary departure to China within days of his immigration arrest. Yet in the last seven months, ICE has made no apparent progress in removing him. Mr. Cao must therefore be released because "there is no significant likelihood of removal in the reasonably foreseeable future." *Zadvydas v. Davis*, 533 U.S. 678 (2001). Further, if ICE decides to try to remove him to a third country, ICE threatens to do so in violation of the Fifth Amendment's Due Process Clause.

Given the government's failure to receive a travel document yet—combined with the government's naming of China as one of the most uncooperative countries in the world—there is not a significant likelihood of removal in the reasonably foreseeable future. This is a common problem for Chinese nationals ordered removed. *See, e.g.*, *Huan v. Noem*, No. 26-cv-512-JLS, 2026 WL 412609 (S.D. Cal. Feb. 13, 2026) (granting *Zadvydas* petitions as to Chinese nationals ordered removed who had been held for nine, seven, and five respective months post-order of removal, and as to whom ICE had pending travel document requests with headquarters); *Xiao v. Noem*, No. 26-cv-474-LL-BJW, ECF No. 7 (same as to Chinese national ordered removed who had been held for six months, as to whom ICE had a pending identification request with its headquarters); *see also Yang v. Kaiser*, No., 2025 WL 2791778, *1–*2, *6 (E.D. Cal. Aug. 20, 2025) (granting temporary restraining order and ordering release of re-detained Chinese national as to whom ICE had not been able to get a travel document for seven years).

As other courts have done, this Court should grant the habeas petition and order Mr. Cao released.

II. Statement of Facts

A. Mr. Cao was granted voluntary departure on December 16, 2025.

Mr. Cao, a Chinese citizen, came to the United States border to seek asylum on May 1, 2024. Exhibit A, Declaration of Honghua Cao, ¶ 2. He was paroled into the country to apply for asylum, and he did. *Id.* ¶ 3. He was scheduled for an immigration court hearing in May 2028. *Id.*

On December 12, 2025, while driving on the I-10 near Palm Springs, either CBP or ICE pulled Mr. Cao over and arrested him. *Id.* ¶ 4. "They said they were arresting [him] to expedite my asylum process. They did not explain what happened to my release conditions." *Id.* He has been detained since at Imperial Regional Detention Center. *Id.*

Mr. Cao explains, "I learned that I'd be detained for a long time while my asylum case went forward, so I agreed to voluntary departure, which the judge ordered on December 16, 2025." *Id.* ¶ at 5; *accord* Exhibit B (EOIR noting voluntary departure granted on this date); *see* 8 C.F.R. § 1241.1(f) (regulation governing pre-conclusion voluntary departure).

Since then, Mr. Cao has cooperated with ICE. He reports, "I've done everything I can to cooperate with my voluntary departure." Exhibit A ¶ 7. But the late time he saw ICE was "in December, when an officer told [him] they were trying to process [his] departure." *Id.* He explains what he thinks the problem is: "I don't have my Chinese passport. But I don't know why else it's taken ICE this long to deport me, especially since I have agreed to be deported." *Id.* ¶ 8.

B. It is often challenging for the United States to deport people to China.

China has been "consistently categorized as uncooperative" in accepting its deportees back from the United States. Exhibit C, Office of Inspector General of DHS, *ICE Faces Barriers in Timely Repatriation of Detained Aliens*, at 19 n.32, 29 (March 11, 2019). As a result, as of November 2024, there were nearly 38,000

Chinese citizens with orders of deportation living within the United States who could not be removed to China. Exhibit D (Memorandum from ICE ERO, November 2024). In the year for which data are most recently publicly available, fiscal year 2022, only 264 Chinese citizens were deported from the U.S. to China. *See* DHS, *2022 Yearbook of Immigration Statistics*.[2]

More recently, a senior U.S. official reported to news outlets that China has slowed down processing in the first half of 2026. Michael Martina, *Exclusive: US prepared for visa sanctions on China over migrants issue, official says,* Reuters (May 4, 2026).[3] The official stated that China "refuses to fully cooperate with the United States to take back its citizens." *Id.* The official also stated that the current refusal might "jeopardize future travel" from China. *Id.* The United States is currently considering enacting visa sanctions and other penalties in recognition of the continued non-cooperation. *Id.*

C. The government is carrying out deportations to third countries without providing sufficient notice and opportunity to be heard.

