

THE HONORABLE KYMBERLY K. EVANSON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SON HIANG HUYNH,

Petitioner,

v.

PAMELA BONDI, Attorney General of
the United States, et al.,

Respondents.

No. CV25-2371-KKE

**PETITIONER'S RESPONSE TO
RESPONDENT'S RETURN**

Noted on Motion Calendar:
December 15, 2025

**I. THE PRESUMPTIVE GRACE PERIOD FOR MR. HUYNH'S
DETENTION HAS ENDED, AND THERE IS GOOD REASON TO
BELIEVE THAT THERE IS NO SIGNIFICANT LIKELIHOOD OF HIS
REMOVAL IN THE REASONABLY FORESEEABLE FUTURE.**

Respondents contend that Mr. Huynh has not met his initial burden of showing his detention is indefinite under *Zadvydas v. Davis*, 533 U.S. 678 (2001). Dkt. 9 at 7. But “[w]hile the Government does not concede that Petitioner’s presumptively reasonable period [of detention] has ended,” dkt. 9 at 8, it also does not dispute the issue.

Mr. Huynh has been in ICE detention for 181 days as of the filing of this Response. *See* dkt. 10 (declaration of DHS Officer Jiarong Du) at 3, ¶ 10 (confirming that Mr. Huynh was arrested by ICE “[o]n or about June 17”). Mr. Huynh also recalls he was detained before his release on an Order of Release and Recognizance in 2001, but could not recall the exact period. *See* dkt. 1 at 4, ll. 3–5. Although the Government does not explicitly confirm his prior detention, it appears that he was in ICE custody from at least January 31 to March 8, 2002. Dkt. 10 at 2, ¶¶ 6–7. “Having been detained

1 for over six months, Huynh’s detention is not ‘presumptively reasonable,’” and he has
 2 met his initial burden of showing that his continued detention is unconstitutional.
 3 *Huynh v. Bondi*, No. CV25-2093-KKE, 2025 WL 3534210, at *4 (quoting *Zadvydas*,
 4 533 U.S. at 701) (W.D. Wash. Dec. 10, 2025).

5 Moreover, as Judge Robart and other courts have concluded, the “*Zadvydas*
 6 grace period end[s] six months following the entry of the order of [petitioner’s]
 7 removal.” *Tran v. Bondi*, No. CV25-1897-JLR, 2025 WL 3140462, at * 3 (W.D. Wash.
 8 Nov. 10, 2025). While the Government disagrees with this conclusion, it does not
 9 explain why it is incorrect, apart from a footnoted reference to its briefing in *Tran*.
 10 Dkt. 9 at 8 n.3. Other courts have agreed with Judge Robart. *See, e.g., Tadros v. Noem*,
 11 No. CV25-4108-EP, 2025 WL 1678501, at *3 (D.N.J. June 13, 2025) (finding that “six-
 12 month detention period under *Zadvydas*” began upon affirmance of removal order,
 13 rejecting argument that petitioner could not obtain habeas relief because he had not yet
 14 been in detention for six months); *Farez-Espinoza v. Chertoff*, 600 F.Supp.2d 488, 500
 15 (S.D.N.Y. 2009) (concluding that presumptively reasonable six-month period expired
 16 six months after entry of removal order, even though petitioner was not in custody for
 17 any of that period).

18 **II. THE GOVERNMENT HAS FAILED TO MEET ITS BURDEN OF**
 19 **SHOWING THAT MR. HUYNH’S REMOVAL IS SUBSTANTIALLY**
 20 **LIKELY IN THE REASONABLY FORESEEABLE FUTURE.**

21 With a petitioner’s preliminary showing of indefinite detention, the burden shifts
 22 to the Government to rebut that showing. *Zadvydas*, 533 U.S. at 701. To do that,
 23 Respondents rely almost entirely on representations that are irrelevant, unsupported, or
 24 inconsistent, and fall well short of meeting their burden.

25 The Government details Mr. Huynh’s criminal record, but it is irrelevant for
 26 purposes of deciding the *Zadvydas* issues. His record is what makes him removable, but
 it has no bearing on whether he is likely to be removed in the foreseeable future. *See*,

1 *e.g. Nguyen v. Bondi*, No. CV25-2024-TL, 2025 WL 3534168, at *5 (W.D. Wash. Dec.
 2 10, 2025) (rejecting argument that petitioner’s criminal history is relevant to *Zadvydas*
 3 issue).

