

District Judge Richard A. Jones
Magistrate Judge Theresa L. Fricke

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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DABONA TANG,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

Case No. 2:25-cv-01473-RAJ-TLF

FEDERAL RESPONDENTS’
RETURN MEMORANDUM AND
MOTION TO DISMISS

Noted: September 22, 2025

I. INTRODUCTION

This Court should dismiss Petitioner Dabona Tang’s Petition for Writ of Habeas Corpus. Dkt. 1 (“Pet.”). Tang challenges his post-order detention at the Northwest ICE Processing Center (“NWIPC”) as unconstitutional and unlawful while he awaits removal from the United States. He alleges that (1) he is considered “stateless” and therefore he cannot be removed from the United States, and (2) his arrest “despite full compliance with release conditions for fourteen years” is unlawful. Pet. ¶¶ B, 9(J). Neither allegation is correct. First, Tang is a citizen of Vietnam, he was ordered removed to Vietnam, and this fiscal year, Vietnam has increased cooperation with the United States in the repatriation of its citizens. Second, against this backdrop, Tang was arrested and detained because he violated the conditions of his Order of Supervision when he was convicted for driving under the influence.

1 Contrary to his allegations, Tang’s detention is lawful. He is a noncitizen subject to an
2 administratively final order of removal, and he is lawfully detained under Section 241 of the
3 Immigration and Nationality Act (“INA”). *See* 8 U.S.C. § 1231. Tang’s detention also is not
4 indefinite under *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). Between the current period of
5 detention and a three-month period following his 2011 removal order and federal prison sentence,
6 he has been detained for approximately six months in total. With increased cooperation from the
7 government of Vietnam, U.S. Immigration and Customs Enforcement (“ICE”) is working to
8 effectuate Tang’s removal to Vietnam. Now that he has completed all the travel document forms,
9 ICE anticipates he will receive travel documents shortly, and he will be removed to Vietnam in
10 the reasonably foreseeable future. Tang’s detention is not unconstitutionally indefinite. *See*
11 *Zadvydas*, 533 U.S. at 701.

12 Accordingly, Federal Respondents respectfully request the Court deny the Petition and
13 grant this motion to dismiss. This motion is supported by the pleadings and documents on file in
14 this case, the Declaration of Deportation Officer Enrique Rodriguez (“Rodriguez Decl.”), with
15 accompanying exhibits, and the Declaration of Detention and Deportation Officer Jessie D.
16 Gonzalez (“Gonzalez Decl.”). Federal Respondents do not believe an evidentiary hearing is
17 necessary.

18 II. FACTUAL AND PROCEDURAL BACKGROUND

19 A. Detention Authorities and Removal Procedures

20 The INA governs the detention and release of noncitizens during and following their
21 removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). The general
22 detention periods are generally referred to as “pre-order” (meaning before the entry of a final
23 order of removal) and, relevant here, “post-order” (meaning after the entry of a final order of
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1 removal). Compare 8 U.S.C. § 1226 (authorizing pre-order detention) with § 1231(a) (authorizing
2 post-order detention).

3 When a final order of removal has been entered, a noncitizen enters a 90-day “removal
4 period.” 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security
5 “shall remove the [noncitizen] from the United States.” *Id.* To ensure a noncitizen’s presence for
6 removal and to protect the community from noncitizens who may present a danger, Congress has
7 mandated detention while removal is being effectuated:

8 During the removal period, the [Secretary of Homeland Security]¹ shall detain the
9 [noncitizen]. Under no circumstance during the removal period shall the
10 [Secretary] release [a noncitizen] who has been found inadmissible under section
11 1182(a)(2) or 1182(a)(3)(B) of this title or deportable under section 1227(a)(2) or
12 1227(a)(4)(B) of this title.

11 8 U.S.C. § 1231(a)(2).

12 Section 1231(a)(6) authorizes ICE to continue detention of noncitizens after the expiration
13 of the removal period. Unlike Section 1231(a)(2), Section 1231(a)(6) does not mandate detention
14 and does not place any temporal limit on the length of detention under that provision:

15 [A noncitizen] ordered removed who is inadmissible under section 1182,
16 removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or
17 who has been determined by the [the Secretary of Homeland Security] to be a risk
18 to the community or unlikely to comply with the order of removal, *may* be detained
19 *beyond the removal period* and, if released, shall be subject to the terms of
20 supervision in paragraph (3).

18 8 U.S.C. § 1231(a)(6) (emphasis added).

