

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DANG PHAM,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

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CIVIL NO. 4:25-CV-5765

FEDERAL RESPONDENTS' MOTION FOR SUMMARY JUDGMENT

The Government¹ files this motion for summary judgment in response to the Court's Order for Expedited Answer (Dkt. 5) to the pending petition for writ of habeas corpus 28 U.S.C. § 2241, challenging detention after an order of removal (Dkt. 1). The Government requests that the Court grant Court grant the Government judgment as a matter of law under Federal Rule of Civil Procedure 56 and dismiss the pending petition for writ of habeas corpus.

I. NATURE AND STAGE OF THE PROCEEDINGS

Petitioner is an immigration detainee in the custody of U.S. Immigration and Customs Enforcement ("ICE") at the detention center in Conroe, Texas. (Dkt. 1 at 11).

Petitioner is a native and citizen of Vietnam awaiting removal from the United States

¹ The proper respondent in a habeas petition is generally the person with custody over the petitioner. 28 U.S.C. § 2242; *see also* § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 435, 124 S.Ct. 2711, 159 L.Ed.2d 513 (2004). However, it is the named federal respondents, not the named warden in this case, who make the custodial decisions regarding aliens detained in immigration custody under Title 8 of the United States Code.

pursuant to an administratively final removal order. (Dkt. 1 at 1-2). Therefore, the Petitioner has exhausted administrative remedies. At some point after Petitioner was ordered removed, he was placed on an Order of Supervision. (Dkt. 1 at 2). On or about September 26, 2025, Petitioner was re-detained. (Dkt. 1 at 2). Petitioner filed the pending habeas petition on December 2, 2025, alleging that he seeks “only to be released until a travel document is obtained that will allow for Petitioner’s prompt deportation.” (Dkt. 1 at 4).

II. STANDARD OF REVIEW

A. Federal Rule of Civil Procedure 56

Summary judgment is appropriate where the pleadings and evidence demonstrate that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). Materiality is determined from the governing substantive law. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986). Disputes over facts that may affect the outcome of the case according to the substantive law are “material” and a dispute is “genuine” if the evidence allows a reasonable jury to return a verdict for the nonmoving party. If the moving party meets its burden, the non-moving party must show a genuine issue of material fact exists. *Celotex*, 477 U.S. at 322; *Anderson*, 477 U.S. at 256.

III. FACTUAL SUMMARY

Petitioner entered the United States on July 31, 1975 as an Indochinese refugee. (Dkt. 1 at 1); Govt. Ex. 1. Petitioner was adjusted to a Lawful Permanent Resident

("LPR") on June 13, 1978. Govt. Ex. 1. Petitioner alleges that he is subject to the 2020 Memorandum of Understanding between Vietnam and the United States relating to repatriation of pre-1995 Vietnamese immigrants. (Dkt. 1 at 1-2).

On June 2, 1988, the Petitioner was convicted of Assault in the 252nd Jefferson District Court and sentenced to a \$200 fine. Govt. Ex. 1. On December 17, 1990, the Petitioner was convicted of Aggravated Assault in the 252nd Jefferson District Court and sentenced to 4 years' probation. Govt. Ex. 1. On February 28, 1992, the Petitioner was convicted of Aggravated Assault with a deadly weapon in the 252nd Jefferson District Court and sentenced to 10 years' imprisonment. Govt. Ex. 1.

The Petitioner was ordered removed from the United States on May 27, 1998. (Dkt. 1 at 2); Govt. Ex. 1. On June 8, 1998, Petitioner appealed his removal order, and his appeal was dismissed on October 20, 1999, rendering his removal order administratively final. (Dkt. 1 at 2); Govt. Ex. 1. On February 9, 2001, the Petitioner was released on an Order of Supervision. (Dkt. 1 at 2); Govt. Ex. 1. On or about September 26, 2025, ICE re-detained Petitioner and transported him to the Montgomery Processing Center. (Dkt. 1 at 2); Govt. Ex. 1. On October 6, 2025, the Petitioner was served an I-229 instruction sheet to assist with obtaining travel documents. Govt. Ex. 1. On October 7, 2025, the Petitioner was served the Notice to Alien of File Custody Review. Govt. Ex. 1. On October 30, 2025, a request for travel documents on behalf of Pham, Dang was sent to Vietnam. Govt. Ex. 1.

IV. ARGUMENT

A. The Petitioner is Lawfully Detained, and the Removal Period has Been Lawfully Extended

The Petitioner is in immigration custody subject to a removal order that became final on October 29, 1999. Govt. Ex. 1. Under *Zadvydas v. Davis*, it was presumptively constitutionally reasonable for the petitioner to be detained for six months after the final order of removal was entered. *See Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). Further, Petitioner's removal period has been lawfully extended for a reasonable time in order to effectuate his removal, as permitted under *Zadvydas*. *Id.* The Government is legally permitted to re-detain the Petitioner when, in ICE's discretion, "it is appropriate to enforce a removal order." *See Alam v. Nielsen*, 312 F.Supp.3d at 582 (quoting 8 C.F.R. § 241.4(l)(2)(iii)).

The Petitioner makes conclusory claims without evidence that no travel document has been requested and that the Petitioner's removal is unlikely to occur in the reasonably foreseeable future. (Dkt. 1 at 4-5). Therefore, the petition is ripe for dismissal. *Andrade v. Gonzalez*, 459 F.3d 538 (5th Cir. 2006) (acknowledging the petitioner's initial burden of proof where claim under *Zadvydas* was without merit because it offered nothing beyond the petitioner's conclusory statements suggesting that removal was not foreseeable). Contrary to Petitioner's assertions, a request for the Petitioner's travel documents has been made, and there is no indication of any impediment to the Petitioner's removal in the reasonably foreseeable future. Govt. Ex.

1. Removal is not “reasonably foreseeable” in cases “where no country would accept the detainee, the country of origin refused to issue the proper travel documents, the United States and the country of origin did not have a removal agreement in place, or the country to which the deportee was going to be removed was unresponsive for a significant period of time.” *Alam v. Nielsen*, 312 F. Supp. 3d 574, 581 (S.D. Tex. 2018) (J. Ellison) (citation omitted). The Petitioner cannot meet the standard to show that any such barriers currently bar his removal. There is no evidence that currently, no country would accept the Petitioner, or that Vietnam, the country of origin, refused to issue the Petitioner travel documents after the most recent request. Further, there is no evidence of the lack of a removal agreement between the United States and Vietnam, and there is no evidence that the country to which the Petitioner will be deported has been unresponsive for a significant period of time. The Petitioner’s conclusory claims, without supporting evidence, are insufficient to show entitlement to habeas relief.

V. CONCLUSION

For the reasons stated above, the Court should grant judgment as a matter of law in the Government’s favor and dismiss the instant petition for writ of habeas corpus.

Dated: December 19, 2025

Respectfully submitted,

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By: /s/ Catina Haynes Perry

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CERTIFICATE OF SERVICE

I certify that on December 19, 2025, the foregoing was filed and served on counsel of record through the Court's CM/ECF system.

/s/ Catina Haynes Perry
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Assistant United States Attorney