4 More pertinently, Respondents maintain that “Vietnam is currently issuing travel
 5 documents within 30 days” after a document request is submitted to the Vietnamese
 6 government. Dkt. 10 at 3, ¶ 14. But “[n]otably, Respondents do not specify whether the
 7 30-day timeline pertains to pre-1995 Vietnamese immigrants.” *Huynh*, 2025 WL
 8 3534210, at *4. And, in other cases, the Government is now more vaguely representing
 9 that travel document requests (TDRs) are “typically” approved “within 1-3 months,”
 10 not 30 days. *Wana v. Bondi*, No. CV25-2321-RSL, dkt. 9 at 3, ¶ 19 (W.D. Wash. Dec.
 11 4, 2025) (declaration of ICE Deportation Officer Jiarong Du).

12 There is also evidence that the approval process can take much longer.
 13 Mr. Huynh’s petition set forth facts regarding removals to Vietnam, the Memorandum
 14 of Understanding (MOU) between it and the United States, and its implementation as it
 15 pertains to individuals like Mr. Huynh who left Vietnam before 1995. Dkt. 1 at 6–8. As
 16 this Court recently concluded, “Vietnam has long refused to repatriate Vietnamese
 17 nationals who came to the United States as refugees prior to 1995.” *Huynh*, 2025 WL
 18 3534210, at *1.

19 In addition, according to a declaration by Assistant Federal Public Defender
 20 Katie Hurrelbrink, at least as of October 31, 2025, many Vietnamese immigrants “have
 21 been in [ICE] detention for months without receiving a travel document,” and she has
 22 “never seen Vietnam respond to a travel document request within 30 days.” Ex. 1 at ¶¶
 23 5, 7 (submitted in *Nguyen v. Bondi*, No. CV25-1833-JNW, dkt. 15-1 at 3 (W.D. Wash.
 24 Oct. 31, 2025)).

25 The accompanying declaration of immigration specialist Tin Thanh Nguyen,
 26 which was filed in *Nguyen v. Scott*, 796 F.Supp.3d 703 (W.D. Wash. 2025), also casts

1 doubt on Respondents' representations. Ex. 2. Tin Nguyen explains that, as of July 31,
2 2025, he had "yet to see Vietnam issue a travel document within 30 days or less" for
3 individuals who arrived before 1995. Ex. 2 at ¶ 12. Rather, in his experience, "it can
4 take many months to get any answer from Vietnam about whether it will issue a travel
5 document." *Id.* The reasons for the indefinite delays in getting an answer were
6 summarized by Judge Cartwright in *Nguyen v. Scott*, where she found that "[t]he
7 process [for requesting travel documents] is highly dependent on the individualized
8 facts of each case, including whether the individual has any family remaining in
9 Vietnam, whether their Vietnamese identity can be verified, their criminal records, and
10 the manner in which they left Vietnam and came to the United States, among many
11 other factors." 796 F.Supp.3d at 723 (citing Tin Nguyen's declaration).

12 Making matters worse, the Government has been dilatory in seeking travel
13 documents for Mr. Huynh and offers no credible assurances that his removal will be
14 effectuated soon. Although Mr. Huynh has been in custody for more than six months,
15 the Government still has not submitted a TDR to Vietnam. Instead, it says the request is
16 "being reviewed at the HQ level," with no indication of when that review will be
17 completed. Dkt. 10 at 3, ¶ 13; *see Huynh*, 2025 WL 3534210, at *4 (noting there, in
18 granting petition, that "Respondents provide no guidance as to how long each ERO
19 review may take").

20 Whatever the timeframe, an even more fundamental issue is that Respondents
21 provide no basis for the Court to conclude that a TDR for Mr. Huynh will be approved
22 at all. As noted in *Nguyen v. Scott*, "[t]he Government has not provided any evidence of
23 Vietnam's eligibility criteria or why it believes Petitioner now meets it." 796 F.Supp.3d
24 at 726. The same is true here, and, as Judge Cartwright concluded in *Nguyen*, "[t]he
25 process [for requesting travel documents] is highly dependent on the individualized
26 facts of each case, including whether the individual has any family remaining in

1 Vietnam, whether their Vietnamese identity can be verified, their criminal records, and
2 the manner in which they left Vietnam and came to the United States, among many
3 other factors.” *Id.* at 723.

4 Here, Mr. Huynh has no family in Vietnam, no place to live if removed there,
5 and no means of supporting himself financially. He also has a criminal record, which
6 further complicates the prospects for removal. Respondents do not address how these
7 facts may affect his removability.