If ICE continues to be unable to remove Mr. Cao to China, ICE may try to remove him to a third country. Last summer, ICE began removing more immigrants it could not previously remove to third countries. ICE implemented new nationwide policies to do so. On July 9, 2025, ICE rescinded previous guidance meant to give immigrants a "'meaningful opportunity' to assert claims for protection under the Convention Against Torture before initiating removal to a third country." Exhibit E (July 9, 2025, ICE third-country removal guidance).

Now, ICE may remove an immigrant to a third country without any notice. It may do so if, in the sole view of the State Department, the United States has

[2] Available at https://ohss.dhs.gov/topics/immigration/yearbook.

[3] Available at https://www.reuters.com/world/us/us-prepared-visa-sanctions-china-over-migrants-issue-official-says-2026-05-05/.

received "credible" "assurances" from that country that deportees will not be persecuted or tortured. *Id.* at 1.

If a country fails to credibly promise not to persecute or torture releasees, ICE may remove immigrants with only 24 hours' notice. "In exigent circumstances," a removal may take place in six hours, "as long as the alien is provided reasonably means and opportunity to speak with an attorney prior to the removal." Exhibit E.

Regardless of how much notice noncitizens receive of the third country ICE intends to deport them to, ICE "will not affirmatively ask whether the alien is afraid of being removed to the country of removal." *Id.* (emphasis original). If the noncitizen "does not affirmatively state a fear of persecution or torture if removed to the country of removal listed on the Notice of Removal within 24 hours, [ICE] may proceed with removal to the country identified on the notice." *Id.* at 2.

Under this policy, the United States has deported hundreds of noncitizens to prisons and military camps in Rwanda, Eswatini, South Sudan, Ghana, and Equatorial Guinea, among other countries. Those who have not been returned to their home countries are still detained, in countries to which they have never been, without charge. Eduardo Cuevas & Jennifer Borresen, *How Trump's DHS deports people to prisons in countries they don't know*, USA Today (May 4, 2026)[4]; Nokukhanya Musi & Gerald Imray, *10 more deportees from the US arrive in the African nation of Eswatini*, Associated Press (Oct. 6, 2025)[5]; Frank Chothia, *Eswatini confirms receiving $5.1m from the US for accepting deportees*, BBC

[4] Available at https://www.usatoday.com/story/news/nation/2026/04/29/trump-third-country-removal-eswatini-dhs/89609025007/.

[5] Available at https://apnews.com/article/eswatini-deportees-us-trump-immigration-74b2f942003a80a21b33084a4109a0d2.

(Nov. 18, 2025)[6]; Nick Alexandra, *The Toll of Trump's African Deportation Agreements*, New Lines Magazine (Dec. 10, 2025); .[7] Others have been returned to their home countries, even though they had received orders protecting them against their return under the Convention Against Torture. *See* Third Country Deportation Watch, *Ghana*, Refugees International & Human Rights First (Dec. 5, 2025);[8] Sheriff Bojang Jr., *Equatorial Guinea sends eight of Trump's nine deportees home, braces for new arrivals*, The Africa Report (Jan. 16, 2026).[9]

III. This Court has jurisdiction.

This Court has jurisdiction to consider Mr. Cao's claims of unlawful detention under 28 U.S.C. § 2241.

The government's recent argument otherwise, that 8 U.S.C. § 1252(g) strips this Court of jurisdiction, lacks merit. Its argument "would eliminate judicial review of immigration [detainees'] claims of unlawful detention . . . inconsistent with *Jennings v. Rodriguez* and the history of judicial review of the detention of noncitizens under 28 U.S.C. § 2241." *Phan v. Noem*, No. 25-cv-2422-RBM, 2025 WL 2898977, *3 (S.D. Cal. Oct. 10, 2025) (collecting cases agreeing on this jurisdictional point); *accord Sun v. Noem*, No. 25-cv-2433-CAB, 2025 WL 2800037, *2 (S.D. Cal. Sept. 30, 2025).

