District Judge Tana Lin

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

HIEU TRI NGUYEN, Petitioner, v. PAMELA BONDI, Attorney General of the United States, *et al.*, Respondents.	Case No. 2:25-cv-02024-TL FEDERAL RESPONDENTS' RETURN MEMORANDUM Noted: November 14, 2025

I. INTRODUCTION

This Court should dismiss Petitioner Hieu Tri Nguyen's Petition for Writ of Habeas Corpus. Dkt. 1 ("Pet."). Petitioner challenges his post-order detention at the Northwest ICE Processing Center ("NWIPC") as unconstitutional and unlawful while he awaits removal from the United States.

Petitioner is a citizen of Vietnam who entered the United States as a legal permanent resident in 1989. Since his entry into the United States, Petitioner has been engaged in serious criminal activity. Between 1994 and 1998, Petitioner was convicted of carrying a loaded firearm, [redacted], and a felony drug trafficking offense. Because of the criminal convictions he accrued, on October 2, 2001, immigration officials detained Petitioner

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and on October 16, 2001, and served him with a Notice to Appear, charging him with deportability based on his conviction for an aggravated felony offense.

At his November 14, 2001 removal hearing, Petitioner submitted no applications for relief, and an immigration judge ordered Petitioner removed from the United States. At the time, Petitioner was not removed due to Vietnam not accepting repatriation of its citizens at that time. Instead, on March 25, 2002, immigration officials released Petitioner on an Order of Supervision (OSUP), that was conditioned on him not committing any crimes.

However, while on OSUP in June of 2012, Petitioner hit a coworker in the back of the head with a drywall hammer. He was arrested for and charged with attempted murder. He ultimately plead no contest to that offense, and on July 22, 2013, was convicted of attempted murder and related felony charges, and sentenced to nineteen years imprisonment.

On June 11, 2025, Petitioner was released from California Department of Corrections custody. ICE immediately detained him. Now, with increased cooperation from the government of Vietnam, U.S. Immigration and Customs Enforcement ("ICE"), ICE is working to effectuate Petitioner's removal to Vietnam. While most of his Petition discusses removal to a third country, ICE is explicitly not seeking to remove Petitioner to any country other than Vietnam, and Petitioner presents no evidence of any intention to do so. ICE has initiated the process of securing a travel document for Petitioner. ICE anticipates that it will be able to receive a travel document shortly, and Petitioner will be removed to Vietnam in the reasonably foreseeable future.

Contrary to his allegations, Petitioner's detention is lawful. He is a noncitizen subject to an administratively final order of removal, and he is lawfully detained under Section 241 of the Immigration and Nationality Act ("INA"). *See* 8 U.S.C. § 1231. Petitioner's detention also is not indefinite under *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). With increased cooperation from the government of Vietnam, ICE is working to effectuate Petitioner's removal to Vietnam. Now that he has completed all the travel document forms, when translations of those documents are received, ICE will submit those to Vietnam. ICE anticipates that it will receive travel documents

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shortly thereafter, and he will be removed to Vietnam in the reasonably foreseeable future. Petitioner's detention is not unconstitutionally indefinite. *See Zadvydas*, 533 U.S. at 701.

Accordingly, Federal Respondents respectfully request that the Court deny the Petition. This return is supported by the pleadings and documents on file in this case, the Declaration of Deportation Officer Daniel Strzelczyk ("Strzelczyk Decl."), with accompanying exhibits, and the Declaration of Katherine G. Collins ("Collins Decl."). Federal Respondents do not believe any hearing is necessary.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Detention Authorities and Removal Procedures

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

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

> During the removal period, the [Secretary of Homeland Security][1] shall detain the [noncitizen]. Under no circumstance during the removal period shall the [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.

[1] Although 8 U.S.C. § 1231(a)(2) refers to the "Attorney General" as having responsibility for detaining noncitizens, 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.

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8 U.S.C. § 1231(a)(2).

