

ERIC GRANT
United States Attorney
JOSHUA B. BANISTER
Assistant United States Attorney
2500 Tulare Street, Suite 4401
Fresno, CA 93721
Telephone: (559) 497-4000
Facsimile: (559) 497-4099

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

VU QUOC PHAM,

Petitioner,

v.

WARDEN, ET AL.,

Respondents.

CASE NO. 1:25-CV-1873-DC-AC (HC)

RESPONDENTS' OPPOSITION TO
PETITIONER FOR WRIT OF HABEAS
CORPUS

I. FACTUAL BACKGROUND

Petitioner is a citizen and national of Vietnam, who was admitted into the United States on December 1, 1989, at Seattle, Washington. Pet. At 2; Declaration of DO Armando Meneses ("Meneses Decl.") at ¶ 6. In 1994, Petitioner was convicted of the following crimes in Santa Clara County, California: 1) First degree burglary, in violation of section 459/460(a) of the California Penal Code ("CPC") for which Petitioner was sentenced to six years in prison; 2) Robbery, in violation of CPC § 211/212.5 (a), for which Petitioner was sentenced to one year and for months in prison; 3) False imprisonment, in violation of CPC § 236/237, for which Petitioner was sentenced to eight months in prison; and 4) False imprisonment, in violation of CPC § 236/237, for which Petitioner was sentenced to two years in prison. Meneses Decl. at ¶ 7.

Based on Petitioner's criminal history, on September 3, 1997, Petitioner was served with a Notice to Appear ("NTA") charging him with removability pursuant to Title 8 Unites States Code

1 section 1227(a)(2)(A)(iii)¹ as an alien, who at any time after admission, was convicted of an aggravated
2 felony as defined in Title 8 United States Code section 1101(a)(43). *Id.* at ¶ 8. On September 30, 1998,
3 an immigration judge ordered the Petitioner removed to Vietnam. *Id.* at ¶ 9; Removal Order, Ex. 1 to
4 Meneses Decl. A review of government records shows that there are no active appeals pending for
5 Petitioner before the Board of Immigration Appeals. Meneses Decl. at ¶ 9.

6 Petitioner went into Immigration and Customs Enforcement (“ICE”) custody pursuant to Title 8
7 United States Code section 1231(a)(6) on May 21, 1999. *Id.* at ¶ 10. ICE requested travel documents
8 from Vietnam to execute the removal order, but Vietnam did not issue travel documents. *Id.* at ¶ 11.
9 Then, on April 24, 2000, a federal district court ordered Petitioner’s release from custody because
10 Petitioner’s removal no longer appeared reasonably foreseeable. *Id.* at ¶ 12.

11 While released on an Order of Supervision (“OSUP”), on August 20, 2003, Petitioner was
12 convicted in the Superior Court of Santa Clara County, California of dissuading or attempting to
13 dissuade a witness in violation of CPC § 136.1(c)(1). *Id.* at ¶ 13. The court found that gang sentence
14 enhancements pursuant to CPC § 186.22(b)(1), (5) to be true. *Id.* Petitioner was sentenced to 25 years to
15 life with possibility of parole. *Id.*

16 Petitioner remained incarcerated in the custody of the State of California at Folsom State Prison
17 in Represa, California until July 14, 2025, when he was released. *Id.* at ¶ 14. ICE Enforcement and
18 Removal Operations (“ERO”) had been aware of Petitioner’s incarceration and, after a brief interview
19 and review of the Petitioner’s file on the day of Petitioner’s release from state custody, ERO detained
20 Petitioner and placed him in ICE’s custody pursuant to section 1231(a)(6). *Id.* at ¶ 15. Petitioner was
21 served with a Notice of Revocation of Release. Revocation of Release, Ex. 2 to Meneses Decl.

22 On October 9, 2025, Petitioner was served with a Notice to Alien of File Custody Review, which
23 informed him that ICE would review his case for consideration of release on OSUP on October 14,
24 2025. Meneses Decl. at ¶ 17. On October 15, 2025, Petitioner was served with a Decision to Continue
25 Detention, which informed Petitioner that ICE had determined that he would not be released from
26

27 ¹ For consistency with other statutory citations, this response will cite to the respective United
28 States Code sections of the Immigration and Nationality Act (“INA”) rather than as those sections are
enumerated in the INA. For instance, section 1227 of Title 8 is section 237 of the INA.

