District Judge Richard A. Jones

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PHUC HUU NGUYEN, Petitioner, v. PAMELA BONDI, *et al.*, Respondents.	Case No. 2:25-cv-02723-RAJ FEDERAL RESPONDENTS' RETURN MEMORANDUM Noted for Consideration: January 20, 2026

I. INTRODUCTION

U.S. Immigration and Customs Enforcement ("ICE") detains Petitioner Phuc Huu Nguyen, a noncitizen subject to an administratively final order of removal, pursuant to Section 241 of the Immigration and Nationality Act ("INA"). *See* 8 U.S.C. § 1231. Petitioner brings this habeas litigation pursuant to 28 U.S.C. § 2241 to challenge the lawfulness of his immigration detention. Federal Respondents submit the following factual background as contained in the records of Petitioner's immigration case and as set forth in the Declaration of Deportation Brandon Curran ("Curran Decl."), as well as the relevant legal authority. Petitioner's claims for

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

injunctive relief and claims relating to the prospect of third country removal are improperly before this Court, and must be denied. ICE does not believe that an evidentiary hearing is necessary.

II. DETENTION AUTHORITIES AND REMOVAL PROCEDURES

The INA governs the detention and release of noncitizens during and following their removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). The general detention periods are generally referred to as "pre-order" (meaning before the entry of a final order of removal) and, relevant here, "post-order" (meaning after the entry of a final order of removal). *Compare* 8 U.S.C. § 1226 (authorizing pre-order detention) *with* § 1231(a) (authorizing post-order detention).

When a final order of removal has been entered, a noncitizen enters a 90-day "removal period." 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security "shall remove the [noncitizen] from the United States." *Id.* To ensure a noncitizen's presence for removal and to protect the community from noncitizens who may present a danger, Congress has mandated detention while removal is being effectuated:

> During the removal period, the [Secretary of Homeland Security][1] shall detain the [noncitizen]. Under no circumstance during the removal period shall the [Secretary] release [a noncitizen] who has been found inadmissible under section 1182(a)(2) or 1182(a)(3)(B) of this title or deportable under section 1227(a)(2) or 1227(a)(4)(B) of this title.

8 U.S.C. § 1231(a)(2).

Section 1231(a)(6) authorizes ICE to continue detention of noncitizens after the expiration of the removal period. Unlike Section 1231(a)(2), Section 1231(a)(6) does not mandate detention and does not place any temporal limit on the length of detention under that provision:

---

[1] Although 8 U.S.C. § 1231(a)(2) refers to the "Attorney General" as having responsibility for detaining noncitizens, the Homeland Security Act of 2002, Pub. L. No. 107-296 § 441(2), 116 Stat. 2135, 2192 (2002), transferred this authority to the Secretary of the Department of Homeland Security ("DHS"), of which ICE is a component. *See also* 6 U.S.C. § 251.

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

> [A noncitizen] ordered removed who is inadmissible under section 1182, removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or who has been determined by the [the Secretary of Homeland Security] to be a risk to the community or unlikely to comply with the order of removal, *may* be detained *beyond the removal period* and, if released, shall be subject to the terms of supervision in paragraph (3).

8 U.S.C. § 1231(a)(6) (emphasis added).

During the removal period, ICE[2] is charged with attempting to effect removal of a noncitizen from the United States. 8 U.S.C. § 1231(a)(1). Although there is no statutory time limit on detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen may be detained only "for a period reasonably necessary to bring about that [noncitizen's] removal from the United States." *Zadvydas*, 533 U.S. at 689. The Supreme Court has further identified six months as a presumptively reasonable time to bring about a noncitizen's removal. *Id.* at 701. The *Zadvydas* Court recognized that as the length of detention grows, a sliding scale of burdens is applied to assess the continuing lawfulness of a noncitizen's post-order detention. *Id.* (stating that "for detention to remain reasonable, as the period of post-removal confinement grows, what counts as the 'reasonably foreseeable future' conversely would have to shrink"). Thus, the Supreme Court implicitly recognized that six months is the *earliest* point at which a noncitizen's detention could raise constitutional issues. *Id.*

III. OSUP AND REVOCATION

Once it is determined that there is no significant likelihood of removal in the reasonably foreseeable future, DHS may release noncitizens on an Order of Supervision ("OSUP"). 8 C.F.R. § 241.13(h). The right to remain under an OSUP is not unlimited. Revocation of an OSUP is governed by 8 C.F.R. §§ 241.13(i), 241.4(l), and may occur either: (1) if the noncitizen "violates

---

[2] Under 8 C.F.R. § 241.2(b), ICE deportation officers are delegated the Secretary of Homeland Security's authority to execute removal orders.

