

District Judge Lauren King

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

HOANG NGOC DAO,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

Case No. 2:25-cv-02340-LK

FEDERAL RESPONDENTS'  
RETURN MEMORANDUM

Noted for Consideration:  
December 15, 2025.

**I. INTRODUCTION**

This Court should deny Petitioner Huang Ngoc Dao’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, he was ordered removed to Vietnam, and Vietnam has increased cooperation with the United States this fiscal year.

Following Petitioner’s criminal activity in 2024 and subsequent criminal conviction in 2025 for smuggling persons for profit in Arizona, he was issued a Notice to Appear (“NTA”) based on being convicted of an aggravated felony under INA § 237(a)(2). On May 19, 2025, Petitioner was ordered removed by an immigration judge, which became administratively final

1 that same day.

2 ICE is working to effectuate Petitioner's removal to Vietnam. While the vast majority of  
3 his Petition discusses removal to a third country, Petitioner presents *no evidence* of any intention  
4 to do so. The facts here demonstrate that ICE is actively working to complete the necessary travel  
5 documents request to Vietnam and ICE anticipates that a travel document will be issued shortly  
6 after the request is forwarded to the Vietnamese consulate. As a result, ICE believes that  
7 Petitioner's removal is reasonably foreseeable. ICE has no intention of removing Petitioner to a  
8 third country.

9 Petitioner's detention is lawful. He is a noncitizen subject to an administratively final  
10 order of removal, and he is lawfully detained under Section 241 of the Immigration and  
11 Nationality Act ("INA"). *See* 8 U.S.C. § 1231. Petitioner's detention also is not indefinite under  
12 *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). With increased inter-governmental cooperation,  
13 ICE is actively working to effectuate Petitioner's removal to Vietnam and expects to be able to  
14 do so in the reasonably foreseeable future. Further, Petitioner himself admits his procedural due  
15 process claims are prospective, and therefore not ripe for consideration. He states these arguments  
16 are solely for *if* the habeas petition is granted and *if* ICE seeks to re-detain him following that  
17 speculative release. Consequently, these are arguments entirely irrelevant to the issues at hand  
18 and should be disregarded.

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 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, ICE<sup>2</sup> 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 Hoang Ngoc Dao**

19 Petitioner is a native and citizen of Vietnam. *See* Pet., pg. 5; Brown Decl. ¶ 3. He entered  
20 the United States in 1980. Brown Decl. ¶ 4. On February 26, 2009, Petitioner was convicted in  
21 the Superior Court of California for the offense of possession of marijuana for sale. *Id.* ¶ 6. On  
22 December 11, 2011, Petitioner arrived at a California port of entry, applied for admission to the  
23 United States, and was charged as removable for conviction of crimes involving moral turpitude.

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 *Id.* On February 29, 2012, Petitioner filed an application for cancellation of removal where he  
2 requested his removal be cancelled. *Id.* ¶ 7. On May 1, 2012, an immigration judge in San Diego  
3 granted Petitioner’s application for cancellation of removal—no appeals were made by either  
4 party. *Id.* ¶ 9.

5 On October 22, 2024, Petitioner was arrested in Arizona for illegally smuggling five  
6 persons over the border for profit. *Id.* ¶ 10. On November 20, 2024, Petitioner was indicted in  
7 Arizona for violations of 8 U.S.C. Sections 1324(a)(1)(A)(v)(I); (ii); (1)(B)(i), (Conspiracy to  
8 Transport Illegal Aliens for Profit), Count 1; and 8 U.S.C. Sections 1324(a)(1)(A)(ii); (B)(i),  
9 (Transportation of Illegal Aliens for Profit), Counts 2-4. *Id.* ¶ 11. On December 11, 2024, an  
10 Information was filed in the United States District Court against Petitioner for a violation of 8  
11 U.S.C. Sections 1324(a)(1)(A)(ii); (B)(i), (Transportation of Illegal Aliens for Profit), a Class C  
12 Felony. *Id.* ¶ 12. On December 11, 2024, Petitioner signed a Plea Agreement, pleading guilty to  
13 the Information. *Id.* ¶ 13. On February 27, 2025, Petitioner was sentenced to probation for a period  
14 of thirty-six months. *Id.* ¶ 14.