1 custody. *Id.* at ¶ 18. The notice informed Petitioner that he had failed to demonstrate that, if released, he
 2 would not pose a danger to the community, to the safety of other persons, or to property and that he
 3 would not pose a risk of flight pending his removal from the United States. *Id.* at ¶ 18; Decision to
 4 Continue Detention, Ex 3 to Meneses Decl. The Petitioner declined to provide an interview with ERO to
 5 support his release from custody. *Id.* Further, on November 11, 2025, Petitioner was served with a
 6 Notice to Alien of Interview for Review of Custody Status. *Id.* at ¶ 19; Notice of Interview, Ex 4 to
 7 Meneses Decl. This notice informed Petitioner an interview was scheduled on November 20, 2025 to
 8 determine whether he may be recommended for release. Petitioner declined to have a personal interview.
 9 *Id.*

10 Petitioner's removal is now imminent. Meneses Decl. at ¶ 16. ERO is actively working on
 11 obtaining a travel document for Petitioner and has initiated the process to expeditiously remove him
 12 from the United States pursuant to the Immigration Judge's final order of removal against Petitioner. *Id.*
 13 at 20. ERO completed a travel document request and will submit it to the Government of Vietnam soon.
 14 *Id.*

15 II. ARGUMENT

16 Petitioner is correct that Title 8 United States Code section 1213 authorizes his detention because
 17 he has a final order of removal. Pet. at 8, 13. An immigration judge ordered Petitioner's removal, and
 18 there was no appeal of the order, this such constitutes a final order of removal. 8 C.F.R. § 1241.1(b).
 19 Petitioner's final immigration order trigger's the 90-day removal period in which detention is mandatory
 20 pursuant to section 1231(a). Petitioner however incorrectly asserts that because the 90-day removal
 21 period has expired, his release is required.

22 First, Petitioner's detention is pursuant specifically to section 1231 expressly permits Petitioner's
 23 detention for longer than the 90-day period. "An alien ordered removed who is inadmissible under
 24 section 212 [8 USCS § 1182], removable under section 237(a)(1)(C), 237(a)(2), or 237(a)(4) [8 USCS §
 25 1227(a)(1)(C), (a)(2), or (a)(4)] or who has been determined by the Attorney General to be a risk to the
 26 community or unlikely to comply with the order of removal, may be detained beyond the removal period
 27 and, if released, shall be subject to the terms of supervision in paragraph (3)." 8 U.S.C. § 1231(a)(6).
 28 Petitioner qualifies for detention on both bases. He is inadmissible pursuant to section 1227(a)(2), and

1 because of his extensive criminal history, he has been found to be a danger to the community and a
2 flight risk.

3 Next, Petitioner's reliance on *Zadvydas v. Davis*, 533 U.S. 678 (2001) is misplaced. First,
4 Petitioner misunderstands the 6-month presumption as it applies to removal. Second, Petitioner fails to
5 make the showing required to show his detention is no longer reasonable.

6 The 6-month presumption is not a hard temporal threshold requiring release once crossed. The
7 Court recognized "review must take appropriate account of the greater immigration-related expertise of
8 the Executive Branch, of the serious administrative needs and concerns inherent in the necessarily
9 extensive INS efforts to enforce this complex statute, and the Nation's need to 'speak with one voice' in
10 immigration matters. *Zadvydas*, 533 U.S. at 700. The Court therefore provided the 6-month period as the
11 window in which detention is presumed reasonable. *Id.* at 700-01. The Court also pointed out that the
12 converse would not be true. "This 6-month presumption, of course, does not mean that every alien not
13 removed must be released after six months." *Id.* at 701.

14 Petitioner further fails to meet the standard the Court in *Zadvydas* set for when the six-month
15 period elapses. "After this 6-month period, once the alien provides good reason to believe that there is
16 no significant likelihood of removal in the reasonably foreseeable future, the Government must respond
17 with evidence sufficient to rebut that showing." At this juncture, Petitioner has not offered any evidence
18 for Respondents to rebut but only makes bald assertions without support. Pet. at 2. And even if the Court
19 were to consider such assertions sufficient to trigger Respondents' need to rebut, Respondents have
20 made the necessary showing through the accompanying declaration and exhibits.

21 Petitioner had been held in mandatory custody pursuant to section 1231 previously, but
22 ultimately had to be released because the likelihood of his removal was no longer foreseeable because
23 Vietnam would not issue travel documents. But that is not the case in this instance. ICE has represented
24 that his removal is imminent and that ERO is expediting procurement of his travel documents. Petitioner
25 provides no evidence that his removal is not reasonably foreseeable or that Vietnam has refused to issue
26 travel documents.