19 During the removal period, ICE² is charged with attempting to effect removal of a
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22 ¹ Although 8 U.S.C. § 1231(a)(2) refers to the “Attorney General” as having responsibility for detaining noncitizens,
23 the Homeland Security Act of 2002, Pub. L. No. 107-296 § 441(2), 116 Stat. 2135, 2192 (2002), transferred this
24 authority to the Secretary of the Department of Homeland Security (“DHS”), of which ICE is a component. *See also*
25 6 U.S.C. § 251.

² Under 8 C.F.R. § 241.2(b), ICE deportation officers are delegated the Secretary of Homeland Security’s authority
to execute removal orders.

1 noncitizen from the United States. 8 U.S.C. § 1231(a)(1). Although there is no statutory time limit
2 on detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen may
3 be detained only “for a period reasonably necessary to bring about that [noncitizen’s] removal
4 from the United States.” *Zadvydas*, 533 U.S. at 689. The Supreme Court has further identified six
5 months as a presumptively reasonable time to bring about a noncitizen’s removal. *Id.* at 701.

6 Here, Tang is the subject of an administrative order of removal that became final on
7 February 17, 2011. Rodriguez Decl. ¶ 10. After completing a sentence in federal prison, he entered
8 ICE custody on May 19, 2011. *Id.* ¶ 11. He was detained for 92 days before being released on
9 bond with an Order of Supervision. *Id.* ¶ 12 & Exhibit 2. Following another criminal conviction
10 that violated the terms of his Order of Supervision, and with increased cooperation from the
11 government of Vietnam, Tang was taken into custody on May 21, 2025. Rodriguez Decl. ¶¶ 13–
12 14. Since then, he has been in custody 96 days. Cumulatively, Tang has been in ICE custody for
13 188 days, just over six months. The “presumptively reasonable” six-month custody period has
14 only just expired. *Zadvydas*, 533 U.S. at 701.

15 **B. Petitioner Tang**

16 Tang is a native of the Philippines and citizen of Vietnam; contrary to his assertion, he is
17 not stateless. *See* Pet. ¶ 9(D); Rodriguez Decl. ¶ 3. He was admitted to the United States as a
18 refugee in 1981, and he adjusted to a lawful permanent resident in 1983. Rodriguez Decl. ¶¶ 4–
19 5. In 2000, he was convicted in the Superior Court of the State of California for the offense of
20 Receiving Stolen Property contrary to California Penal Code Section 496(a) and was sentenced
21 to 36 months of probation. *Id.* ¶ 6. That criminal conviction did not lead to removal proceedings.

22 But then in 2009, he was convicted in the United States District Court for the Central
23 District of California of Conspiracy to Possess with Intent to Distribute
24 Methylendioxyamphetamine (MDMA) in violation of 21 U.S.C. § 846, 841(b)(1)(C).

1 Rodriguez Decl. ¶ 7. For that crime, he was sentenced to 12 months in the custody of the U.S.
2 Bureau of Prisons, followed by 12 months of home detention with electronic monitoring. *Id.*

3 Tang's federal conviction prompted removal proceedings. ICE lodged an immigration
4 detainer in 2010 and served Tang a Notice to Appear ("NTA") in immigration court for removal
5 proceedings in January 2011. Rodriguez Decl. ¶¶ 8–9 & Exhibit 1. The NTA charged Tang with
6 being an alien who, any time after admission, was convicted of conspiracy or an attempt to
7 commit an aggravated felony. Rodriguez Decl. ¶ 9. In February 2011, an immigration judge
8 ordered Tang removed to Vietnam, and Tang waived appeal of that decision, making his removal
9 order final that day. *See id.* ¶ 10.

10 Upon Tang's release from federal prison on May 19, 2011, ICE took him into custody
11 under 8 U.S.C. § 1231(a)(2). Rodriguez Decl. ¶ 11. He remained in custody for 92 days—not six
12 months, as he alleges (Pet. ¶ 9(I))—when ICE released him under an Order of Supervision. *Id.*
13 ¶ 12 & Exhibit 2. The Order of Supervision placed several conditions on Tang's release,
14 including: "**DO NOT VIOLATE CITY, STATE OR FEDERAL LAWS.**" Exhibit 2 at 1
15 (emphasis in original). Tang signed the acknowledgement section, which stated, "I understand
16 that failure to comply with the terms of this order may subject me to a fine, detention, or
17 prosecution." *Id.* However, within three years, Tang was convicted of Driving Under the
18 Influence in violation of California Vehicle Code Section 23152(b) and sentenced to three years'
19 probation and a fine. Rodriguez Decl. ¶ 13.

