

Chief District Judge David G. Estudillo
Chief Magistrate Judge Theresa L. Fricke

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

HUY VAN TRAN,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

Case No. 2:25-cv-02335-DGE-TLF

FEDERAL RESPONDENTS'
RETURN MEMORANDUM

Noted for Consideration:
December 8, 2025.

I. INTRODUCTION

This Court should deny Petitioner Huy Van Tran's Petition for Writ of Habeas Corpus. Dkt. 2 ("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, he was ordered removed to Vietnam, and Vietnam has increased cooperation with the United States this fiscal year.

Following Petitioner's criminal conviction and 96-month sentence in the Western District of Washington in 2017, he was issued a Notice to Appear ("NTA"). In December of 2020, Petitioner was ordered removed by an immigration judge ("IJ"), which has since become administratively final. Petitioner was taken into U.S. Immigration and Customs Enforcement

1 (“ICE”) custody in Pennsylvania on October 3, 2022. Petitioner was later released on an Order of
2 Supervision (“OSUP”) on December 30, 2022.

3 ICE revoked Petitioner’s order of supervision on August 20, 2025, based on increased
4 cooperation between the United States and Vietnam, creating a significant likelihood of
5 Petitioner’s removal to Vietnam in the reasonably foreseeable future. ICE is working to effectuate
6 Petitioner’s removal to Vietnam, completed a travel document request for Vietnam, had the travel
7 document translated, and sent the travel document for review to be forwarded to the Attache in
8 Vietnam. While the vast majority of his Petition discusses removal to a third country, Petitioner
9 presents *no evidence* of any intention to do so. ICE has no intention of removing Petitioner to a
10 third country.

11 Petitioner’s detention is lawful. He is a noncitizen subject to an administratively final
12 order of removal, and he is lawfully detained under Section 241 of the Immigration and
13 Nationality Act (“INA”). *See* 8 U.S.C. § 1231. Petitioner’s detention also is not indefinite under
14 *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). With increased inter-governmental cooperation,
15 ICE is actively working to effectuate Petitioner’s removal to Vietnam and expects to be able to
16 do so in the reasonably foreseeable future. Finally, Petitioner’s arguments regarding notice are in
17 error. *EAT-B* and other cases cited by Petitioner refer to *pre-removal* detention pursuant to 8
18 U.S.C. § 1225(b) or § 1226(a)—not *post-order* removal under §1231.

19 Accordingly, Federal Respondents respectfully request the Court deny the Petition. This
20 return is supported by the pleadings and documents on file in this case, the Declaration of
21 Deportation Officer Wiley Brown (“Brown Decl.”) and the Declaration of Alixandria K. Morris
22 (“Morris Decl.”), with accompanying exhibits. Federal Respondents do not believe any hearing
23 is necessary.

1 **II. FACTUAL AND PROCEDURAL BACKGROUND**

2 **A. Detention Authorities and Removal Procedures**

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

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

14 During the removal period, the [Secretary of Homeland Security]¹ shall detain the
15 [noncitizen]. Under no circumstance during the removal period shall the
16 [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.

17 8 U.S.C. § 1231(a)(2).

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

21 [A noncitizen] ordered removed who is inadmissible under section 1182,
22 removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or

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 who has been determined by the [the Secretary of Homeland Security] to be a risk
2 to the community or unlikely to comply with the order of removal, *may* be detained
3 *beyond the removal period* and, if released, shall be subject to the terms of
4 supervision in paragraph (3).

5 8 U.S.C. § 1231(a)(6) (emphasis added).

6 During the removal period, ICE² is charged with attempting to effect removal of a
7 noncitizen from the United States. 8 U.S.C. § 1231(a)(1). Although there is no statutory time limit
8 on detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen may
9 be detained only “for a period reasonably necessary to bring about that [noncitizen’s] removal
10 from the United States.” *Zadvydas*, 533 U.S. at 689. The Supreme Court has further identified six
11 months as a presumptively reasonable time to bring about a noncitizen’s removal. *Id.* at 701. The
12 *Zadvydas* Court recognized that as the length of detention grows, a sliding scale of burdens is
13 applied to assess the continuing lawfulness of a noncitizen’s post-order detention. *Id.* (stating that
14 “for detention to remain reasonable, as the period of post-removal confinement grows, what
15 counts as the ‘reasonably foreseeable future’ conversely would have to shrink”). Thus, the
16 Supreme Court implicitly recognized that six months is the *earliest* point at which a noncitizen’s
17 detention could raise constitutional issues. *Id.*

18 **B. Petitioner Huy Van Tran**

19 Petitioner is a native and citizen of Vietnam. *See* Pet., pg. 7; Brown Decl. ¶ 3. He entered
20 the United States in 1991. Brown Decl. ¶ 3. On February 28, 2017, Petitioner was convicted in
21 the United States District Court for the Western District of Washington for the offense of
22 Conspiracy to Distribute Controlled Substances in violation of 21 U.S.C. Sub Section 841(a)(1),
23