27 Further, Petitioner's factual circumstances changed after his previous release from ICE custody.
28 Already having an extensive and violent criminal history, following his release from ICE custody on an

OSUP, Petitioner was convicted of another state felony for which he was incarcerated until 2025. ICE could not revoke and detain Petitioner until after he completed his sentence of imprisonment on the new state felony. 8 U.S.C. § 1231(a)(4)(A). Committing new felony-level violations is grounds for the revocation of the OSUP. 8 U.S.C. § 1231(a)(3)(D). In this case, ICE reviewed Petitioner's file twice for possible re-release on OSUP. Petitioner refused to be interviewed both times in support of his release.

While Petitioner cites many other cases concerning Title 8 Code of Federal Regulations 241.4 and 241.13, Respondents' note that Petitioner's case is factually distinguishable from those cases because Petitioner received notices of his pending re-detention and custody re-evaluation and decline to participate in either, despite being given the opportunity. Section 241.13(i)(2) provides, "The Service may revoke an alien's release under this section and return the alien to custody if, on account of changed circumstances, the Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future. Thereafter, if the alien is not released from custody following the informal interview provided for in paragraph (h)(3) of this section, the provisions of § 241.4 shall govern the alien's continued detention pending removal." In this case, Petitioner fails to show how ICE failed to follow the regulation.

III. CONCLUSION

Accordingly, Petitioner's requests for relief² should be denied.

Dated: December 23, 2025

ERIC GRANT
United States Attorney

By: /s/ JOSHUA B. BANISTER
JOSHUA B. BANISTER
Assistant United States Attorney

² Respondents note that Petitioner spends the majority of his request on discussions of removal to third countries. Respondents respectfully submit that such bases for relief are without merit and borderline frivolous in this case. Petitioner is a citizen of Vietnam, and the immigration judge ordered his removal to Vietnam. ERO is actively procuring travel documents to remove Petitioner to Vietnam. Petitioner has made no evidentiary showing that removal to a third country is implicated let alone a possibility in this case. All evidence is to the contrary. Therefore, Petitioner should receive no relief on these grounds as they are not factually relevant to Petitioner's case.

Meneses Declaration

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Vu Quoc Pham,

Petitioner-Plaintiff,

v.

Warden, *et al.*,

Respondents-Defendants.

) Case No. 1:25-cv-01873 DC-AC

) **DECLARATION OF**
) **DEPORTATION OFFICER**
) **ARMANDO MENESES**

I, Armando Meneses, make the following statements under oath and subject to the penalty of perjury:

1. I am a Deportation Officer (DO) with the U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), in the Fresno sub-office of the San Francisco Field Office. I have been employed with ICE since February 2006. I currently serve as a DO and am assigned to the Detained Unit, overseeing aliens detained at the Golden State Annex, which is a detention facility located in McFarland, California, that is managed by the GEO Group, Inc. My responsibilities include, but are not limited to, tracking the progression of detained cases through removal proceedings, tracking detained cases with final removal orders, obtaining travel documents for aliens ordered removed, and effectuating the removal of aliens to their home countries.

2. My responsibilities include but are not limited to, placing aliens into removal proceedings and monitoring case progression, evaluating bond status, and enforcing final orders of removal.

3. I am familiar with ICE policies and procedures governing the detention and removal of aliens who lack lawful immigration status in the United States.

4. I am the DO assigned to the case of Mr. Vu Quoc Pham ("Petitioner"). The facts in this declaration are based on my personal knowledge; consultation with other DHS and ICE personnel; and

1 review of official documents, systems, and records maintained by DHS and ICE, and other relevant
2 sources during the regular course of my duties.

3 5. I have obtained and attached to my declaration true and correct copies of the following
4 documents from the above-named Petitioner's case file and records maintained by DHS, which will be
5 referenced as Exhibits ("Exh.") as follows:

6 Exh. 1: Petitioner's Removal Order dated September 30, 1998.

7 Exh 2: Notice of Revocation of Release dated July 14, 2025.

8 Exh. 3: Decision to Continue Detention served on October 15, 2025.

9 Exh. 4: Notice to Alien of Interview for Review of Custody Status served on November 11,
10 2025.

11 6. Petitioner is a native and citizen of Vietnam who was admitted into the United States on
12 December 1, 1989 at Seattle, Washington.