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

any of the conditions of release," *id.* §§ 241.13(i)(1), 241.4(l)(1); or (2) if it is determined "that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future." *Id.* § 241.13(i)(2). Whether there is a significant likelihood that the alien may be removed in the reasonably foreseeable future is determined by assessing a series of factors, including "the history of the alien's efforts to comply with the order of removal, the history of the Service's efforts to remove aliens to the country in question or to third countries ... and the views of the Department of State regarding the prospects for removal of aliens to the country or countries in question." *Id.* § 241.13(f). Alternatively, certain designated officials may also revoke an OSUP as an act of discretion when revocation is in the public interest. *Id.* § 241.4(l)(2).

Section 241.13(i)(3) provides that upon revocation, the alien "will be notified of the reasons for revocation of his or her release" and will receive an "initial informal interview promptly" after being detained, to "afford the alien an opportunity to respond to the reasons for revocation stated in the notification." *Id.* § 241.13(i)(3). During such an interview, the noncitizen "may submit any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision." *Id.* "The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release." *Id.* Then, if the alien's request for release is denied, he or she "may submit a request for review of his or her detention . . . six months after [DHS's] last denial of release[.]" *Id.* § 241.13(j).

IV. PETITIONER PHUC HUU NGUYEN'S RELEVANT IMMIGRATION HISTORY

Petitioner is a native and citizen of Vietnam. *See* Declaration of Deportation Officer ("Curran Decl.") ¶ 4. On July 1, 1975, Petitioner entered the United States admitted as refugee, and ultimately adjusted to Lawful Permanent Resident status. *Id.*

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

Petitioner subsequently was convicted for multiple criminal offenses. *Id.* ¶¶ 5-7. On April 28, 1995, Petitioner was convicted in the Superior Court of Oregon, Multnomah County, for the offense of two counts of Possession of a Controlled Substance in the Second Degree. *Id.* ¶ 5. On March 20, 1997, Petitioner was convicted in the Superior Court of Clackamas County, Oregon, for two counts of Felon in Possession of a Firearm. *Id.* ¶ 6. On January 10, 1997, Petitioner was convicted in the Superior Court of Multnomah County, Oregon for Felon in Possession of a Firearm and Possession of a Controlled Substance in the Second Degree. *Id.* ¶ 7.

Based on these convictions, on July 21, 1997, Petitioner was issued a Notice to Appear ("NTA"), charging him with having been convicted of an aggravated felony under § 237(a)(2)(A)(iii), and charging him for having been convicted of a firearms-related offense under INA § 237(a)(2)(C). Declaration of Katherine G. ("Collins Decl."), Exh. A, NTA. Petitioner was released on bond pending decision in his case. Collins Decl., Exh. B, Release on Bond. Thereafter, on February 2, 1999, an immigration judge denied Petitioner's applications for relief, and ordered Petitioner removed from the United States to Vietnam. *Id.*, Collins Decl., Exh. C, Order of the IJ; Curran Decl. ¶ 8.

April 28, 1999, immigration officials detained Petitioner to effectuate his removal order. Collins Decl., Exh. D, Warrant of Removal; Curran Decl. ¶ 9. However, Petitioner was then released from custody on October 25, 1999, without his removal being effectuated. Curran Decl. ¶ 9. While released from custody, on November 15, 2000, Petitioner was convicted of in the United States District Court of Oregon for the charge of Conspiracy to Manufacture, Possess with Intent to Distribute Methamphetamine in violation of 21 U.S.C. Section 841(a) and (b). Curran Decl. ¶ 10. For this conviction, Petitioner was sentenced to 197 months. *Id.*

Upon completion on his criminal sentence, on September 9, 2011, Petitioner was taken back into immigration custody. Curran Decl. ¶ 11; Collins Decl., Exh. E, Form I-213. On October

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

19, 2011, Petitioner was released on an Order of Supervision ("OSUP") due to the inability to obtain travel documents to Vietnam. Curran Decl. ¶ 11. Collins Decl., Exhs. G, F, OSUP and OSUP Warning. Petitioner remained on that OSUP with a monthly check-in requirement until December 2025. Curran Decl. ¶ 12.

