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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HOA VAN NGUYEN,

Petitioner,

v.

SERGIO ALBARRAN, AND
TONYA ANDREWS,

Respondents.

CASE NO. 1:25-CV-01926-DJC-CSK

ANSWER TO PETITION FOR WRIT OF HABEAS
CORPUS AND MOTION TO DISMISS

I. INTRODUCTION

Petitioner Hoa Van Nguyen, who is subject to a final order of removal and detained pursuant to discretionary detention authority under 8 U.S.C. §1231(a)(6), seeks release from the United States Department of Homeland Security (“DHS”) Immigration and Customs Enforcement (“ICE”) custody pending efforts to effectuate his removal. Petitioner argues that ICE violated his substantive due process rights, his procedural due process rights, and legal procedures applicable to re-detention of persons previously released on an order of supervision. ICE determined that there was a likelihood of the Petitioner’s removal in the reasonably foreseeable future and provided a notice to the Petitioner of the revocation of release. The notice outlined with all procedures set forth in 8 C.F.R. § 241.13, and informed the Petitioner of the applicable procedures for his detention. Because ICE complied with the statute in revoking release, the Petitioner’s constitutional and statutory claims lack merit.

II. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner, a citizen of Vietnam was admitted into the United States on March 5, 1982 and became a Lawful Permanent Resident on March 16, 1984. *See* Dec. at 2. Following a conviction for an aggravated felony, on October 25, 2001, the Petitioner was ordered removed to Vietnam. *See* Dec. at 2, Dec. Ex. 2. On or about April 8, 2002, the Petitioner was release on an order of supervision pending his removal to Vietnam. *See* Dec. at 2. Thereafter, the Petitioner was arrested on multiple occasions. *See* Dec. at 2-3, Dec. Ex. 1.

On September 22, 2025, ICE took Petitioner into custody so that they may execute Petitioner's final removal order pursuant to 8 U.S.C. § 1231(a)(2). *See* Dec. at 3. On that same date, ICE revoked Petitioner's order of supervision, and provided the Petitioner with a Notice of Revocation of Release. *See* Dec. at 3; Dec. Ex. 3. The Notice informed the Petitioner of the process regarding an informal interview, his opportunity to respond to the reasons for revocation, and notification of future review of his detention, which would occur within approximately three months of the date that the Petitioner received the notice. *See* Dec. Ex. 3. On or about October 8, 2025, ICE began the process of requesting travel documents from Vietnam for the Petitioner, and the request is still pending. *See* Dec. at 3.

III. LEGAL FRAMEWORK

Congress enacted a multi-layered statute that provides for the continued civil detention of aliens pending removal. *See Prieto-Romero v. Clark*, 534 F.3d 1053, 1059 (9th Cir. 2008). The detention and removal of aliens, like Petitioner, who are subject to a final order of removal issued after removal proceedings, is governed by 8 U.S.C § 1231. Under this statute, there is a 90-day "removal period," during which detention is mandatory. 8 U.S.C. § 1231(a)(1), (2); *Zadvydas v. Davis*, 533 U.S. 678, 683 (2001). Once the mandatory removal period ends, ICE has discretion to continue detaining aliens pending their removal. 8 U.S.C. § 1231(a)(6).

In *Zadvydas*, the Supreme Court held that 8 U.S.C. § 1231(a)(6) did not authorize the government to detain a removable alien indefinitely beyond the 90-day statutory removal period; rather, the Court construed the statute to contain an implicit "reasonable time" limitation. *Zadvydas*, 533 U.S. at 682. The Court concluded that six months was a presumptively reasonable period of detention which should be read into the statute. *Id.* at 701. After six months, an alien is entitled to habeas relief only if he

1 can show “there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* The
2 Ninth Circuit has explained that *Zadvydas* requires an alien to show he is “stuck in a ‘removable-but-
3 unremovable limbo,’ as the petitioners in *Zadvydas* were.” *Prieto-Romero v. Clark*, 534 F.3d at 1063
4 (internal citation omitted). That is, the alien must show he “is unremovable because the destination
5 country will not accept him or his removal is barred by our own laws.” *Id.* (citing *Zadvydas*, 533 U.S. at
6 697).

7 While an alien's detention is no longer presumed to be reasonable after six months, “there is
8 nothing in *Zadvydas* which suggests that the Court must or even should assume that any detention
9 exceeding that length of time is unreasonable.” *Lema v. U.S. I.N.S.*, 214 F. Supp. 2d 1116, 1118 (W.D.
10 Wash. 2002), *aff'd sub nom. Lema v. I.N.S.*, 341 F.3d 853 (9th Cir. 2003).

11 For aliens previously released on an order of supervision, the alien returned to custody “if, on
12 account of changed circumstances, the Service determines that there is a significant likelihood that the
13 alien may be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2). Thereafter, the
14 C.F.R. provides the re-detained alien with procedures for periodic review of their detention. 8 C.F.R.
15 § 241.13(i)(3).

16 IV. ARGUMENT

17 Petitioner's detention is based upon the determination by ICE that there is a significant
18 likelihood of removal in the reasonably foreseeable future. *See* Dec. Ex. 3. ICE provided the Petitioner
19 with the a notice, as detailed in Exhibit 3 to the Declaration, detailing the reason for the revocation
20 (removal in the foreseeable future). The notice provided by ICE demonstrates that ICE complied with
21 the C.F.R. in revoking the Petitioner's supervision. Moreover, the Petitioner's revocation of
22 supervision, in late-September is still within approximately three months. The Petitioner's detention is
23 also still within the presumptively reasonable period, as it has not exceeded six-months. *Zadvydas*, 533
24 U.S. at 701. ICE's compliance with the C.F.R. and the C.F.R.'s review procedures cause the
25 Petitioner's substantive and procedural due process claims to fail.

26 As the Ninth Circuit explained, to sustain a due process claim an alien must show that they are
27 “stuck in a ‘removable-but-unremovable limbo,’ as the petitioners in *Zadvydas* were.” *Prieto-Romero*,
28 534 F.3d at 1063 (internal citation omitted). Here, the Petitioner has been re-detained pursuant to the

1 procedures set out in the C.F.R., ICE recently submitted requests for a travel document to Vietnam, and
2 the review of detention procedures still apply to the Petitioner's detention. Unlike the petitioners in
3 *Zadvydas*, the Petitioner has the ability for periodic review of his custody status under the C.F.R.
4 Therefore, his is not stuck in mandatory unreviewable detention, which is what *Zadvydas* sought to
5 correct.

6 Accordingly, Petitioner has failed to establish that there is no significant likelihood of removal in
7 the reasonably foreseeable future. Additionally, the review procedures afforded pursuant to the C.F.R.
8 render the Petitioner's substantive and procedural due process claims meritless.

9 **V. CONCLUSION**

10 Based on the foregoing, the Court should find that Petitioner's detention continues to be lawful
11 under 8 U.S.C. § 1231(a)(6), deny the Petition for Writ of Habeas Corpus, and dismiss the case because
12 the Petitioner's claims lack merit.

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14 Dated: January 9, 2026

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16 By: /s/Robert Abendroth
17 ROBERT ABENDROTH
Assistant United States Attorney
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