

District Judge Jamal N. Whitehead
Magistrate Judge Grady J. Leupold

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7 UNITED STATES DISTRICT COURT FOR THE
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 HA THU THI NGUYEN,

Petitioner,

11 v.

12 PAMELA BONDI, *et al.*,

13 Respondents.

Case No. 2:25-cv-01833-JNW-GJL

FEDERAL RESPONDENTS'
RETURN MEMORANDUM

Noted: October 31, 2025

14 **I. INTRODUCTION**

15 This Court should dismiss Petitioner Ha Thu Thi Nguyen's Petition for Writ of Habeas
16 Corpus. Dkt. 1 ("Pet."). Petitioner challenges her post-order detention at the Northwest ICE
17 Processing Center ("NWIPC") as unconstitutional and unlawful while she awaits removal from
18 the United States. Petitioner is a citizen of Vietnam, she was ordered removed to Vietnam, and
19 this fiscal year, following Vietnam's increased cooperation with the United States in the
20 repatriation of its citizens.

21 Against this backdrop, Petitioner was detained and issued a Notice to Appear ("NTA") on
22 July 6, 2005, following several criminal convictions between 2002 and 2005. Later that same
23 month, Petitioner was ordered removed by an immigration judge. On October 19, 2005 (91 days
24 later), Petitioner was released an Order of Supervision. Between 2005 and 2025, Petitioner had at

1 least fourteen criminal convictions in Washington and Oregon.

2 With increased cooperation from the government of Vietnam, U.S. Immigration and
3 Customs Enforcement (“ICE”), Petitioner’s order of supervision was revoked on August 12,
4 2025. ICE is working to effectuate Petitioner’s removal to Vietnam. While the vast majority of
5 her Petition discusses removal to a third country, Petitioner presents *no evidence* of any intention
6 to remove her to a third country. On the contrary, ICE has already completed travel document
7 request and forwarded it to government officials in Vietnam. Now that the travel document
8 request has been forwarded to Vietnam, ICE anticipates it will receive her travel document
9 shortly, and she will be removed to Vietnam in the reasonably foreseeable future.

10 Contrary to her allegations, Nguyen’s detention is lawful. She is a noncitizen subject to
11 an administratively final order of removal, and she is lawfully detained under Section 241 of the
12 Immigration and Nationality Act (“INA”). *See* 8 U.S.C. § 1231. Nguyen’s detention also is not
13 indefinite under *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). Between the current period of
14 detention (77 days as of the date of this filing) and a three-month period following her 2005
15 removal order and federal prison sentence, she has been detained for approximately six months
16 in total. With increased cooperation from the government of Vietnam, U.S. Immigration and
17 Customs Enforcement (“ICE”) is working to effectuate Nguyen’s removal to Vietnam. Now that
18 she has completed all the travel document forms and they have been submitted to Vietnam, ICE
19 anticipates that it will receive travel documents shortly, and she will be removed to Vietnam in
20 the reasonably foreseeable future. Nguyen’s detention is not unconstitutionally indefinite. *See*
21 *Zadvydas*, 533 U.S. at 701.

22 Accordingly, Federal Respondents respectfully request the Court deny the Petition and
23 grant this motion to dismiss. This motion is supported by the pleadings and documents on file in
24 this case, the Declaration of Deportation Officer Cristhian De Castro (“De Castro Decl.”), with

1 accompanying exhibits, and the Declaration of Alixandria K. Morris (“Morris Decl.”). Federal
2 Respondents do not believe any hearing is necessary.

3 II. FACTUAL AND PROCEDURAL BACKGROUND

4 A. Detention Authorities and Removal Procedures

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

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

16 During the removal period, the [Secretary of Homeland Security]¹ shall detain the
17 [noncitizen]. Under no circumstance during the removal period shall the
18 [Secretary] release [a noncitizen] who has been found inadmissible under section
19 1182(a)(2) or 1182(a)(3)(B) of this title or deportable under section 1227(a)(2) or
20 1227(a)(4)(B) of this title.

21 8 U.S.C. § 1231(a)(2).

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

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

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

10 8 U.S.C. § 1231(a)(6) (emphasis added).

11 During the removal period, ICE² is charged with attempting to effect removal of a
12 noncitizen from the United States. 8 U.S.C. § 1231(a)(1). Although there is no statutory time limit
13 on detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen may
14 be detained only “for a period reasonably necessary to bring about that [noncitizen’s] removal
15 from the United States.” *Zadvydas*, 533 U.S. at 689. The Supreme Court has further identified six
16 months as a presumptively reasonable time to bring about a noncitizen’s removal. *Id.* at 701.