This Court also has jurisdiction to consider the procedures to which Mr. Cao is entitled in removal proceedings. *See A.A.R.P. v. Trump*, 605 U.S. 91, 94–95 (2025) (confirming jurisdiction to consider due process claims in habeas proceedings for noncitizens threatened with Alien Enemies Act deportations).

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[6] Available at https://www.bbc.com/news/articles/cq50vjdx368o.

[7] Available at https://newlinesmag.com/reportage/the-toll-of-trumps-african-deportation-agreements/.

[8] Available at https://www.thirdcountrydeportationwatch.org/ghana.

[9] Available at https://www.theafricareport.com/405291/equatorial-guinea-sends-eight-of-trumps-nine-deportees-home-braces-for-new-arrivals/.

IV. Claim One: Mr. Cao's detention violates *Zadvydas* and 8 U.S.C. § 1231.

A. Detention is mandatory for 90 days and allowable afterward only if there is a significant likelihood of removal in the reasonably foreseeable future.

Mr. Cao's indefinite detention violates the statute authorizing detention, 8 U.S.C. § 1231(a)(6).

In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered a problem affecting people like Mr. Cao: Federal law requires ICE to detain an immigrant during the "removal period," which typically spans the first 90 days after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-(2). After that 90-day removal period expires, detention becomes discretionary—ICE may detain the immigrant while continuing to try to remove them. *Id.* § 1231(a)(6).

If federal law were understood to allow for "indefinite, perhaps permanent, detention," it would pose "a serious constitutional threat." *Zadvydas*, 533 U.S. at 699. In *Zadvydas*, the Supreme Court avoided the constitutional concern by interpreting § 1231(a)(6) to incorporate implicit limits. *Id.* at 689. *Zadvydas* held that detention is "presumptively reasonable" for six months. *Id.* at 701.

It has been seven months since Mr. Cao has received pre-conclusion voluntary departure, and so it has likely been a full six months since that pre-conclusion voluntary departure converted into a final order of removal because Mr. Cao was unable to depart while detained.

But, regardless of when the voluntary departure order converted to a final removal order, the six-month presumption is "rebuttable." *Zavvar v. Scott*, No. 25-2104-TDC, 2025 WL 2592543, *5–*6 (D. Md. Sept. 8, 2025); *accord, e.g.*, *Alkafaji v. Mullin*, No. 26-cv-2262-RBM-BJW, 2026 WL 1862613, *3 (S.D. Cal. June 29, 2026) (same); *Ghamoushi-Ramadi v. Noem*, No. 26-cv-1758-LL-SBC, 2026 WL 984248, *2–*3 (S.D. Cal. Apr. 13, 2026) (same). Given that Mr. Cao has done all that he can to coordinate his removal in the last seven months,

Mr. Cao could rebut the presumption and prove outright that his detention is no longer reasonable.

B. Mr. Cao's voluntary departure likely converted to a final removal order around mid-January 2026.

The *Zadvydas* rebuttable presumption period lasts for "*six months* after a final order of removal—that is, *three months* after the statutory removal period has ended." *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th Cir. 2001).

Mr. Cao was granted pre-conclusion voluntary departure on December 16, 2025. Exhibit B. Because he was unable to depart while detained, his voluntary departure converted to a removal order likely on January 16, 2026.

That is because, when an immigration judge issues a grant of voluntary departure, they must simultaneously issue an alternate order of removal. *See* 8 C.F.R. § 1241.1(f). If a noncitizen is unwilling—or, when detained, is unable—to depart by the end of the voluntary departure period, "the alternate order of removal will take effect, as if in effect on the date of issuance of the immigration judge order." 8 C.F.R. § 1240.26(b)(3)(ii). Locally, immigration judges seem to often issue an alternate removal order to become final 30 days after issuance of a grant of pre-conclusion voluntary departure.

Accordingly, Mr. Cao's 90-day removal period likely began around January 16, 2026. 8 U.S.C. § 1231(a)(1)(B). The *Zadvydas* six-month rebuttable presumption period thus likely expired on July 16, 2026.