15 On February 28, 2025, Petitioner was taken into ICE custody. *Id.* ¶ 15. On March 4, 2025,  
16 Petitioner was issued a Notice to Appear (“NTA”) that charged him removable under Section  
17 237(a)(2)(A)(iii) of the Immigration and Nationality Act based on his conviction for the offense  
18 of Transportation of Illegal Aliens for Profit, in violation of Title 8 U.S.C. Sections  
19 1324(a)(1)(A)(ii) and 1324(a)(1)(B)(i). *Id.* ¶ 16; Morris Decl., Exs. 1, 2 (NTA; I-213). On May  
20 19, 2025, Petitioner was ordered removed to Vietnam by an immigration judge. Brown Decl. ¶  
21 17; Morris Decl., Ex. 2 (order of removal). The immigration judge’s order notes that Petitioner  
22 waived the opportunity to apply for asylum, withholding of removal and withholding under the  
23 convention against torture and adjustment of status and that his Lawful Permanent Status was  
24 terminated. *Id.* Petitioner and DHS both waived appeal of this order. *Id.*

1 On September 2, 2025, Petitioner refused to fill out and sign his travel documents when  
2 requested to do so and stated he should not be in the NWIPC and wants to be deported. *Id.* ¶ 18.  
3 On November 14, 2025, ERO submitted the Travel Document Request (“TDR”) packet after  
4 Petitioner’s cooperation to Removal and International Operations (“RIO”) for review and to then  
5 be forwarded to the government of Vietnam by the ERO Attache in Vietnam. *Id.* ¶ 19.

6 The Government of Vietnam has agreed to increase cooperation with the United States  
7 and issue travel documents for its citizens. *Id.* ¶¶ 20-23. Though Petitioner stated in his petition  
8 that he believes ICE may be trying to remove him to a third country, that is not the case and  
9 Petitioner provides no evidence ICE is seeking to remove him to a third country. *See* Pet., pgs. 3,  
10 11-13, 21-23. Petitioner is a citizen of Vietnam, he was ordered removed to Vietnam in May 2025,  
11 Petitioner’s travel documents request has only been completed for the country of Vietnam,  
12 Vietnam has been cooperating in removal proceedings and agreed to issue travel documents for  
13 its citizens, and ICE is currently working to remove Petitioner solely to Vietnam. Brown Decl.  
14 ¶¶ 3, 17-25.

15 ICE anticipates Petitioner’s removal to Vietnam will occur in the reasonably foreseeable  
16 future due to Vietnam’s increased cooperation. *Id.* ¶¶ 20-23. ICE further believes that Petitioner’s  
17 travel document will be issued within 30 days of submission to the Vietnam Attache. Brown Decl.  
18 ¶ 22. For these reasons, ICE believes Petitioner’s removal will occur in the reasonably foreseeable  
19 future. *Id.* ¶ 24.

### 20 III. ARGUMENT

#### 21 A. Petitioner’s Detention is not Indefinite or Unconstitutionally Prolonged

22 Petitioner has not demonstrated that his detention has become “indefinite” or  
23 unconstitutional. In *Zadvydas*, the Supreme Court analyzed whether the potentially open-ended  
24 duration of detention pursuant to 8 U.S.C. § 1231(a)(6) is constitutional. The Court read an

1 implicit limitation of post-removal detention “to a period reasonably necessary to bring about that  
2 alien’s removal from the United States.” *Zadvydas*, 533 U.S. at 689. It was further specified that  
3 Section 1231(a)(6) does not permit indefinite detention. *Id.* Thus, “once removal is no longer  
4 reasonably foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699.

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

17 As of the date of this filing, Petitioner has been in custody for six months and nineteen  
18 days following his order of removal becoming administratively final on May 19, 2025.  
19 Petitioner’s case presents a straightforward *Zadvydas* analysis. Although Petitioner’s presumptive  
20 period has barely past (by nineteen days), Petitioner fails to demonstrate that there is good reason  
21 to believe that there is no significant likelihood of removal in the reasonably foreseeable future.

22 Indeed, ICE has been actively working to obtain a travel document. Brown Decl. ¶¶ 17-  
23 18. Despite Petitioner’s initial refusal to cooperate with ICE in obtaining his travel document,  
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1 ICE has prepared his travel document and submitted it to headquarters for review and then to be  
2 forwarded to Vietnam. *Id.*

3 Although Petitioner is correct that Vietnam has not yet issued him a travel document, ICE  
4 is in the process of obtaining a travel document to remove him to Vietnam. *Id.* Vietnam has  
5 increased the issuance of travel documents for its citizens this fiscal year, which demonstrate a  
6 good faith basis and intention to issue travel documents in this case. *Id.* ¶¶ 20-23. Further, Vietnam  
7 is accepting individuals for removal from the United States and ICE believes there is a significant  
8 likelihood of Petitioner's removal to Vietnam in the reasonably foreseeable future. *Id.* ¶ 24.

