

District Judge James L. Robart

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

VU THANH TRAN,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

Case No. 2:25-cv-01897-JLR

FEDERAL RESPONDENTS'  
RETURN MEMORANDUM AND  
MOTION TO DISMISS

Noted: November 3, 2025

**I. INTRODUCTION**

This Court should dismiss Petitioner Vu Thanh Tran's Petition for Writ of Habeas Corpus. Dkt. 1 ("Pet."). Tran 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 argues that his re-detention on revocation of his order of supervision is unlawful, and he cannot be lawfully removed to any country other than Vietnam. Pet. at 21-29.

On June 28, 2007, Petitioner was ordered removed to Vietnam. Petitioner was taken into U.S. Immigration and Customs Enforcement ("ICE") custody on September 30, 2009, following a sentence in federal prison. He was released on December 28, 2009, on an Order of Supervision ("OSUP") because there was not a significant likelihood of removal in the reasonably foreseeable future ("SLRRFF") due to lack of cooperation between the U.S. and Vietnam. Due to increased

1 cooperation from the government of Vietnam, Petitioner's OSUP was revoked on August 21,  
2 2025, and he was arrested by ICE. ICE is presently working to effectuate Petitioner's removal to  
3 Vietnam and has no present intention of seeking his removal to any other country.

4 Petitioner's detention is lawful. He is a noncitizen subject to an administratively final  
5 order of removal, and he is lawfully detained under Section 241 of the Immigration and  
6 Nationality Act ("INA"). *See* 8 U.S.C. § 1231. His detention also is not indefinite under *Zadvydas*  
7 *v. Davis*, 533 U.S. 678 (2001). Petitioner has been detained for less than the presumptively  
8 reasonable period of six months, and ICE anticipates that he will receive travel documents for  
9 removal to Vietnam in the reasonably foreseeable future. *See Zadvydas*, 533 U.S. at 701.

10 Accordingly, Federal Respondents respectfully request the Court deny the Petition and  
11 grant this motion to dismiss. This motion is supported by the pleadings and documents on file in  
12 this case, the Declaration of Deportation Officer Enrique Rodriguez ("Rodriguez Decl."), and the  
13 Declaration of Sean Arenson and accompanying exhibits ("Arenson Decl."). Federal Respondents  
14 do not believe an evidentiary hearing is necessary.

## 15 II. FACTUAL AND PROCEDURAL BACKGROUND

### 16 A. Detention Authorities and Removal Procedures

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

23 When a final order of removal has been entered, a noncitizen enters a 90-day "removal  
24 period." 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security

1 “shall remove the [noncitizen] from the United States.” *Id.* To ensure a noncitizen’s presence for  
2 removal and to protect the community from noncitizens who may present a danger, Congress has  
3 mandated detention while removal is being effectuated:

4 During the removal period, the [Secretary of Homeland Security]<sup>1</sup> shall detain the  
5 [noncitizen]. Under no circumstance during the removal period shall the  
6 [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.

7 8 U.S.C. § 1231(a)(2).

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

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

17 8 U.S.C. § 1231(a)(6) (emphasis added).

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

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

<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 months as a presumptively reasonable time to bring about a noncitizen's removal. *Id.* at 701.

2 Here, Petitioner is the subject of an administrative order of removal that became final on  
3 June 28, 2007. Rodriguez Decl. ¶ 7; Arenson Decl. Ex. 1. After completing a sentence in federal  
4 prison, Petitioner entered ICE custody on September 30, 2009. Pet. at 2; Rodriguez Decl. ¶ 11.  
5 He was detained for approximately three months before being released on bond with an Order of  
6 Supervision on December 28, 2009. *Id.* ¶ 12 & Arenson Decl. Ex. 2. Following an agreement  
7 increasing cooperation from the government of Vietnam, Petitioner was taken into custody on  
8 August 21, 2025. Rodriguez Decl. ¶ 12. Since then, he has remained in custody for approximately  
9 two months as of this filing. The “presumptively reasonable” six-month custody period has not  
10 yet expired. *Zadvydas*, 533 U.S. at 701.

11 **B. Petitioner Tran**

12 Petitioner is a native and citizen of Vietnam. Rodriguez Decl. ¶ 3. He lawfully entered the  
13 United States as a refugee in 1984. *Id.* On December 22, 2000, Petitioner was convicted in the  
14 King County Superior Court of Violation of the Uniform Controlled Substance Act-  
15 Manufacture/Deliver/Poss w/Int, for which he was sentenced to 45 days in jail. *Id.* ¶ 4. On March  
16 6, 2006, Petitioner was arrested and charged in the Western District of Washington with  
17 Conspiracy to Distribute Marijuana in violation of 21 USC §§ 841(a)(I), (b)(1)(c) and 846 in  
18 CR06-00079JCC. *Id.* ¶ 5.

