

District Judge John H. Chun

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

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10 VINH HOANG PHAM,

Petitioner,

11 v.

12 PAMELA BONDI, *et al.*,

13 Respondents.

Case No. 2:25-cv-01835-JHC

FEDERAL RESPONDENTS'  
RETURN MEMORANDUM

Noted: October 31, 2025

14 **I. INTRODUCTION**

15 This Court should dismiss Petitioner Vinh Hoang Pham's Petition for Writ of Habeas  
16 Corpus. Dkt. 1 ("Pet."). Petitioner challenges his post-order detention at the Northwest ICE  
17 Processing Center ("NWIPC") as unconstitutional and unlawful while he awaits removal from  
18 the United States. Petitioner is a citizen of Vietnam, he was ordered removed to Vietnam, and this  
19 fiscal year, Vietnam has increased cooperation with the United States in the repatriation of its  
20 citizens. Against this backdrop, Petitioner was arrested and detained in 2009 because he violated  
21 the conditions of his Order of Supervision when he was convicted of a drive by shooting and  
22 unlawful possession of a firearm. Petitioner was released the same day on another Order of  
23 Supervision. Between 2009 and 2025, Petitioner was in and out of state and local custody in  
24 multiple states.

1 Contrary to his allegations, Petitioner’s detention is lawful. He is a noncitizen subject to  
2 an 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. Petitioner’s detention also is not  
4 indefinite under *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). Petitioner has only been detained  
5 for *two months*, and his detention is therefore presumptively reasonable.

6 With increased cooperation from the government of Vietnam, U.S. Immigration and  
7 Customs Enforcement (“ICE”) is working to effectuate Petitioner’s removal to Vietnam. While  
8 the vast majority of his Petition discusses removal to a third country, Petitioner presents *no*  
9 *evidence* of any intention to remove him to a third country. On the contrary, ICE has already  
10 completed travel document requests for Vietnam and is waiting for them to be translated into  
11 Vietnamese. Now that he has completed all the travel document forms, ICE anticipates he will  
12 receive travel documents shortly, and he will be removed to Vietnam in the reasonably  
13 foreseeable future. Petitioner’s detention is presumptively reasonable—not unconstitutionally  
14 indefinite. *See Zadvydas*, 533 U.S. at 701.

15 Accordingly, Federal Respondents respectfully request the Court deny the Petition and  
16 grant this motion to dismiss. This motion is supported by the pleadings and documents on file in  
17 this case, the Declaration of Deportation Officer Brett T. Booth (“Booth Decl.”), with  
18 accompanying exhibits, and the Declaration of Alixandria K. Morris (“Morris Decl.”). Federal  
19 Respondents do not believe any hearing is necessary.

## 20 II. FACTUAL AND PROCEDURAL BACKGROUND

### 21 A. Detention Authorities and Removal Procedures

22 The INA governs the detention and release of noncitizens during and following their  
23 removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). The general  
24 detention periods are generally referred to as “pre-order” (meaning before the entry of a final

1 order of removal) and, relevant here, “post-order” (meaning after the entry of a final order of  
2 removal). *Compare* 8 U.S.C. § 1226 (authorizing pre-order detention) *with* § 1231(a) (authorizing  
3 post-order detention).

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

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

12 8 U.S.C. § 1231(a)(2).

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

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

22 8 U.S.C. § 1231(a)(6) (emphasis added).

23 <sup>1</sup> 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  
6 U.S.C. § 251. authority to the Secretary of the Department of Homeland Security (“DHS”), of which ICE is a component. *See also*

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

7 Here, Petitioner is the subject of an administrative order of removal that became final on  
8 January 2, 2002. Booth Decl. ¶ 12. After completing a sentence for drive by shooting, he entered  
9 ICE custody on April 8, 2009. *Id.* ¶¶ 13-14. That same day, he was released on bond with an  
10 Order of Supervision. *Id.* ¶ 14. Between his release from ICE custody in 2009 and his re-arrest by  
11 ICE in 2025, Petitioner was in and out of state and local custody in multiple states. *Id.* ¶ 15.  
12 Following an agreement increasing cooperation from the government of Vietnam, Petitioner was  
13 taken into custody on August 18, 2025. *Id.* ¶¶ 16, 19. Since then, he has been in custody 72 days  
14 as of the day of this filing. The “presumptively reasonable” six-month custody period has not yet  
15 expired. *Zadvydas*, 533 U.S. at 701.