20 After the government of Vietnam increased its cooperation in the repatriation of its
21 citizens, and because of this third criminal conviction that violated the terms of his Order of
22 Supervision, ICE took Tang into custody in Los Angeles, California, on May 21, 2025. Rodriguez
23 Decl. ¶ 14. He was transferred to the NWIPC and served a Notice of Revocation of Release. *Id.*
24 ¶¶ 14–15 & Exhibit 3. Contrary to Tang's allegation that he was given no reasoning for his

1 detention (Pet. ¶ 9(G)), the notice stated he was being detained because he violated his Order of
2 Supervision when he was convicted of driving under the influence in 2014. Exhibit 3 at 1.

3 Since Tang has been detained, ICE has been working toward securing travel documents
4 to effectuate his removal to Vietnam. Though Tang stated in his petition that he believed ICE may
5 be trying to remove him to a third country because he is “stateless,” that is not the case. *See* Pet.
6 ¶¶ 9(F), (J). Tang is a citizen of Vietnam, he was ordered removed to Vietnam in 2011, and ICE
7 is currently working toward his removal to Vietnam. Rodriguez Decl. ¶¶ 3, 10, 16–23. Tang
8 completed the necessary travel document forms on August 19, and Tang’s removal order and
9 criminal history documents are being translated into Vietnamese for submission to the
10 government of Vietnam. *See id.* ¶ 19.

11 ICE anticipates Tang’s removal to Vietnam will occur in the reasonably foreseeable future
12 because Vietnam has increased cooperation in the repatriation of its citizens and has agreed to
13 issue travel documents within 30 days. *See* Gonzalez Decl. ¶ 6; Rodriguez Decl. ¶¶ 21–24. In
14 Fiscal Year 2025, as of August 13, 2025, ICE has removed 423 Vietnamese nationals to Vietnam.
15 Gonzalez Decl. ¶ 7. The number of removals to Vietnam in Fiscal Year 2025 is more than seven
16 times what it was in Fiscal Year 2024. *See id.*

17 III. ARGUMENT

18 A. Tang’s detention is not indefinite or unconstitutionally prolonged

19 Tang has not demonstrated that his detention has become “indefinite” or unconstitutional.
20 In *Zadvydas*, the Supreme Court analyzed whether the potentially open-ended duration of
21 detention pursuant to 8 U.S.C. § 1231(a)(6) is constitutional. The Court read an implicit limitation
22 of post-removal detention “to a period reasonably necessary to bring about that alien’s removal
23 from the United States.” *Zadvydas*, 533 U.S. at 689. It was further specified that Section
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1 1231(a)(6) does not permit indefinite detention. *Id.* Thus, “once removal is no longer reasonably
2 foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699.

3 The *Zadvydas* Court recognized that as the length of detention grows, a sliding scale of
4 burdens is applied to assess the continuing lawfulness of a noncitizen’s post-order detention. *Id.*
5 (stating that “for detention to remain reasonable, as the period of post-removal confinement
6 grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink”).
7 However, the Supreme Court determined that it is “presumptively reasonable” for the
8 Government to detain a noncitizen for six months following entry of a final removal order, while
9 it worked to remove the noncitizen from the United States. *Id.* at 701. Thus, the Supreme Court
10 implicitly recognized that six months is the *earliest* point at which a noncitizen’s detention could
11 raise constitutional issues. *Id.* Moreover, the Supreme Court noted the six-month presumption
12 “does not mean that every [noncitizen] not removed must be released after six months. To the
13 contrary, [a noncitizen] may be held in confinement until it has been determined that there is no
14 significant likelihood of removal in the reasonably foreseeable future.” *Id.*

15 Here, ICE has detained Tang for approximately six months in total since his order of
16 removal became administratively final. *See* Rodriguez Decl. ¶¶ 11–12, 14. And the current
17 detention period is only three months to date. *See id.* ¶ 14. This six-month period is presumptively
18 reasonable under *Zadvydas*, 533 U.S. at 701. By contrast, another section of this Court recently
19 granted relief to a Vietnamese national who had spent approximately twenty months in ICE
20 custody over three periods of detention. *Nguyen v. Scott*, No. 2:25-cv-01398, 2025 WL 2419288,
21 at *13 (W.D. Wash. Aug. 21, 2025) (Cartwright, J.). Tang’s brief detention (along with many
22 other factors)³ distinguishes him from the petitioner in *Nguyen*.