19 On July 31, 2006, Petitioner arrived at SeaTac International Airport upon returning from  
20 Vietnam. *Id.* ¶ 6. He presented a valid U.S. Alien Resident Card, I-551 to Customs and Border  
21 Protection (“CBP”). *Id.* Petitioner stated that he was in Vietnam for the previous 10 days to visit  
22 his relatives. *Id.* Petitioner was determined to be inadmissible to the United States due to the  
23 inspecting officer having reason to believe that Petitioner is or has been an illicit trafficker in any  
24 controlled substance or in any listed chemical (as defined in section 802 of title 21), or is or has

1 been a knowing aider, abettor, assister, conspirator, or colluder with others in the illicit trafficking  
2 in any such controlled or listed substance or chemical, or endeavored to do so pursuant to Section  
3 212(a)(2)(C) of the Immigration and Nationality Act (“INA”). *Id.* Accordingly, DHS issued a  
4 Notice to Appear (“NTA”) charging such. *Id.*

5 On June 28, 2007, an immigration judge in Seattle, Washington ordered Petitioner  
6 removed from the U.S. to Vietnam. Rodriguez Decl. ¶ 7; Arenson Decl. Ex. 1.

7 On October 17, 2007, Petitioner was convicted of Conspiracy to Distribute Marijuana in  
8 violation of 21 USC §§ 841(a)(I), (b)(1)(c) and 846 and given a 24-month sentence in the custody  
9 of the Bureau of Prisons (“BOP”). Rodriguez Decl. ¶ 8.

10 On February 10, 2009, Petitioner filed a Motion to Reopen, which was denied by the  
11 immigration judge on May 4, 2009. *Id.* ¶¶ 9-10.

12 On September 30, 2009, Petitioner was released from BOP custody into ICE custody. *Id.*  
13 ¶ 11. On December 28, 2009, ICE released Petitioner on an OSUP because there was not a  
14 SLRRFF due to lack of cooperation between the U.S. and Vietnam. *Id.* ¶ 12; Arenson Decl. Ex.  
15 2.

16 On August 21, 2025, ERO determined that there was now SLRRFF due to cooperation  
17 between the United States and Vietnam. *Id.* ¶ 13. Accordingly, OSUP was revoked and Petitioner  
18 was arrested by ERO. *Id.* Petitioner was served with a Notice of Revocation Release advising him  
19 that his OSUP was revoked because there was now SLRRFF, and that he would be given an  
20 informal interview and an opportunity to respond to the reasons for the revocation. *Id.*; Arenson  
21 Decl. Ex. 3. Petitioner was given an informal interview on August 21, 2025, at which he declined  
22 to make a statement. Rodriguez Decl. ¶ 13; Arenson Decl. Ex. 4.

23 Since Petitioner’s re-detention, ICE has been working to secure travel documents to  
24 effectuate his removal to Vietnam. Rodriguez Decl. ¶¶ 14-16. On October 18, 2025, Petitioner’s

1 completed travel documents request was sent to Vietnam. *Id.* ¶ 17. DHS has no present intention  
2 to seek Petitioner’s removal to any country other than Vietnam. *Id.* ¶ 18.

3 **III. ARGUMENT**

4 **A. Petitioner’s detention is not indefinite or unconstitutionally prolonged.**

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

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

1 Here, ICE has detained Petitioner for approximately two months since his OSUP  
2 revocation and approximately five months in aggregate since his order of removal became  
3 administratively final. *See* Rodriguez Decl. ¶¶ 11–13.<sup>3</sup> This period is presumptively reasonable  
4 under *Zadvydas*, 533 U.S. at 701. Because Petitioner’s detention has not exceeded the six-month  
5 timeframe, the presumption of reasonableness applies, and there is no basis for release at this  
6 time.

7 Since Petitioner has been re-detained, ICE has been working to obtain travel documents  
8 with Petitioner’s assistance. Rodriguez Decl. ¶¶ 14-16. On October 18, 2025, the completed travel  
9 documents request was sent to Vietnam through appropriate DHS contacts. *Id.* ¶ 17. ICE  
10 anticipates receiving travel documents expeditiously because the government of Vietnam has  
11 agreed to issue travel documents within 30 days. *See* Arenson Decl. Ex. 5.

12 The fact that Petitioner does not yet have a specific date of anticipated removal does not  
13 make his 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 his removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at  
18 701.