C. There is no significant likelihood of Mr. Cao's removal in the reasonably foreseeable future.

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

"No significant likelihood of removal." This component focuses on whether Mr. Cao 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 Mr. Cao 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 Mr. Cao "would *eventually* receive" a travel document, he can still meet his burden by giving good reason to anticipate sufficiently lengthy delays. *Younes v. Lynch*, 2016 WL 6679830, at *2 (E.D. Mich. Nov. 14, 2016).

Here, there is no significant likelihood of removal in the reasonably foreseeable future. Seven months of effort to deport Mr. Cao have borne no fruit. ICE has apparently tried to request travel documents, and Mr. Cao has done everything in his power to aid ICE. Exhibit A ¶¶ 7–8. Yet, seven months since Mr. Cao agreed to his voluntary departure, there is no indication that China has agreed to issue a travel document.

Second, Mr. Cao has an idea of what the problem might be: "I think the problem is I don't have my Chinese passport." *Id.* ¶ 8. This substantially increases the difficulty of deporting Mr. Cao.

Third, there is also a more global explanation for this state of affairs: ICE has named China one of the top 15 most uncooperative countries in the world, due to its "[l]ack of cooperation . . . in accepting the return of their nationals." Exhibit C at 8. Tellingly, last it was publicly reported, there are nearly 38,000 Chinese nationals with final removal orders living in the United States. *Id.* at 3. Two months ago, a senior American official told reporters that the United States was considering imposing visa sanctions in response to an even worse, recent increase in non-cooperation. *See* note 3, *supra*.

Because China is notoriously uncooperative, and because ICE has made no progress in persuading China to accept Mr. Cao, there is no significant likelihood of removal in the reasonably foreseeable future.

D. The remedy for a *Zadvydas* violation is immediate release on conditions set by ICE under § 1231(a)(3).

As noted earlier, *Zadvydas* interpreted 8 U.S.C. § 1231(a)(6), which permits ICE to detain immigrants past the removal period if certain conditions are met. 533 U.S. at 698. Applying the constitutional avoidance canon, the Supreme Court held that immigrants may no longer be held under 8 U.S.C. § 1231(a)(6), but must be released when removal proves unforeseeable. *Id.* at 700–01.

Section 1231(a)(6) dictates what happens next: "An alien ordered removed . . . if released, shall be subject to the terms of supervision in paragraph (3)." Paragraph (3) states that "[i]f the alien does not leave or is not removed within the removal period, the alien, pending removal, shall be subject to supervision under regulations prescribed by the Attorney General," including several conditions that must be imposed. 8 U.S.C. § 1231(a)(3). The Attorney General has delegated authority to officials within ICE. *See* 8 C.F.R. § 241.5(a).

Thus, an immigrant released from detention under § 1231(a)(6) as interpreted in *Zadvydas* is subject to immediate release on conditions set by ICE under § 1231(a)(3).

V. Claim 2: ICE may not remove Mr. Cao to a third country without adequate notice and an opportunity to be heard.

Because there is no current likelihood that Mr. Cao will be removed to China, ICE might instead try to remove Mr. Cao to a third country. If so, it would do so under a policy that violates the Fifth Amendment, the Convention Against Torture, and implementing regulations.

A. Due process requires notice and an opportunity to be heard before deportation to third countries.

As noted, U.S. law enshrines mandatory protections against dangerous and life-threatening removal decisions through the withholding of removal statute and implementations of the Convention Against Torture. *See* 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. §§ 208.16, 1208.16 (withholding); FARRA 2681-822 (codified as 8 U.S.C. § 1231 note; 28 C.F.R. § 200.1; *id.* §§ 208.16-208.18, 1208.16-1208.18 (CAT).

Further, the third country removal statute involves a "four-stage inquiry set forth in § 1231(b)(2)." *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1006 (W.D. Wash. 2019) (summarizing cases on this point); *see also Hadera v. Gonzales*, 494 F.3d 1154, 1156–59 (9th Cir. 2007) (explaining the stages). The first step is a noncitizen designates "one country to which the noncitizen wants to be removed." *Aden*, 409 F. Supp. 3d at 1006. If the noncitizen does not designate a country, or that country does not accept them, then "the IJ may at step two designate a country of which the noncitizen is a subject, national, or citizen." *Id.* at 1007. If "no country satisfies" that requirement, the step three allows designation and removal to a number of other countries. 8 U.S.C. § 1231(b)(2)(E). The government can proceed to the fourth stage—removal to "another country"—only if it determines it is "impracticable, inadvisable, or impossible to remove the alien to each country described" in the third stage. 8 U.S.C. § 1231(b)(2)(E)(vii).