24 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)(1)(B) and 846. *Id.* ¶ 5. He was sentenced to 96 months incarceration and 5 years of supervised
2 release. *Id.*

3 On December 22, 2020, an immigration judge denied Petitioner's application for asylum,
4 withholding of removal under the INA and Convention Against Torture and Deferral of Removal
5 under the Convention Against Torture, and ordered Petitioner removed to Vietnam. *Id.* ¶ 6. As a
6 result of this criminal activity, Petitioner was placed in removal proceedings and issued a Notice
7 to Appear ("NTA"). Morris Decl., Exs. 1, 2 (Notice to Appear; I-213). On July 19, 2021, the
8 Board of Immigration Appeals summarily dismissed Petitioner's appeal to the December 22,
9 2020, order of removal to Vietnam. Brown Decl. ¶ 5; Morris Decl. Ex. 3 (Order of Removal).

10 On October 3, 2022, Petitioner was taken into DHS custody at Clinton County
11 Correctional Facility in Pennsylvania. Brown Decl. ¶ 8. On December 30, 2022, ICE released
12 Petitioner on an order of supervision because there was not a significant likelihood of removal at
13 that time. Brown Decl. ¶ 9; Morris Decl. Ex. 4 (Order of Supervision).

14 The Government of Vietnam has agreed to increase cooperation with the United States
15 and issue travel documents for its citizens. Brown Decl. ¶¶ 14-19. Following this agreement
16 increasing cooperation with the government of Vietnam, Petitioner was taken into ICE custody
17 on August 20, 2025. *Id.* ¶ 10. As of December 4, 2025, ICE had completed the necessary travel
18 documents for Petitioner's removal to Vietnam, completed translation of the documents, and
19 submitted them for approval. *Id.* ¶ 13. Once approved, the documents will be forwarded to the
20 necessary government contacts in Vietnam. *Id.*

21 Though Petitioner stated in his petition that he believes ICE may be trying to remove him
22 to a third country, that is not the case and Petitioner provides no evidence ICE is seeking to remove
23 him to a third country. *See* Pet., pgs. 21-29. Petitioner is a citizen of Vietnam, he was ordered
24 removed to Vietnam in 2020, Petitioner's travel documents have only been completed for the

1 country of Vietnam, Vietnam has been cooperating in removal proceedings and agreed to issue
2 travel documents for its citizens, and ICE is currently working to remove Petitioner solely to
3 Vietnam. Brown Decl. ¶¶ 3, 11-13, 18-19; Morris Decl., Ex. 3.

4 Petitioner's argument that he 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 solely to Vietnam, and there is
8 no 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. Brown Decl. ¶¶ 14-19. ICE further believes that
12 Petitioner's travel document will be issued in the reasonably foreseeable future. Brown Decl. ¶
13 18.

14 III. ARGUMENT

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

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

23 The *Zadvydas* Court recognized that as the length of detention grows, a sliding scale of
24 burdens is applied to assess the continuing lawfulness of a noncitizen's post-order detention. *Id.*

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

11 While the Government does not concede that Petitioner’s presumptively reasonable period
 12 has ended³, even assuming arguendo that it has, Petitioner fails to demonstrate that there is good
 13 reason to believe that there is no significant likelihood of removal in the reasonably foreseeable
 14 future. Although he is correct that Vietnam has not yet issued him a travel document, ICE is
 15 actively working to obtain a travel document to remove him to Vietnam. Brown Decl., ¶¶ 13-19.
 16 Vietnam has issued travel documents to Vietnamese citizens similarly situated to Petitioner. *Id.*
 17 Further, Vietnam is accepting individuals for removal from the United States and ICE believes
 18 there is a significant likelihood of Petitioner’s removal to Vietnam in the reasonably foreseeable
 19 future. *Id.* ¶ 18.

20 Since Petitioner has been detained, after awaiting his cooperation, ICE has completed
 21 travel document forms for Petitioner, had them translated into Vietnamese, and submitted the

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 23 ³ Federal Respondents acknowledge that Courts in this district have found that the presumptively reasonable period
 24 expires six months after a final order, regardless of detention. *See e.g., Tran v. Bondi*, No. CV-25-01897-JLR, 2025
 WL 3140462 (W.D. Wash. Nov. 10, 2025). For the reasons set forth in their briefing in that case, Federal
 Respondents do not agree with this decision and are still weighing their options on how to proceed. In any event,
 Petitioner’s detention is still lawful even past the presumptively reasonable period for the reasons stated herein.