16 **B. Petitioner Vinh Hoang Pham**

17 Petitioner is a native of Vietnam. *See* Pet., pg. 4. He was admitted to the United States as  
18 a refugee in 1983, and he adjusted to a lawful permanent resident in 1985. Booth Decl. ¶ 4. In  
19 1995, he was convicted in the Superior Court of the State of Alaska for five counts of Misconduct  
20 Involving a Controlled Substance and was sentenced to 4 years and 18 months in prison. *Id.* ¶ 5.  
21 Later that year, legacy Immigration and Naturalization Service (INS) served Petitioner with an  
22 Order to Show Cause, charging Petitioner with deportability for having been convicted of an

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24 <sup>2</sup> 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 aggravated felony. *Id.* ¶ 7; Morris Decl., Exs. 1, 2 (Notice to Appear; I-213). In 1996, he was  
2 ordered removed to Vietnam. Booth Decl. ¶ 8. In 1997, the Board of Immigration Appeals  
3 dismissed Petitioner's appeal. *Id.* ¶ 9.

4 But then in 2001, the Board of Immigration Appeals granted Petitioner's motion to reopen  
5 and remanded the case back to the immigration judge to allow Petitioner to pursue relief under  
6 INA § 212(c) in light of an intervening change in the law. *Id.* ¶ 11. In 2002, an immigration judge  
7 ordered Petitioner removed in absentia. *Id.* ¶ 12; Morris Decl. Ex. 3 (Order of Removal).

8 On January 11, 2008, Petitioner was convicted of a Drive By Shooting in violation of  
9 Revised Code of Washington (RCW) § 9A.36.045 and Unlawful Possession of a Firearm in the  
10 Second Degree in violation of RCW § 9.41.040(2)(a)(i) sentenced to 40 and 16 months'  
11 imprisonment, respectively. Booth Decl. ¶ 13. Upon Petitioner's release from prison, ICE took  
12 Petitioner into custody on April 8, 2009, under 8 U.S.C. § 1231(a)(2). *Id.* ¶ 13-14. He remained  
13 in custody for less than one day when ICE released him under an Order of Supervision. *Id.* ¶ 14.  
14 The Order of Supervision placed several conditions on Petitioner's release, including not  
15 committing any crimes. Morris Decl., Ex. 4 at 1. Petitioner signed the acknowledgement section,  
16 which stated, "I understand that failure to comply with the terms of this order may subject me to  
17 a fine, detention, or prosecution." *Id.* However, between his release from ICE custody in 2009  
18 and his re-arrest by ICE in 2025, Petitioner was in and out of state and local custody in multiple  
19 states. Booth Decl. ¶ 15.

20 The Government of Vietnam has agreed to increase cooperation with the United States  
21 and increase travel documents in less than 30 days. *Id.* ¶ 19. Following this agreement increasing  
22 cooperation with the government of Vietnam, Petitioner was taken into custody on August 18,  
23 2025. *Id.* ¶ 16. On September 15, 2025, ICE initiated the travel document request process by  
24 having the Petitioner fill out all of the requisite forms. *Id.* ¶ 17. ICE is currently waiting for the

1 documents to be translated into Vietnamese. *Id.* The Government of Vietnam has not taken more  
2 than 30 days to issue a travel document pursuant to any of our requests since mid-February 2025.  
3 *Id.* ¶ 21.

4       Though Petitioner stated in his petition that he believed ICE may be trying to remove him  
5 to a third country, that is not the case and Petitioner provides no evidence ICE is seeking to remove  
6 him to a third country. See Pet., pgs. 6-12, 14-16. Petitioner is a citizen of Vietnam, he was ordered  
7 removed to Vietnam in 2002, and ICE is currently working toward his removal to Vietnam. Pet.,  
8 pg. 4; Booth Decl. ¶¶ 17-18. Petitioner completed the necessary travel document forms on  
9 September 15, and Petitioner's removal order and criminal history documents are being translated  
10 into Vietnamese for submission to the government of Vietnam. See Booth Decl. ¶ 17.