When pursuing a third-country removal subject to all the above constraints, the government must provide notice of the third country removal and an

opportunity to respond. Due process requires "written notice of the country being designated" and "the statutory basis for the designation, i.e., the applicable subsection of § 1231(b)(2)." *Aden*, 409 F. Supp. 3d at 1019.

The government must also "ask the noncitizen whether he or she fears persecution or harm upon removal to the designated country and memorialize in writing the noncitizen's response. This requirement ensures DHS will obtain the necessary information from the noncitizen to comply with section 1231(b)(3) and avoids [a dispute about what the officer and noncitizen said]." *Id.* "Failing to notify individuals who are subject to deportation that they have the right to apply for asylum in the United States and for withholding of deportation to the country to which they will be deported violates both INS regulations and the constitutional right to due process." *Andriasian*, 180 F.3d at 1041.

If the noncitizen claims fear, measures must be taken to ensure that the noncitizen can seek asylum, withholding, and relief under CAT before an immigration judge in reopened removal proceedings. The amount and type of notice must be "sufficient" to ensure that "given [a noncitizen's] capacities and circumstances, he would have a reasonable opportunity to raise and pursue his claim for withholding of deportation." *Aden*, 409 F. Supp. 3d at 1009 (citing *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976) and *Kossov v. I.N.S.*, 132 F.3d 405, 408 (7th Cir. 1998)).

"[L]ast minute" notice of the country of removal will not suffice, *Andriasian*, 180 F.3d at 1041; *accord Najjar v. Lunch*, 630 Fed. App'x 724 (9th Cir. 2016). For good reason: To have a meaningful opportunity to apply for fear-based protection from removal, immigrants must have time to prepare and present relevant arguments and evidence to the relevant agencies: first, the asylum officer within USCIS, and, if that fails, the immigration judge. Telling a person where they may be sent, without giving them a chance to look into country conditions and the possibility they may be deported to yet another country, does not give

them a meaningful chance to determine whether and why they have a credible fear.

B. The July 6, 2025 memo's removal policies violate the Fifth Amendment, 8 U.S.C. § 1231, the Convention Against Torture, and implementing regulations.

The policies in the currently effective July 6, 2025, memo do not adhere to these requirements. The operative memo "contravenes Ninth Circuit law." *Nguyen*, 796 F. Supp. 3d at 728 (explaining how the July 9, 2025 ICE memo contravenes Ninth Circuit law on the process due to noncitizens in detail); *see also Azzo v. Noem*, No. 25-cv-3122-RBM-BJW, 2025 WL 3535208, *6–*8 (S.D. Cal. Dec. 10, 2025) (same).

Most critically, current policy does not require ICE to notify immigrants that they have a right to apply for withholding of deportation from the new third country to which they will be deported. Exhibit E (ICE ""will not affirmatively ask whether the alien is afraid of being removed to the country of removal").

This is in direct conflict with controlling Ninth Circuit law. "Failing to notify individuals who are subject to deportation that they have the right to apply . . . for withholding of deportation to the country to which they will be deported violates both INS regulations and the constitutional right to due process," *Adriasian*, 180 F.3d at 1041.

Next, under the policy, ICE need not give immigrants *any* notice or *any* opportunity to be heard before removing them to a country that—in the State Department's estimation—has provided "credible" "assurances" against persecution and torture. Exhibit E. By depriving immigrants of any chance to challenge the State Department's view, this policy violates "[t]he essence of due process," "the requirement that a person in jeopardy of serious loss be given notice of the case against him and opportunity to meet it." *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976) (cleaned up).

Then, even when the government has obtained no credible assurances against persecution and torture, the government can still remove the person with between 6 and 24 hours' notice, depending on the circumstances. *See* Exhibit E. Practically speaking, there is not nearly enough time for a detained person to assess their risk in the third country and develop evidence to support any credible fear—let alone a chance to file a motion to reopen with an IJ. An immigrant may know nothing about a third country, like Eswatini or South Sudan, when they are scheduled for removal there.