1 documents for approval to be forwarded to government contacts in Vietnam. Brown Decl. ¶¶ 11-
2 13. ICE anticipates receiving travel documents expeditiously because the government of Vietnam
3 has agreed to issue travel documents within 30 days of a request being made. *Id.* ¶ 14; *see e.g.*,
4 *Nguyen v. Bondi et al.*, 2:25-cv-01833-JNW, Dkt. 19 (removal approximately 36 days following
5 travel document submission to Vietnam). Indeed, Vietnam has issued travel documents in
6 hundreds of cases just this fiscal year, including at least 569 final order Vietnamese citizens to
7 Vietnam in Fiscal Year 2025. Brown Decl. ¶ 17. Because of this increased cooperation with the
8 government of Vietnam, Petitioner's removal will likely occur in the reasonably foreseeable
9 future. *Id.* ¶ 18.

10 Vietnam has clearly engaged in issuing travel documents, which demonstrates a good faith
11 intention to issue travel documents in this case. *Id.* ¶ 14-18. Further, Vietnam is accepting
12 individuals for removal from the United States and ICE believes there is a significant likelihood
13 of Petitioner's removal to Vietnam in the reasonably foreseeable future. *Id.*

14 The fact that Petitioner does not yet have a specific date of anticipated removal does not
15 make his detention indefinite. *Diouf v. Mukasey*, 542 F. 3d 1222, 1233 (9th Cir. 2008). Detention
16 becomes indefinite in situations where the country of removal refuses to accept the noncitizen or
17 if removal is legally barred. *Id.* There is no reason to believe that is the situation here.
18 Consequently, Petitioner has failed to demonstrate a good reason to believe that there is no
19 significant likelihood of his removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at
20 701.

21 **B. Increased cooperation with Vietnam supports the timing of Petitioner's arrest**

22 To the extent Petitioner challenges his detention because he believes ICE provided no
23 lawful rationale for the decision to rearrest him, the record shows Petitioner was detained to
24 effectuate removal given the recent increased cooperation with Vietnam. Brown Decl. ¶ 10. While

1 Petitioner may believe he should have been arrested later or after a travel document was obtained
2 from Vietnam, there is no question that ICE was within its authority to arrest him as a result of
3 increased cooperation with Vietnam which constitutes a change of circumstances in his removal
4 proceedings pursuant to his signed Order of Supervision. Morris Decl., Ex. 4.

5 Petitioner was released on his express assent to the conditions of his Order of Supervision,
6 and those provisions state his release was conditioned on his agreement to assist the Immigration
7 Service in obtaining a travel document to return to his country and immediately surrender to an
8 officer of the Service for deportation upon being ordered to do so. *Id.*, pg. 2. Petitioner does not
9 allege any temporal limitation to this authority. Moreover, the timing of his rearrest is supported
10 by the increased cooperation between the United States and Vietnam in the repatriation of
11 Vietnamese citizens, particularly those who entered the United States before 1995. *See Nguyen*,
12 2025 WL 2419288, at *17 (“[T]here is no dispute that this is a meaningful increase in the total
13 number of removals compared to historical practice.”); Brown Decl. ¶ 14-17.

14 The cases⁴ Petitioner invokes in urging application of the *Mathews* factors are inapposite.
15 Each arises in the context of *pre-order* detention or under regulatory schemes wholly distinct
16 from the *post-order* detention framework at issue here. Petitioner does not challenge that he is
17 subject to an administratively final order of removal. As such, the authorities cited provide little
18 meaningful guidance and serve primarily as a distraction from the controlling standards under
19 *Zadvydas*. Petitioner’s prior release in 2022 was based solely on Vietnam’s then-refusal to accept
20 repatriation, which rendered removal not reasonably foreseeable under *Zadvydas*. That
21 circumstance has changed in every material respect. Vietnam now cooperates with the United

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23 ⁴ Petitioner cites *E.A. T.-B. v. Wamsley*, No. CV25-1192-KKE, 2025 WL 2402130, *Ledesma Gonzalez v. Bostock*,
24 No. CV25-1404-JNW-GJL, 2025 WL 2841574, and other recent out-of-district cases, which are all not applicable
under post-removal §1231 detention. Petitioner does not dispute he is subject to an administratively final order of
removal. Post-order detention is analyzed pursuant to the United States Supreme Court framework set forth in
Zadvydas.

1 States in effectuating removals, and Petitioner’s removal is reasonably foreseeable—indeed,
2 imminent—squarely satisfying the *Zadvydas* standard and rendering his current detention lawful.
3 None of Petitioner’s authorities alter the governing analysis, and none undermine the lawfulness
4 of Petitioner’s current detention.

5 With his removal pending, the government has significant legitimate interests in
6 Petitioner’s continued detention to ensure he will appear for removal. His detention has not
7 become “indefinite,” and his removal is significantly likely in the reasonably foreseeable future.
8 This Court should not order that he be released.

9 **IV. CONCLUSION**

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

12 Dated this 5th day of December, 2025.

13 Respectfully submitted,

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22 I certify that this memorandum contains 2,841
23 words, in compliance with the Local Civil Rules.