9 ICE anticipates receiving travel documents expeditiously because the government of  
10 Vietnam has agreed to issue travel documents within 30 days of a request being made. *Id.* ¶ 22;  
11 *see e.g., Nguyen v. Bondi et al.*, 2:25-cv-01833-JNW, Dkt. 19 (removal approximately 36 days  
12 following travel document submission to Vietnam). Indeed, it has issued travel documents in  
13 hundreds of cases just this fiscal year, including for at least 569 final order Vietnamese citizens  
14 as of September 11, 2025. *Id.* ¶ 23. Because of this increased cooperation with the government of  
15 Vietnam, ICE believes that Petitioner's removal will likely occur in the reasonably foreseeable  
16 future. *Id.* ¶ 24.

17 The fact that Petitioner does not yet have a specific date of anticipated removal does not  
18 make his detention indefinite. *Diouf v. Mukasey*, 542 F. 3d 1222, 1233 (9th Cir. 2008). Detention  
19 becomes indefinite in situations where the country of removal refuses to accept the noncitizen or  
20 if removal is legally barred. *Id.* There is no reason to believe that is the situation here.  
21 Consequently, Petitioner has failed to demonstrate a good reason to believe that there is no  
22 significant likelihood of his removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at  
23 701.

1 **B. Petitioner’s Due Process and Third Country Arguments are Speculative, Not Ripe**  
2 **for Review, and Irrelevant**

3 Petitioner’s arguments that he could be removed to a third country or that his detention  
4 violates due process are without merit, speculative, and not ripe for review.

5 First, there is no case or controversy regarding removal to a third country because there is  
6 no concrete indication that such removal to a third country will occur. The record contains no  
7 evidence supporting this claim. ICE is currently seeking a travel document solely to Vietnam, and  
8 there is no ongoing effort to remove Petitioner to any third country. *Id.* ¶¶ 17, 19, 25. Accordingly,  
9 this claim should be dismissed as premature.

10 Second, Petitioner concedes that his Due Process arguments concerning potential future  
11 redetention are speculative. *See* Pet., pg. 17. Petitioner does not allege that his February 2025  
12 detention was unlawful. *See* Pet., pgs. 17-19. His theory rests on a hypothetical chain of events:  
13 first, that the Court will grant the pending Petition, and second, that ICE would then elect to  
14 redetain him. *Id.*, pg. 17. This is speculation layered upon speculation. Such conjecture is not only  
15 irrelevant to the issues presently before the Court but also functions merely to obscure the  
16 governing legal analysis. Because no concrete or imminent controversy exists regarding any  
17 future detention, a *Mathews* analysis is unwarranted. *Mathews v. Eldridge*, 424 U.S. 319, 333–34  
18 (1976). There is no case or controversy regarding redetention because there is no concrete  
19 indication that such redetention will occur. The record contains no evidence supporting this claim  
20 beyond mere speculation. Accordingly, this claim should be dismissed as premature.

21 Even if his redetention were ripe for review—which it is not—the analysis is irrelevant. The  
22 *Mathews* framework and the cases Petitioner relies on, including *E.A.T.-B.*<sup>3</sup>, concern pre-order  
23 detention, not post-order detention under 8 U.S.C. § 1231(a), which is the statutory authority

24 <sup>3</sup> *E.A. T.-B. v. Wamsley*, No. CV25-1192-KKE, 2025 WL 2402130.  
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1 under which ICE currently detains Petitioners. The cases<sup>4</sup> Petitioner invokes in arguing untimely  
2 application of the *Mathews* factors are also inapposite. Each arises in the context of *pre-order*  
3 detention or under regulatory schemes wholly distinct from the *post-order* detention framework  
4 at issue here. Petitioner does not challenge that he is subject to an administratively final order of  
5 removal. As such, the authorities cited provide little meaningful guidance and serve primarily as  
6 a distraction from the controlling standards under *Zadvydas*.

7 **IV. CONCLUSION**

8 Petitioner's detention is neither indefinite nor unlawful; the record reflects that his  
9 removal remains significantly likely within the reasonably foreseeable future. Accordingly, there  
10 is no basis for the remedy Petitioner seeks. The Court should decline to order his release.

11 For all the reasons stated herein, Federal Respondents respectfully request that this Court  
12 deny the Petition and dismiss this matter.

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23 <sup>4</sup> 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 Dated this 8th day of December, 2025.

2 Respectfully submitted,

3 CHARLES NEIL FLOYD  
4 United States Attorney

5 *s/ Alexandria K. Morris*

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16 I certify that this memorandum contains 2,874  
17 words, in compliance with the Local Civil Rules.