8 They also ignore the fact that Mr. Huynh has no birth certificate or other
9 documentation of Vietnamese citizenship. This means the Vietnamese government will
10 need to interview him and then decide if it will even recognize his citizenship.
11 Respondents ignore this additional complication and offer no information about when
12 an interview is likely to take place, or whether the Vietnamese government is even
13 doing citizenship interviews at this time. *Compare* declaration of ICE Deportation
14 Officer Du in *Wana v. Bondi*, No. CV25-2321-RSL, dkt. 9 at 3, ¶ 19 (“[f]or aliens
15 without documentation of Vietnamese citizenship, the Vietnamese government will
16 conduct an interview), *with* dkt. 10 (Du’s declaration in this case, which does not
17 mention the citizenship interview).

18 While Respondents do state that there have been 569 removals of Vietnamese
19 citizens to Vietnam as of September 11, this tells the Court little. Dkt. 10 at 4, ¶ 17.
20 Respondents do not disclose how many detainees with no proof of citizenship were
21 accepted by Vietnam. Nor do they disclose the total number of detainees involved; how
22 many of these removals involve detainees who arrived before 1995; or how many
23 individuals were *not* removed despite requests to Vietnam for travel documents. *See*
24 *also Abubaka v. Bondi*, No. CV25-1889-RSL, 2025 WL 3204369, at *5 (W.D. Wash.
25 Nov. 17, 2025) (cleaned up) (granting release when, unlike here, a complete travel
26 document request had already been submitted to Vietnam because, in part, “this Court

1 ‘does not know if Vietnam has acknowledged or otherwise responded to the request’
2 and ‘does not know how long Petitioner may have to wait for travel documents—if
3 Vietnam even decides to provide them.’”).

4 Finally, Respondents suggest, almost as an afterthought, that removal is always
5 reasonably foreseeable, unless removal to the specified country is impossible. Dkt. 9 at
6 9 (citing to *Diouf v. Mukasey*, 542 F. 3d 1222, 1233 (9th Cir. 2008)). But *Diouf*
7 involved a pending judicial review of the removal order itself, and the petitioner’s
8 detention was prolonged solely because the Ninth Circuit had issued a stay. ICE had
9 arrested Diouf after he failed to depart voluntarily. 542 F.3d at 1226. ICE then “made
10 arrangements for Diouf to depart for Senegal on May 26, 2005, but, after Diouf refused
11 to leave on that date, continued to detain him.” *Id.* Diouf fought off deportation by
12 filing two motions to reopen and by obtaining a series of stays of removal from the
13 Ninth Circuit. *Id.*

14 The reason for Diouf’s prolonged detention and the only obstacle to his removal
15 was his own actions, including his pending petition before the Ninth Circuit and the
16 attendant stay order. Diouf’s detention was thus not open-ended (or indefinite), since it
17 would terminate upon his withdrawal of challenges to the removal order or a decision
18 by the Ninth Circuit. The import of *Diouf*, therefore, is that a petitioner cannot obtain
19 release under *Zadvydas* if the reason for his detention is their own effort to obtain
20 review of the removal order. The court’s holding is that he could not obtain *Zadvydas*
21 relief unless he shows he would be “unremovable even if the government defeated his
22 petition for review.” *Id.* at 1233. Since Mr. Huynh has no pending legal challenge to the
23 removal order, *Diouf* has no application here.

24 The *Diouf* court also cited *Prieto-Romero v. Clark*, 534 F.3d 1053, 1063 (9th
25 Cir. 2008), where, similarly, “repatriations to Prieto–Romero’s country of origin,
26 Mexico, are routine and . . . the government stands ready to remove Prieto–Romero as

1 soon as judicial review is complete.” It is in situations such as those, when the delay is
 2 caused only by a petitioner seeking judicial review, that removal is deemed
 3 unforeseeable only when “he would be unremovable even if the government defeated
 4 his petition for review.” *Diouf*, 542 F. 3d at 1233. These cases do not apply to situations
 5 such as Mr. Huynh’s, where the delay is Respondents’ inability to remove him in the
 6 reasonably foreseeable future, not an ongoing challenge to removal.

7 In short, Respondents have failed to show that Mr. Huynh is likely to be
 8 removed to Vietnam at all, let alone within the reasonably foreseeable future. The Court
 9 should therefore find that his continued detention has been unconstitutionally
 10 prolonged.