23
24 ³ Aside from his long tenure in the United States, Tang cites none of the special factors relevant in *Nguyen*. *See*
Nguyen, 2025 WL 2419288, at *18 (noting the petitioner alleged he had no family ties in Vietnam, no place to live,

1 Since Tang has been detained, after awaiting his cooperation, ICE has received all
2 completed travel document forms and has sent necessary documents to a translation service for
3 translation into Vietnamese. Rodriguez Decl. ¶¶ 16–19. Once complete, ICE anticipates receiving
4 travel documents expeditiously because the government of Vietnam has agreed to issue travel
5 documents within 30 days. Gonzalez Decl. ¶ 6. Indeed, it has issued travel documents in hundreds
6 of cases just this fiscal year. *Id.* ¶ 8. This includes 154 Vietnamese citizens who entered the United
7 States before July 12, 1995. *Nguyen*, 2025 WL 2419288, at *17. Because of this increased
8 cooperation with the government of Vietnam, Tang’s removal will likely occur in the reasonably
9 foreseeable future. *See* Gonzalez Decl. ¶ 6; Rodriguez Decl. ¶¶ 21–24.

10 The fact that Tang does not yet have a specific date of anticipated removal does not make
11 his detention indefinite. *Diouf v. Mukasey*, 542 F. 3d 1222, 1233 (9th Cir. 2008). Detention
12 becomes indefinite in situations where the country of removal refuses to accept the noncitizen or
13 if removal is legally barred. *Id.* There is no reason to believe that is the situation here.
14 Consequently, Tang has failed to demonstrate a good reason to believe that there is no significant
15 likelihood of his removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701.

16 **B. There is no dispute Tang violated the conditions of his release, and increased**
17 **cooperation with Vietnam supports the timing of his arrest**

18 Unrelated to his claim of indefinite detention, Tang challenges his detention because he
19 believes ICE “provided no lawful rationale for the decision to rearrest [him].” Pet. ¶ 9(G). The
20 record shows this is untrue: the Notice of Revocation of Release makes clear Tang was arrested
21 because he violated the conditions of his Order of Supervision by committing a crime in 2014.
22 Exhibit 3 at 1. Tang omitted this conviction from his petition, alleging instead that he was arrested

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24 and no identification documents from Vietnam). Even if Tang were to add those allegations in a subsequent brief,
they do not undermine the likelihood that he will receive travel documents from Vietnam given the country’s recent
increased cooperation.

1 “[a]fter 14 years of flawless compliance.” Pet. ¶ 9(F). Tang’s counsel subsequently cleared up
2 this misstatement. Dkt. 7 at 1.

3 To the extent Tang is continuing to pursue this argument, it falls flat given the record
4 evidence that negates it. While Tang may believe he should have been arrested sooner, there is
5 no question that he violated the terms of his Order of Supervision, and that ICE was within its
6 authority to arrest him as a result. *See* 8 C.F.R. §§ 241.4(I)(1) & (2) (setting forth ICE’s authority
7 to return a noncitizen to custody because they violate a condition of their release). Tang does not
8 allege any temporal limitation to this authority. Moreover, the timing of his rearrest is also
9 supported by the increased cooperation between the United States and Vietnam in the repatriation
10 of Vietnamese citizens, particularly those who entered the United States before 1995. *See Nguyen*,
11 2025 WL 2419288, at *17 (“[T]here is no dispute that this is a meaningful increase in the total
12 number of removals compared to historical practice.”).

13 The circumstances of Tang’s detention also distinguish him from *Nguyen*. There, the
14 revocation notice stated the petitioner was being detained because his case was under review by
15 the government of Vietnam. *Nguyen*, 2025 WL 2419288, at *14. The Court characterized this
16 statement as false because the petitioner was not asked to complete travel document forms until
17 weeks later. *Id.* By contrast, here, Tang was not arrested due to any review by the government of
18 Vietnam. Instead, against the backdrop of increased cooperation from Vietnam, Tang was arrested
19 because he violated the terms of his release. *See* Exhibit 3 at 1. He does not allege that the criminal
20 conviction cited in the revocation notice did not occur, making the circumstances of his arrest far
21 different from *Nguyen*’s.

22 With his removal pending, the government has significant legitimate interests in Tang’s
23 continued detention to ensure he will appear for removal. Tang poses a risk of flight because he
24 alleges no avenue to seek relief from removal. Moreover, his detention has not become

1 “indefinite,” and his removal is significantly likely in the reasonably foreseeable future. This
2 Court should not order that he be released.

3 **IV. CONCLUSION**

4 For the foregoing reasons, Federal Respondents respectfully request that this Court deny
5 the Petition and dismiss this matter.

6 Dated August 25, 2025.

7 Respectfully submitted,

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20 I certify this memorandum contains 2,884 words,
21 in compliance with the Local Civil Rules.