

The Honorable Richard A. Jones  
The Honorable S. Kate Vaughan

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

XUAN HAI NGUYEN,

Petitioner,

v.

BRUCE SCOTT,<sup>1</sup> Warden, Northwest ICE  
Processing Center, *et al.*,

Respondents.

Case No. 2:25-cv-01988-RAJ-SKV

FEDERAL RESPONDENTS' RETURN

**Noted for consideration:  
January 5, 2026**

**INTRODUCTION**

Petitioner, an arriving alien, was processed as an expedited removal. He claimed fear and was placed in removal proceedings following a credible fear interview. An Immigration Judge (IJ) denied all relief, and ordered Petitioner removed to Vietnam. Petitioner filed an appeal with the Board of Immigration Appeals ("BIA") on September 9, 2025. While this appeal is pending, and Petitioner's removal proceedings remain ongoing, U.S. Immigration and Customs Enforcement

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<sup>1</sup> Respondent Bruce Scott is not a federal employee and not represented by undersigned counsel.

1 (“ICE”) lawfully detains Petitioner pursuant to Section 235(b)(2) of the Immigration and  
2 Nationality Act (“INA”), codified at 8 U.S.C. § 1225(b)(2).

3 In this habeas petition, Petitioner seeks his immediate release, or in the alternative, an  
4 individualized bond hearing. Dkt. 1. This habeas petition should be denied and dismissed without  
5 an evidentiary hearing because Petitioner is subject to mandatory detention and is not entitled to a  
6 bond hearing.

### 7 **FACTUAL BACKGROUND**

8 Petitioner is a native and citizen of Vietnam. *See* Declaration of Kristin B. Johnson  
9 (Johnson Decl.) Ex. A, pg. 1. He entered without inspection on November 15, 2024, and was  
10 apprehended by Border Patrol. *Id.* at pg. 2. He was processed as an expedited removal. *Id.* at pg.  
11 3, Ex. B. He subsequently filed an I-589 application for asylum. *Id.* at Ex. C. Following an  
12 individual hearing before an IJ, the IJ denied all relief and ordered Petitioner removed to  
13 Vietnam. *Id.* Petitioner filed an appeal with the BIA on September 9, 2025, and that appeal is  
14 currently still pending. *Id.* at Ex. D.

### 15 **LEGAL STANDARD**

16 It is axiomatic that “[t]he district courts of the United States . . . are courts of limited  
17 jurisdiction. They possess only that power authorized by Constitution and statute.” *Exxon Mobil*  
18 *Corp. v. Allopath Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). “[T]he  
19 scope of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present  
20 day.” *Dep’t of Homeland Sec. v. Thuraissigiam*, 140 S. Ct. 1959, 1974 n. 20 (2020). Title 28  
21 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions.

22 To warrant a grant of habeas corpus, the petitioner must demonstrate that his or her custody is in  
23 violation of the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3).

1 **ARGUMENT**

2 **A. ICE lawfully detains Petitioner pursuant to 8 U.S.C. § 1225(b)(2) and he is not**  
3 **entitled to a bond hearing.**

4 There is no dispute that Petitioner is lawfully detained pursuant to 8 U.S.C. § 1225(b)(2)  
5 and is subject to mandatory detention while his removal proceedings remain pending. Dkt. 1, pg.  
6 5. Section 1225(b)(2) states that, subject to statutory exceptions, “in the case of an alien who is an  
7 applicant for admission, if the examining immigration officer determines that an alien seeking  
8 admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for  
9 a proceeding under section 1229a [full removal proceedings] of this title.” 8 U.S.C. § 1225(b)(2).  
10 In other words, noncitizens subject to 1225(b)(2) are not eligible for expedited removal but are  
11 subject to mandatory detention while their full removal proceedings are pending. This is in contrast  
12 to the default detention regime under Section 1226(a), which allows for discretionary release and  
13 review of detention through a bond hearing.

14 Because Petitioner was placed into removal proceedings following a credible fear interview  
15 and is subject to mandatory detention under Section 1225(b)(2), he is not entitled to a bond hearing.  
16 *See Jennings v. Rodriguez*, 583 U.S. 281, 298 (2018); *Matter of M-S-*, 27 I&N Dec. 509 (A.G.  
17 2019) (a noncitizen who is transferred from expedited removal proceedings to full removal  
18 proceedings after establishing a credible fear or persecution or torture is ineligible for release on  
19 bond). “[A]liens who are originally placed in expedited proceedings and then transferred to full  
20 proceedings after establishing a credible fear ... remain ineligible for bond, whether they are  
21 arriving at the border or are apprehended in the United States.” *Matter of M-S-*, 27 I. & N. Dec. at  
22 515.

1 Accordingly, the habeas petition seeking immediate release or a bond hearing should be  
2 dismissed.

3 DATED this 8th day of December, 2025.

4 Respectfully submitted,

5 CHARLES NEIL FLOYD  
6 United States Attorney

7 *s/ Kristin B. Johnson*

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16 *Attorneys for Federal Respondents*

17 *I certify that this memorandum contains 674 words, in*  
18 *compliance with the Local Civil Rules.*