19 **B. Petitioner’s re-detention is neither arbitrary, nor in violation of due process.**

20 In addition to challenging the duration of his detention, Petitioner also contends that his  
21 re-detention is unlawfully arbitrary due to no relevant changed circumstances and violates his due  
22

23 \_\_\_\_\_  
24 <sup>3</sup> Petitioner’s initial detention was approximately three months (September 30, 2009, to December 28, 2009) and  
his current detention has lasted approximately two months (August 21, 2025, to October 27, 2025). Rodriguez  
Decl. ¶¶ 11–13.

1 process rights because has not received notice or an opportunity to be heard. *See* Pet. at 21-24.  
2 These arguments are belied by the record, however.

3 First, Petitioner's re-detention is not arbitrary. By law, ICE may revoke a noncitizen's  
4 OSUP and return the noncitizen to custody when, on account of changed circumstances, there  
5 becomes a significant likelihood of the noncitizen's removal in the reasonably foreseeable future.  
6 8 C.F.R. § 241.13(i)(2). Petitioner argues that he was re-detained "based on some purported  
7 priority of the current presidential administration without any change in facts relevant to Mr. Tran  
8 to justify their actions." Pet. at 22. But, in fact, there had been a change in circumstances relevant  
9 to the likelihood of Petitioner's reasonably foreseeable removal, which was specifically  
10 referenced in Petitioner's Notice of Revocation of Release: "recent operational changes between  
11 the U.S. government and the Government of Vietnam." Rodriguez Decl. ¶ 13; Arenson Decl. Ex.  
12 3. Recent cooperation between the United States and Vietnam has resulted in an increase in the  
13 repatriation of Vietnamese citizens, including particularly those who entered the United States  
14 before 1995, as Petitioner did. *See* Arenson Decl. Ex. 5; *see also* *Nguyen v. Scott*, No. 2:25-cv-  
15 01398, 2025 WL 2419288, at \*13 (W.D. Wash. Aug. 21, 2025) (Cartwright, J.) ("[T]here is no  
16 dispute that this is a meaningful increase in the total number of removals compared to historical  
17 practice."). With his removal pending, the government has significant legitimate interests in  
18 Petitioner's continued detention to ensure he will appear for removal.

19 Second, Petitioner's re-detention comports with due process. Upon being re-detained on  
20 August 21, 2025, Petitioner was served with a Notice of Revocation of Release that informed him  
21 of the changed circumstances that justified his arrest. Rodriguez Decl. ¶ 13; Arenson Decl. Ex. 3.  
22 The Notice stated:

23 Based on recent operational changes between the U.S. government and the  
24 Government of Vietnam, there is now a Significant Likelihood of Removal in the  
Reasonably Foreseeable Future (SLRRFF). As a result, you may be subject to

1 removal from the United States to Vietnam pursuant to the outstanding order of  
2 removal issued against you.

3 Arenson Decl. Ex. 3. The Notice also informed Petitioner that he would “promptly be afforded  
4 an informal interview at which time you will be given an opportunity to respond to the reasons  
5 for the revocation.” *Id.* The record reflects that Petitioner in fact received the informal interview,  
6 during which he made no oral or written statement. Rodriguez Decl. ¶ 13; Arenson Decl. Ex. 4.  
7 These facts are contrary to Petitioner’s allegations that “Respondents have yet to explain the  
8 reason for the re-detention except to remark that it was required by the new administration,” and  
9 that “Respondents afforded Petitioner no meaningful opportunity to be heard regarding the re-  
10 detention.” Pet. at 21. Petitioner provides no legal support for his apparent contention that he was  
11 entitled to “*advance* notice or warning” of his re-detention, *see id.*, nor does he demonstrate that  
12 the informal interview he received upon being re-detained was insufficient to satisfy his due  
13 process rights.

14 **C. Petitioner lacks standing to pursue claims based on speculative removal to a third  
15 country.**

16 Petitioner also purports to bring claims based on the hypothetical scenario of his removal  
17 to a third country other than Vietnam. *See* Pet. at 27-29. But Petitioner presents no evidence of  
18 any intention to remove him to a third country. To the contrary, Petitioner has been ordered  
19 removed to Vietnam, ICE is currently working toward his removal to Vietnam, and ICE has no  
20 present intention of seeking Petitioner’s removal to any other country. Rodriguez Decl. ¶¶ 7, 13-  
21 18. Therefore, Plaintiff’s claims based on third-country removal are entirely speculative, and not  
22 ripe for review. There is no case or controversy because there is no concrete indication that such  
23 removal to a third country will occur. Accordingly, these claims should be dismissed as  
24 premature.

1 **IV. CONCLUSION**

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

4 Dated October 27, 2025.

5 Respectfully submitted,

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18 I certify this memorandum contains 2,734 words,  
19 in compliance with the Local Civil Rules.  
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