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

17       ICE anticipates Petitioner's removal to Vietnam will occur in the reasonably foreseeable  
18 future due to Vietnam's increased cooperation. *Id.* ¶¶ 19, 22. In Fiscal Year 2025, as of September  
19 11, 2025, ICE has removed 569 final order Vietnamese nationals to Vietnam. *Id.* ¶ 20. The number  
20 of removals to Vietnam in Fiscal Year 2025 is nearly ten times what it was in Fiscal Year 2024.

21 *See id.*

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### III. ARGUMENT

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

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

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

Here, ICE has detained Petitioner for approximately two months in total since his order of removal became administratively final in 2002. *See* Booth Decl. ¶¶ 11–12, 14, 16. While the Government does not concede that Petitioner’s detention should be measured in the aggregate,

1 even assuming arguendo that it is, Petitioner's total detention after his final removal order remains  
2 less than six months. Petitioner's undisputed two-month period of detention is presumptively  
3 reasonable under *Zadvydas*, 533 U.S. at 701. Because Petitioner's detention has not exceeded that  
4 timeframe, the presumption of reasonableness applies, and there is no basis for release at this  
5 time. Although Petitioner seems to allege Petitioner's presumptively reasonable six-month period  
6 has ended, he alleges *no facts* stating he has been confined longer than six months. *See* Pet., pgs.  
7 3, 13-14. Rather, he seems to argue that more than six months have passed since Petitioner's  
8 removal order became final. Pet., pgs. 13-14.

9 By contrast, another section of this Court recently granted relief to a Vietnamese national  
10 who had spent approximately twenty months in ICE custody over three periods of detention.  
11 *Nguyen v. Scott*, No. 2:25-cv-01398, 2025 WL 2419288, at \*13 (W.D. Wash. Aug. 21, 2025)  
12 (Cartwright, J.). Petitioner's brief detention (along with many other factors)<sup>3</sup> distinguishes him  
13 from the petitioner in *Nguyen*.

14 Since Petitioner has been detained, after awaiting his cooperation, ICE has received all  
15 completed travel document forms and has sent necessary documents to a translation service for  
16 translation into Vietnamese. Booth Decl. ¶ 17. Once complete, ICE anticipates receiving travel  
17 documents expeditiously because the government of Vietnam has agreed to issue travel  
18 documents within 30 days. *Id.* ¶ 21. Indeed, it has issued travel documents in hundreds of cases  
19 just this fiscal year. *Id.* ¶ 20. This includes 154 Vietnamese citizens who entered the United States  
20 before July 12, 1995. *Nguyen*, 2025 WL 2419288, at \*17. Because of this increased cooperation

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23 <sup>3</sup> Aside from his 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 with the government of Vietnam, Petitioner's removal will likely occur in the reasonably  
2 foreseeable future. *See* Booth Decl. ¶ 22.

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

10 **B. There is no dispute Petitioner violated the conditions of his release, and increased**  
11 **cooperation with Vietnam supports the timing of his arrest**

12 To the extent Petitioner challenges his detention because he believes ICE provided no  
13 lawful rationale for the decision to rearrest him, the record shows this is untrue. The Notice of  
14 Revocation of Release makes clear Petitioner was arrested because he violated the conditions of  
15 his Order of Supervision by committing a crime in 2008. Exhibit 3 at 1. Petitioner also committed  
16 multiple state and local crimes between 2009 and 2025. Booth Decl. ¶ 15.

17 To the extent Petitioner seeks to pursue this argument, it falls flat given the record  
18 evidence that negates it. While Petitioner may believe he should have been arrested sooner, there  
19 is no question that he violated the terms of his Order of Supervision, and that ICE was within its  
20 authority to arrest him as a result. *See* 8 C.F.R. §§ 241.4(d)(1) & (2) (setting forth ICE's authority  
21 to return a noncitizen to custody because they violate a condition of their release). Petitioner does  
22 not allege any temporal limitation to this authority. Moreover, the timing of his rearrest is also  
23 supported by the increased cooperation between the United States and Vietnam in the repatriation  
24 of Vietnamese citizens, particularly those who entered the United States before 1995. *See Nguyen*,



1 Dated this 28th day of October, 2025.

2 Respectfully submitted,

3 CHARLES NEIL FLOYD  
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16 I certify this memorandum contains 3,008 words,  
17 in compliance with the Local Civil Rules.