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

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

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

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

Here, Petitioner is the subject of an administrative order of removal that became final on November 14, 2001. Strzelczyk Decl. ¶ 8. Since that order was issued and while on OSUP, Petitioner was convicted of attempted murder and spent approximately13 years in prison because of this violent crime. *Id.* ¶10. ICE detained him immediately upon his release from prison on June 11, 2025. ¶12. Since his prison release, he has been in custody 149 days as of the date of this filing. While in the aggregate, the "presumptively reasonable" six-month custody period has expired – Petitioner has been in ICE custody for less than five months since his release from a lengthy prison sentence. *Zadvydas*, 533 U.S. at 701.

[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.

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B. Petitioner Hieu Tri Nguyen

Petitioner is a native and citizen of Vietnam. Strzelczyk Decl. ¶ 4. He was lawfully admitted to the United States as a permanent resident in 1989. *Id.* ¶ 4. On October 2, 2001, Petitioner was taken into ICE custody due to several criminal convictions between 1994 and 1998, which included convictions carrying a loaded firearm, [redacted] and a felony drug trafficking offense. *Id.* ¶ 4; Collins Decl., Exhs. 1, 2 (Notice to Appear; 2001 I-213). On November 14, 2001, an immigration judge ordered Petitioner removed to Vietnam. Strzelczyk Decl. ¶ 8; Collins Decl. Ex. 3 (Order of Removal). On March 25, 2002, ICE released Petitioner on an OSUP because there was not a significant likelihood of removal. Strzelczyk Decl. ¶ 9; Collins Decl. Ex. 4 (Order of Supervision). Therefore, Petitioner's detention in 2001 totaled 131 days.

The OSUP placed several conditions on Petitioner's release, including: "That you do not commit any crimes while on this Order of Supervision." Collins Decl., Ex. 4 at 3. Petitioner signed the acknowledgement section, which stated, "I understand that failure to comply with the terms of this order may subject me to a fine, detention, or prosecution." *Id.* at 1. However, in June 2012, Petitioner failed to comply with this term of release. Strzelczyk Decl. ¶ 10; Collins Decl., Ex. 5 (Criminal Appeal) at 2. Petitioner attempted to murder a coworker by clubbing him in the back of the head with a drywall hammer. Collins Decl., Ex. 5 at 1-2. Petitioner swung the hammer like a baseball bat, struck his coworker in the head, knocking him bleeding to the ground. *Id.* at 2. The victim had seizures while transported to the hospital, where he remained for five days. *Id.* The victim was left with a "six or seven-inch" scar on his head was unable to work for months. *Id.* Petitioner was sentenced to nineteen years of imprisonment for attempted murder and related felony charges. Strzelczyk Decl. ¶ 10.

The Government of Vietnam has recently increased cooperation with the United States and increased the issuance of travel documents in less than 30 days. Strzelczyk Decl. ¶ 15. Following this increased cooperation, and on Petitioner's release from serving his sentence for attempted murder, ICE took Petitioner immediately into custody from the California Department

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of Corrections on June 11, 2025. *Id.* ¶ 11. On June 19, 2025, ICE had Petitioner fill out the requisite forms to apply for a travel document. *Id.* ¶ 12. Petitioner completed and returned those forms to ICE on June 23, 2025. ICE sent those documents to be translated and is awaiting those completed translations. *Id.* ¶ 13.

Though Petitioner stated in his petition that he believed ICE may be trying to remove him to a third country, that is not the case. Petitioner provides no evidence ICE is seeking to remove him to a third country. *See* Pet., pgs. 11-24, 27-29. Petitioner is a citizen of Vietnam, he was ordered removed to Vietnam in 2001, and ICE is currently working to effect his removal to Vietnam. Pet., pg. 7; Strzelczyk Decl. ¶¶ 8, 12-18. ICE is not seeking to remove Petitioner to any country other than Vietnam. Strzelczyk Decl. ¶ 18.

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

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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 less than five months since he was released from prison after serving more than 12 years for committing attempted murder. Strzelczyk Decl. ¶ 11. While the Government does not concede that Petitioner's detention should be measured in the aggregate, even assuming arguendo that it is, Petitioner's total detention after his removal became administratively final order is 290 days, or approximately nine months. *Id.* ¶ 8-9,11. While this does exceed six months, Petitioner's detention remains reasonable given the factors in this case.