17 Here, Petitioner is the subject of an administrative order of removal that became final on
18 July 20, 2005. De Castro Decl. ¶ 4. Since 2005, Petitioner has been found guilty of at least
19 fourteen criminal convictions. *Id.* ¶¶ 8-9. Following an agreement increasing cooperation from
20 the government of Vietnam, Petitioner was taken into custody on August 12, 2025. *Id.* ¶¶ 10, 15.
21 Since then, she has been in custody 77 days as of the day of this filing. The “presumptively
22 reasonable” six-month custody period has not yet expired. *Zadvydas*, 533 U.S. at 701.

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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 **B. Petitioner Ha Thu Thi Nguyen**

2 Petitioner is a native and citizen of Vietnam. *See* Pet., pg. 4. She was lawfully admitted to
3 the United States as a permanent resident in 1990. De Castro Decl. ¶ 3. On July 6, 2005, Petitioner
4 was taken into ICE custody due to several criminal convictions between 2002 and 2005. De Castro
5 Decl. ¶ 4; Morris Decl., Exs. 1, 2 (Notice to Appear; I-213). On July 20, 2005, Petitioner was
6 ordered removed to Vietnam by an immigration judge. *Id.* ¶ 5; Morris Decl. Ex. 3 (Order of
7 Removal). On October 19, 2005, ICE released Petitioner on an order of supervision because there
8 was not a significant likelihood of removal. De Castro Decl. ¶ 6; Morris Decl. Ex. 4 (Order of
9 Supervision). Therefore, Petitioner’s detention in 2005 totaled 91 days.

10 The Order of Supervision placed several conditions on Petitioner’s release, including
11 prohibiting committing any crimes. Morris Decl., Ex. 4 at 1. Petitioner signed the
12 acknowledgement section, which stated, “I understand that failure to comply with the terms of
13 this order may subject me to a fine, more restrictive release conditions, detention, criminal
14 prosecution, and/or revocation of my employment authorization document.” *Id.* However,
15 between her release from ICE custody in 2005 and her re-arrest by ICE in 2025, Petitioner was
16 convicted of at least 14 criminal convictions in multiple states. De Castro Decl. ¶¶ 8-9.

17 The Government of Vietnam has agreed to increase cooperation with the United States
18 and increase travel documents in less than 30 days. *Id.* ¶ 15. Following this agreement increasing
19 cooperation with the government of Vietnam, Petitioner was taken into ICE custody on August
20 12, 2025. *Id.* ¶¶ 10, 15. As of September 30, 2025, ICE had Petitioner fill out all of the requisite
21 forms, had them translated into Vietnamese, and submitted the completed documents to the
22 necessary government contacts in Vietnam. *Id.* ¶¶ 11-13.

23 Though Petitioner stated in her petition that she believed ICE may be trying to remove her
24 to a third country, that is not the case and Petitioner provides no evidence ICE is seeking to remove

1 her to a third country. See Pet., pgs. 6-12, 14-16. Petitioner is a citizen of Vietnam, she was
2 ordered removed to Vietnam in 2005, and ICE is currently working to removal her to Vietnam.
3 Pet., pg. 4; De Castro Decl. ¶¶ 5, 11-16.

4 Petitioner's argument that she could be removed to a third country is without merit,
5 speculative, and not ripe for review. There is no case or controversy because there is no concrete
6 indication that such removal to a third country will occur. The record contains no evidence
7 supporting this claim. ICE is currently seeking a travel document to Vietnam, and there is no
8 ongoing effort to remove Petitioner to any third country. Accordingly, this claim should be
9 dismissed as premature.

10 ICE anticipates Petitioner's removal to Vietnam will occur in the reasonably foreseeable
11 future due to Vietnam's increased cooperation to issue travel documents in less than 30 days. *Id.*
12 ¶¶ 15-16.

13 III. ARGUMENT

14 A. Petitioner's detention is not indefinite or unconstitutionally prolonged

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

22 The *Zadvydas* Court recognized that as the length of detention grows, a sliding scale of
23 burdens is applied to assess the continuing lawfulness of a noncitizen's post-order detention. *Id.*
24 (stating that "for detention to remain reasonable, as the period of post-removal confinement

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

10 Here, ICE has detained Petitioner for approximately five months in total since her order
11 of removal became administratively final in 2005. *See De Castro Decl.* ¶¶ 11–12, 14, 16. While
12 the Government does not concede that Petitioner’s detention should be measured in the aggregate,
13 even assuming arguendo that it is, Petitioner’s total detention after her final removal order remains
14 less than six months. Petitioner’s detention therefore is presumptively reasonable under *Zadvydas*,
15 533 U.S. at 701. Because Petitioner’s detention has not exceeded the six-month timeframe, the
16 presumption of reasonableness applies, and there is no basis for release at this time. Although
17 Petitioner seems to allege Petitioner’s presumptively reasonable six-month period has ended, she
18 alleges *no facts* stating she has been confined longer than six months. *See Pet.*, pgs. 3, 13-14.
19 Rather, she seems to argue that more than six months have passed since Petitioner’s removal order
20 became final. *Pet.*, pgs. 13-14.

