

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA**

TRUNG HUY HUU NGUYEN,)	
)	
Petitioner,)	
)	
v.)	CIV-25-1415-JD
)	
PAMELA BONDI, et al.,)	
)	
Respondents.)	

**RESPONSE TO PETITIONER’S OBJECTION
TO THE REPORT AND RECOMMENDATION**

Respondents,¹ pursuant to the Court’s Order (Doc. 24), and while expressly reasserting the points made in their Response (Doc. 11), respond to the Petitioner’s Objection (Doc. 23) to the Report and Recommendation (R&R) entered on January 20, 2026 (Doc. 22), and state:

As of February 9, 2026, travel documents have been sent for final processing and issuance of instruction to effectuate Petitioner’s removal to Vietnam. *See* Exhibit 1 (McGettrick Decl.). Petitioner’s removable flight is anticipated to occur within 45. *Id.* These recent developments further support the R&R’s conclusion that there is a significant likelihood of Petitioner’s removal in the reasonably foreseeable future and fundamentally undermine Petitioner’s contentions to the contrary. *See, e.g.*, Objection at 16 (asserting the lack of a travel document evidences removal is not likely). Indeed, Petitioner fails to point to any other current impediment to his removal.

¹ Respondent Scarlet Grant, Warden of the Cimarron Correctional Center, is not a federal official and this response is therefore not filed on her behalf.

As such, Petitioner is left to argue that, despite the significant likelihood of his removal, he should be released due to alleged violations of regulatory provisions governing redetention. For the reasons previously stated in the Response (Doc. 11) and the R&R (Doc. 22), Respondents dispute Petitioner's assertion of violations. But more fundamentally, Petitioner's assertions are unmoored to his due process claim. Indeed, Petitioner notably fails to explain how his detention would be administered differently if the Respondents followed his understanding of the regulations.

That is significant. The crux of Petitioner's argument is that detention regulations are akin to strict liability such that any deviation warrants release as a due process violation. But that contention skips the step of articulating how an alleged regulatory violation affects the due process in some specific way in this case. For instance, Petitioner does not explain what additional information he would have communicated during his interview had he not elected to waive it. Nor does he explain how that unstated information would affect the determination on whether there is a significant likelihood of Petitioner's removal in the reasonably foreseeable future. Yet he suggests that permitting Petitioner to waive his interview is a due process violation warranting release. Objection at 13. In short, Petitioner skips several analytical steps in his due process analysis.

Indeed, Petitioner's argument divorces the purpose of noncitizen detention and the governmental interest supporting it, interjecting regulatory compliance as the standard. But the logic of *Zadvydas* suggests that, where immigration detention is concerned, what matters is not the length of detention, but rather the relationship between detention and the governmental interest supporting it. Where an alien has been ordered removed but is

practically unremovable (as was the case with the petitioners in *Zadvydas*), detention no longer bears a “reasonable relation to the purpose for which the individual [was] committed.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Thus, detention becomes non-viable when it is no longer moored to the governmental interest supporting it, not when it simply goes on for too long. *See id.*; *see also Demore v. Kim*, 538 U.S. 510, 528-29 (2003) (mandatory detention pending removal proceedings under § 1226(c) has “a definite termination point” and is supported by the governmental interest of “preventing deportable criminal aliens from fleeing prior to or during their removal proceedings”); *Banyee v. Garland*, 115 F.4th 928, 932 (8th Cir. 2024) (where immigration detention is concerned, “[t]he why, in other words, is more important than how long.”). Likewise, a focus on regulatory compliance, without more, is unmoored from the governmental purpose of detention.

This Court’s prior ruling in *Nguyen v. Bondi*, 25-cv-1204-JD, Doc. 20 (W.D. Okla. Dec. 31, 2025), properly recognized that post-final-order-removal detention is measured by § 1231 and *Zadvydas* alone. While the Objection takes issue with that decision in passing (Objection at 2-3²), it does not substantively engage with its holdings and therefore waives the same. As such, there is no basis to grant habeas relief for the regulatory violations asserted, even if assumed true.

² Indeed, Petitioner seems to argue that a Tenth Circuit order granting release pending appeal in a different case somehow evidences that *Nguyen* is wrongly decided. Putting aside the false premise that the grant of a motion is indicative of the appeal result in the other case, let alone in *Nguyen*, it is nonetheless notable that the Tenth Circuit just *denied* that same motion for release in the appeal of *Nguyen*. *See Nguyen v. Bondi*, No. 26-6004, Doc. 14, (10th Cir. Feb. 6, 2026).

Accordingly, Respondents respectfully request that the Court deny the Petition and dismiss this case.

Dated: February 9, 2026

Respectfully submitted,
ROBERT J. TROESTER
United States Attorney

/s/ Scott Maule
Scott Maule (OBA 31760)
Assistant U.S. Attorney
United States Attorney's Office
Western District of Oklahoma
210 Park Avenue, Suite 400
Oklahoma City, OK 73102
(405) 553-8832/8700
scott.maule@usdoj.gov