The danger Petitioner poses to the community must be considered when determining the reasonableness of his detention to date. Section 1231(a)(6) dictates that an alien who is removeable for having been convicted of an aggravated felony (as Petitioner has been), or who has been determined by the Attorney General to be a risk to the community "may be detained beyond the removal period." Here, the public safety risk the Petitioner represents cannot be understated. Since Petitioner immigrated to the United States in 1989, his criminal history has involved a loaded firearm, [redacted] drug trafficking, and most recently attempted murder. Strzelczyk Decl. ¶ 5, 10. Notably, Petitioner tried to kill his coworker with a hammer *while* he was released from ICE custody on an Order of Supervision. Collins Dec., Ex. 5. Given the danger Petitioner poses, public interest weighs heavily in favor of Petitioner's continued detention at this time.

Furthermore, Petitioner's detention is not indefinite. ICE is taking active and concrete steps to remove Petitioner to Vietnam. Since Petitioner has been detained, he has been cooperative in getting ICE the application materials needed to secure him a travel document to Vietnam. Strzelczyk Decl. ¶ 12. While there has been some delay in receiving Petitioner's translated application materials, once the translations are received, ICE will be able to submit those documents to government contacts in Vietnam. *Id.* ¶ 13. ICE anticipates receiving travel

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documents expeditiously because the government of Vietnam has agreed to issue travel documents within 30 days. *Id.* ¶¶ 15-17. Indeed, it has issued travel documents in hundreds of cases just this fiscal year, including 154 Vietnamese citizens who entered the United States before July 12, 1995. *Id.*; *Nguyen v. Scott*, No. 2:25-cv-01398, 2025 WL 2419288, at *17 (W.D. Wash. Aug. 21, 2025) Because of this increased cooperation with the government of Vietnam, Petitioner's removal will likely occur in the reasonably foreseeable future. *See* Strzelczyk Decl. ¶ 17.

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

B. Petitioner's arguments relating to third-country removal are not ripe for review.

Under Article III of the Constitution, federal courts may adjudicate only actual, ongoing cases or controversies. *Deakins v. Monaghan*, 484 U.S. 193, 199, 108 S.Ct. 523, 528, 98 L.Ed.2d 529 (1988). "Ripeness is an Article III doctrine designed to ensure that courts adjudicate live cases or controversies and do not 'issue advisory opinions [or] declare rights in hypothetical cases.'" *Bishop Paiute Tribe v. Inyo Cty.*, 863 F.3d 1144, 1153 (9th Cir. 2017) (alteration in original) (quoting *Thomas v. Anchorage Equal Rights Comm'n*, 220 F.3d 1134, 1138 (9th Cir. 2000) (en banc)). The Supreme Court has stated that to meet the ripeness standard, plaintiffs must show either a specific present objective harm or the threat of specific future harm. *Laird v. Tatum*, 408 U.S. 1, 14 (1972). "A claim is not ripe for adjudication if it rests upon contingent future events that may not occur as anticipated, or indeed may not occur at all." *Texas v. United States*, 523 U.S. 296, 300 (1998) (internal citations omitted). "For a case to be ripe, it must present issues that are definite and concrete, not hypothetical or abstract." *Bishop,* 863 F.3d at 1153.

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Here, Petitioner's argument that he could be removed to a third country is without merit, speculative, and not ripe for review. There is no case or controversy because there is no concrete indication that such removal to a third country will occur. The record contains no evidence supporting this claim. ICE is currently seeking a travel document to Vietnam, and there is no ongoing effort to remove Petitioner to any third country. Accordingly, this claim should be dismissed as premature. *Cf. Spencer v. Kemna*, 523 U.S. 1, 16 (1998) (rejecting habeas petitioner's alleged consequences as "a possibility rather than a certainty or even a probability" and as "purely a matter of speculation").\

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IV. CONCLUSION

With his removal pending, the government has significant legitimate interests in Petitioner's continued detention to ensure he will appear for removal and to keep the public safe. Petitioner's detention has not become unconstitutionally "indefinite.". Furthermore, because ICE is only seeking to remove him to Vietnam, his third country claim is premature and should be denied. Accordingly, this Court should not order that he be released or otherwise order that Petitioner cannot be removed to a third country.

DATED this 7th day of November, 2025

Respectfully submitted,

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I certify that this memorandum contains 2,806 words, in compliance with the Local Civil Rules.