13 7. On or around February 7, 1994 Petitioner was convicted in the Superior Court of
14 California, County of Santa Clara of the following crimes:

15 a. First degree burglary, in violation of section 459/460(a) of the California Penal Code
16 ("CPC"). Petitioner was sentenced to six years in prison;

17 b. Robbery, in violation of CPC § 211/212.5 (a). Petitioner was sentenced to one year and
18 for months in prison;

19 c. False imprisonment, in violation of CPC § 236/237. Petitioner was sentenced to eight
20 months in prison; and

21 d. False imprisonment, in violation of CPC § 236/237. Petitioner was sentenced to two
22 years in prison.

23 8. On September 3, 1997, Petitioner was served with a Notice to Appear ("NTA") charging
24 him with removability under section 237(A)(2)(A)(iii) of the Immigration and Nationality Act ("INA"),
25 as an alien, who at any time after admission, was convicted of an aggravated felony as defined in INA §
26 101(a)(43) of the Act.

1 9. On September 30, 1998, an immigration judge ordered the Petitioner removed to
2 Vietnam. Exh. 1. A review of government records shows that there are no active appeals pending for
3 Petitioner before the Board of Immigration Appeals.

4 10. On or around May 21, 1999, Petitioner was placed in ICE's custody pursuant to INA §
5 241(a)(6).

6 11. On June 23, 1999, ICE ERO requested travel documents for Petitioner from the
7 government of Vietnam. The government of Vietnam did not issue travel documents for Petitioner.

8 12. On April 24, 2000, a federal district court ordered the Petitioner's release from custody
9 due to no reasonable likelihood that the alien could be removed in the foreseeable future. The next day,
10 Petitioner was released under an Order of Supervision ("OSUP").

11 13. On or around August 20, 2003, Petitioner was convicted in the Superior Court of Santa
12 Clara County, California of dissuading or attempting to dissuade a witness in violation of CPC §
13 136.1(c)(1). The court found that gang sentence enhancements pursuant to CPC § 186.22(b)(1), (5) to be
14 true. Petitioner was sentenced to 25 years to life with possibility of parole.

15 14. Petitioner came to the attention of ICE ERO pursuant to his incarceration at Folsom State
16 Prison ("FSP") located in Represa, California. Petitioner's release from FSP was scheduled on July 14,
17 2025.

18 15. The same day, after a brief interview and review of the Petitioner's file, ERO detained
19 Petitioner and placed him in ICE's custody pursuant to INA § 241(a)(6). Petitioner was served with a
20 Notice of Revocation of Release. Exh. 2.

21 16. Circumstances have changed in the Petitioner's case since he was released on an order of
22 supervision. The Petitioner was convicted of a serious crime that deems him a danger to the community
23 and a flight risk. Moreover, Petitioner's removal is now imminent.

24 17. On October 9, 2025, Petitioner was served with a Notice to Alien of File Custody
25 Review, which informed him that ICE would review his case for consideration of release on OSUP on
26 October 14, 2025.

27 18. On October 15, 2025, Petitioner was served with a Decision to Continue Detention,
28 which informed Petitioner that ICE had determined that he will not be released from custody at this

1 time. Additionally, the notice informed Petitioner that he had failed to demonstrate that, if released, he
2 will not pose a danger to the community, to the safety of other persons, or to property and that he will
3 not pose a risk of flight pending his removal from the United States. The Petitioner declined to have an
4 interview with ERO in support of his custody review. Exh 3.

5 19. On November 11, 2025, Petitioner was served with a Notice to Alien of Interview for
6 Review of Custody Status. This notice informed Petitioner an interview was scheduled on November 20,
7 2025 to determine whether he may be recommended for release. Petitioner declined to have a personal
8 interview. Exh 4.

9 20. ERO is actively working on obtaining a travel document for Petitioner and has initiated
10 the process to expeditiously remove him from the United States pursuant to the Immigration Judge's
11 final order of removal against Petitioner. ERO completed a travel document request and will submit it to
12 the Government of Vietnam soon.

13
14 I declare, under penalty of perjury, under 28 U.S.C. § 1746, that the foregoing is true and correct
15 to best of my knowledge, information, belief, and reasonable inquiry.

16
17 Dated: December 23, 2025,

18
19
20 _____
21 Armando Meneses
22 Deportation Officer
23 Enforcement and Removal Operations
24 U.S. Immigration and Customs Enforcement
25 U.S. Department of Homeland Security
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