11 **III. MR. HUYNH’S DUE PROCESS RIGHTS WERE VIOLATED BY HIS** 12 **RE-DETENTION.**

13 Respondents offer little in the way of response to the due process violations
 14 alleged in Mr. Huynh’s petition. Dkt. 1 at 9–14. All but dispositively, they ignore the
 15 fact that ICE revoked Mr. Huynh’s order of supervision and arrested him without a
 16 hearing. Dkt. 9 at ¶ 9. As stated in *Perera v. Jennings*, No. CV21-4136-BLF, 2021 WL
 17 2400981, at *5 (N.D. Cal. June 11, 2021), “the interest at stake is not whether the
 18 Government may detain [a noncitizen after releasing him], but whether they may do so
 19 without providing him an individualized bond hearing.” Moreover, “the Government’s
 20 interest in detaining petitioner without a hearing is ‘low.’” *Carballo v. Andrews*, No.
 21 CV25-978-KES-EPG, 2025 WL 2381464, *8 (E.D. Cal. Aug. 15, 2025) (cleaned up).

22 Although it has not tried to do so here, the Government could not justify
 23 Mr. Huynh’s detention by claiming it could have met its burden at a re-detention
 24 hearing. The remedy for the due process and procedural violations that arise from
 25 failing to hold a hearing is release. *E.A.T.-B. v. Wamsley*, 795 F.Supp.3d 1316, 1322-23
 26 (W.D. Wash. 2025) (granting petition and ordering that petitioner be released

1 immediately and not re-detained until an immigration court hearing is held with
 2 adequate notice); *see also, e.g., Ledesma Gonzalez v. Bostock*, 2025 WL 2841574, at *9
 3 (W.D. Wash. Oct. 7, 2025) (same).

4 **IV. AS NUMEROUS COURTS HAVE HELD, MR. HUYNH'S CLAIMS**
 5 **REGARDING REMOVAL TO A THIRD COUNTRY ARE RIPE,**
 6 **CONTRARY TO THE GOVERNMENT'S CONTENTION, WHICH IS**
 7 **UNSUPPORTED BY ANY ON-POINT AUTHORITY.**

8 The Government asserts, without citation to relevant authority, that this Court
 9 should deny Mr. Huynh's request for an order precluding ICE from removing him to a
 10 third country because ICE has no current plan to remove him to any country other than
 11 Vietnam. Dkt. 9 at 6-7. A similar argument was rejected in *Nguyen v. Scott*.

12 There, the Government also represented that it was seeking only to remove the
 13 petitioner to his home country of Vietnam and stipulated that it would not attempt to
 14 remove him to any other country unless Vietnam rejected him. 796 F.Supp.3d at 737.
 15 The court was unpersuaded, explaining that "the Ninth Circuit has found such voluntary
 16 promises insufficient" to eliminate the potential irreparable injury that petitioner could
 17 face if the promise was withdrawn, particularly given the underlying allegations that
 18 third party removals were being conducted rapidly and without an opportunity for due
 19 process. *Id.* at 737-38.

20 And the court in *Louangmilith v. Noem*, No. CV25-2502-JES-MSB, 2025 WL
 21 2881578 (S.D. Cal. Oct. 9, 2025), rejected the Government's exact argument here that
 22 "this situation is not ripe for adjudication because ICE is not seeking to remove
 23 Petitioner to a third country." *Id.* at *4. Despite the Government's representations, the
 24 court, citing to *Nguyen*, stated it was "more persuaded by Petitioner's arguments" that
 25 "by the time [the claims] are ripe by the government's argument, it will be too late for
 26 the individuals to meaningfully challenge the removal." *Id.* (granting petition on claim
 that ICE should be prevented from removing petitioner to a third country without due

1 process); *see also Hambarsonpour v. Bondi*, No. CV25-1802-RSM, 2025 WL 3251155,
2 at *5 (W.D. Wash. Nov. 21, 2025) (rejecting Government's ripeness argument).

3 In addition, the events cited in Mr. Huynh's petition, dkt. 1 at 18–21,
4 demonstrate that the Government has undertaken rapid third-country removals without
5 the process required by its own regulations, further showing that such an action against
6 him is sufficiently likely to render the matter ripe.

7 Finally, since Respondents have provided no substantive response to
8 Mr. Huynh's petition on the issue of third-country removal, they have waived the issue.
9 This Court should grant the relief Mr. Huynh has requested regarding third-country
10 removal. *See also Abubaka*, 2025 WL 3204369, at *7–8 (ruling in petitioner's favor on
11 merits as to both due process and punitive nature of third-country removal).

12 **V. CONCLUSION**

13 The Court should grant Mr. Huynh's petition on all grounds and grant the
14 requested relief, including his immediate release.

15 DATED this 15th day of December 2025.

16 Respectfully submitted,

17 *s/ Colin Fieman*

18 Attorney for Son Hoang Huynh
19
20
21
22
23
24
25
26