21 By contrast, another section of this Court recently granted relief to a Vietnamese national
22 who had spent approximately twenty months in ICE custody over three periods of detention.
23 *Nguyen v. Scott*, No. 2:25-cv-01398, 2025 WL 2419288, at *13 (W.D. Wash. Aug. 21, 2025)

24

1 (Cartwright, J.). Petitioner's brief detention (along with many other factors)³ distinguishes her
2 from the petitioner in the *Nguyen v. Scott* case.

3 Since Petitioner has been detained, after awaiting her cooperation, ICE has received all
4 completed travel document forms from Petitioner, completed translation service into Vietnamese,
5 and submitted the documents to government contacts in Vietnam. De Castro Decl. ¶¶ 11-14. ICE
6 anticipates receiving travel documents expeditiously because the government of Vietnam has
7 agreed to issue travel documents within 30 days. *Id.* ¶¶ 15-16. Indeed, it has issued travel
8 documents in hundreds of cases just this fiscal year, including 154 Vietnamese citizens who
9 entered the United States before July 12, 1995. *Nguyen*, 2025 WL 2419288, at *17. Because of
10 this increased cooperation with the government of Vietnam, Petitioner's removal will likely occur
11 in the reasonably foreseeable future. *See* De Castro Decl. ¶ 16.

12 The fact that Petitioner does not yet have a specific date of anticipated removal does not
13 make her detention indefinite. *Diouf v. Mukasey*, 542 F. 3d 1222, 1233 (9th Cir. 2008). Detention
14 becomes indefinite in situations where the country of removal refuses to accept the noncitizen or
15 if removal is legally barred. *Id.* There is no reason to believe that is the situation here.
16 Consequently, Petitioner has failed to demonstrate a good reason to believe that there is no
17 significant likelihood of her removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at
18 701.

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23 ³ Aside from her long tenure in the United States, Petitioner cites none of the special factors relevant in *Nguyen*. *See*
24 *Nguyen*, 2025 WL 2419288, at *18 (noting the petitioner alleged he had no family ties in Vietnam, no place to live,
and no identification documents from Vietnam). Even if Petitioner 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 **B. There is no dispute Petitioner violated the conditions of her release, and increased**
2 **cooperation with Vietnam supports the timing of her arrest**

3 To the extent Petitioner challenges her detention because she believes ICE provided no
4 lawful rationale for the decision to rearrest her, the record shows this is untrue. Petitioner also
5 committed multiple state and local crimes between 2005 and 2025. De Castro Decl. ¶¶ 8-9.

6 To the extent Petitioner seeks to pursue this argument, it falls flat given the record
7 evidence that negates it. While Petitioner may believe she should have been arrested sooner, there
8 is no question that she violated the terms of her Order of Supervision, and that ICE was within its
9 authority to arrest her as a result. *See* 8 C.F.R. §§ 241.4(l)(1) & (2) (setting forth ICE’s authority
10 to return a noncitizen to custody because they violate a condition of their release). Petitioner does
11 not allege any temporal limitation to this authority. Moreover, the timing of her rearrest is also
12 supported by the increased cooperation between the United States and Vietnam in the repatriation
13 of Vietnamese citizens, particularly those who entered the United States before 1995. *See Nguyen*,
14 2025 WL 2419288, at *17 (“[T]here is no dispute that this is a meaningful increase in the total
15 number of removals compared to historical practice.”); *Morris Decl.*, Ex 5; *De Castro Decl.* ¶¶
16 15-16.

17 The circumstances of Petitioner’s detention also distinguish her from the *Nguyen* case.
18 There, the revocation notice stated the petitioner was being detained because her case was under
19 review by the government of Vietnam. *Nguyen*, 2025 WL 2419288, at *14. The Court
20 characterized this statement as false because the petitioner was not asked to complete travel
21 document forms until weeks later. *Id.* By contrast, here, Petitioner was not arrested due to any
22 review by the government of Vietnam. Instead, against the backdrop of increased cooperation
23 from Vietnam, Petitioner was arrested because she violated the terms of her release. *See* Ex. 5 at
24

1 1. She does not allege that the criminal convictions cited in the revocation notice did not occur,
2 making the circumstances of her arrest far different from that in the other *Nguyen* case.

3 With her removal pending, the government has significant legitimate interests in
4 Petitioner's continued detention to ensure she will appear for removal. Petitioner poses a risk of
5 flight because she alleges no avenue to seek relief from removal. Moreover, her detention has not
6 become "indefinite," and her removal is significantly likely in the reasonably foreseeable future.
7 This Court should not order that she be released.

8 **IV. CONCLUSION**

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

11 DATED this 28th day of October, 2025.

12 Respectfully submitted,

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14 United States Attorney

15 *s/ Alexandria K. Morris*

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I certify this memorandum contains 2,789 words,
in compliance with the Local Civil Rules.