If given the opportunity to investigate conditions, immigrants may find credible reasons to fear persecution or torture—like keeping deportees indefinitely and without charge in solitary confinement, or extreme instability raising a high likelihood of death—in many of the third countries that have agreed to removal of thus far.

Immigrants may also have ample reason to challenge DHS's determination under § 1231(b)(2)(E)(vii) that each other country with which the immigrant has connections is "impracticable, inadvisable, or impossible to remove the alien to." DHS must consider whether to remove him there before proceeding to the final step of the third-country removal statute. *See Hadera*, 494 F.3d at 1156–59 (explaining this process).

Due process requires an adequate chance to identify and raise these threats to health and life. Because "[f]ailing to notify individuals who are subject to deportation that they have the right to apply . . . for withholding of deportation to the country to which they will be deported violates both INS regulations and the constitutional right to due process," *Adriasian*, 180 F.3d at 1041, this Court must prohibit the government from removing Mr. Cao without these due process safeguards.

VI. This Court must hold an evidentiary hearing on any disputed facts.

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

VII. Prayer for relief

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

1. Order and enjoin Respondents to immediately release Petitioner from custody;
2. Enjoin Respondents from re-detaining Petitioner under 8 U.S.C. § 1231(a)(6) unless and until Respondents obtain a travel document for his removal;
4. Enjoin Respondents from removing Petitioner unless they provide the following process:
   a. written notice to both Petitioner and Petitioner's counsel in a language Petitioner can understand;
   b. a meaningful opportunity, and a minimum of ten days, to raise a fear-based claim for CAT protection prior to removal;
   c. if Petitioner is found to have demonstrated "reasonable fear" of removal to the country, Respondents must move to reopen Petitioner's immigration proceedings; and
   d. if Petitioner is not found to have demonstrated a "reasonable fear" of removal to the country, a meaningful opportunity, and a minimum of fifteen days, for the Petitioner to seek reopening of his immigration proceedings; and

5. Order all other relief that the Court deems just and proper.

Respectfully submitted,

Dated: July 17, 2026

/s/ Jessie Agatstein

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Attorneys for Mr. Cao

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: July 17, 2026

/s/ Jessie Agatstein
Jessie Agatstein

Exhibit A

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

HONGHUA CAO,

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, JEREMEY CASEY, Warden at Imperial Regional Detention Center,

Respondents.

Civil Case No.:

Declaration of Honghua Cao in support of petition for writ of habeas corpus

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

I declare the following is true and correct under penalty of perjury:

1. My name is Honghua Cao. I have been detained since December 12, 2025. When I was arrested, I had about $2,000 in my bank account, but I do not think there is much left. I have a car here in the U.S. that I still owe payments on. I cannot afford a habeas attorney.

[1] Federal Defenders of San Diego, Inc., is filing with provisional appointment under Chief Judge Order No. 134. Mr. Cao's financial eligibility for representation is included in this sworn statement.

2. My A-number is [redacted]. I came to the United States border on May 1, 2024, from China to seek asylum.
3. I was arrested at the border in May 2024. I was then released to seek asylum in the United States. I did apply for asylum. I had a requirement to report to the immigration court in May 2028.
4. On December 12, 2025, I was driving on the freeway on the 10 near Palm Springs and either CBP or ICE stopped me and arrested me. They said they were arresting me to expedite my asylum process. They did not explain what happened to my release conditions.
5. I learned that I'd be detained for a long time while my asylum case went forward, so I agreed to voluntary departure, which the judge ordered on December 16, 2025.
6. I am currently detained at the Imperial Regional Detention Center.
7. I've done everything I can to cooperate with my voluntary departure. I last saw ICE in December, when an officer told me they were trying to process my departure.
8. I think the problem is I don't have my Chinese passport. But I don't know why else it's taken ICE this long to deport me, especially since I have agreed to be deported.

This declaration was interpreted into my native language, Mandarin, and read to me in its entirety. I give my attorney the authority to sign on my behalf that the above is true and correct under penalty of perjury on June 11, 2026, from Imperial Regional Detention Center to San Diego, California,

/s/ Jessie Agatstein, on behalf of Honghua Cao.