On December 11, 2025, ICE Enforcement and Removal Operations ("ERO") determined that there was now a significant likelihood of Petitioner's removal in the foreseeable future due to a change in circumstances and ongoing cooperation between the United States and Vietnam. Curran Decl. ¶ 13; Collins Decl., Exhs. K, L, OSUP Assessment, Notice of Revocation. Accordingly, ERO issued an I-200 Warrant of Arrest and served Petitioner. Curran Decl. ¶ 12; Collins Decl., Exh I, I-200 Warrant of Arrest. Petitioner was arrested by ERO, and subsequently a Deportation Officer with ERO conducted an initial informal interview with Petitioner, in which he gave an oral response to the Deportation Officer. Curran Decl. ¶ 12; Collins Decl., Exhs. H, I, 2025 I-213, Informal Interview. ERO then revoked Petitioner's OSUP. Curran Decl. ¶ 12; Collins Decl., Exh. L, Notice of Revocation. Petitioner was served the Notice of Revocation of Release on December 15, 2025, and Petitioner signed the notice. *See id.*

ERO is in the process of confirming the status of Petitioner's travel document request. Curran Decl. ¶ 14. Based on Deportation Officer Curran's recent prior experience, Vietnam continues to issue travel documents for their citizens, and based on this, ERO believes that Vietnam will ultimately issue travel documents for the Petitioner. *Id.* ¶ 16. As of the date of this writing, Petitioner has been detained 253 days post-removal order, in the aggregate.

Though Petitioner alludes through his petition that he believes ICE may be trying to remove him to a country other than Vietnam, Petitioner provides no facts to support for this claim. *See* Pet., pp. 16-22, 25-27. Petitioner is a citizen of Vietnam, he was ordered removed to Vietnam, and ICE is currently working to execute his removal to Vietnam. Curran Decl. ¶¶ 13-16.

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

V. PETITIONER'S REQUESTS FOR INJUNCTIVE RELIEF SHOULD BE DENIED

In addition to requesting his release from custody, Petitioner seeks an order prohibiting any future detention without a hearing before a neutral decisionmaker. Pet. at p. 27. Petitioner further requests an order that he may not be re-detained unless very specific conditions are met. *Id.* Pet. at p. 27-28. These are requests for injunctive relief and must be denied.

Where habeas petitioners raise Due Process claims and have also invoked the Court's jurisdiction under 28 U.S.C. § 1331, the Court has "the authority both to entertain [Petitioner's] constitutional challenges and to grant injunctive relief in response to them," "irrespective of the accompanying habeas petition." *Roman v. Wolf*, 977 F.3d 935, 941-42 (9th Cir. 2020). However, importantly, "[i]n seeking a permanent injunction, the moving party must convince the court that relief is needed: 'The necessary determination is that there exists some cognizable danger of recurrent violation, something more than the mere possibility which serves to keep the case alive.'" *Cummings v. Connell*, 316 F.3d 886, 897 (9th Cir. 2003) (*quoting United States v. W.T. Grant Co.*, 345 U.S. 629, 633 (1953)). Nowhere does Petitioner argue that any alleged violation is likely to recur. *See generally*, Pet. Accordingly, Petitioner's request for injunctive relief must be denied. *Indep. Towers of Wash. v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003) ("Our adversarial system relies on the advocates to inform the discussion and raise the issues to the court."); *see e.g. Suong v. Bondi*, No. 2:25-CV-02309-LK, 2025 WL 3718644, at *6 (W.D. Wash. Dec. 23, 2025) (denying petitioner's request for injunctive relief relating to restricting conditions of re-detention pursuant to the party presentation doctrine, because petitioner failed to raise the argument in habeas petition).

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

VI. PETITIONER'S CLAIMS RELATING TO THIRD-COUNTRY REMOVAL ARE NOT RIPE FOR REVIEW.

Under Article III of the Constitution, federal courts may adjudicate only actual, ongoing cases or controversies. *Deakins v. Monaghan*, 484 U.S. 193, 199, 108 S.Ct. 523, 528, 98 L.Ed.2d 529 (1988). "Ripeness is an Article III doctrine designed to ensure that courts adjudicate live cases or controversies and do not 'issue advisory opinions [or] declare rights in hypothetical cases.'" *Bishop Paiute Tribe v. Inyo Cty.*, 863 F.3d 1144, 1153 (9th Cir. 2017) (alteration in original) (quoting *Thomas v. Anchorage Equal Rights Comm'n*, 220 F.3d 1134, 1138 (9th Cir. 2000) (en banc)). The Supreme Court has stated that to meet the ripeness standard, plaintiffs must show either a specific present objective harm or the threat of specific future harm. *Laird v. Tatum*, 408 U.S. 1, 14 (1972). "A claim is not ripe for adjudication if it rests upon contingent future events that may not occur as anticipated, or indeed may not occur at all." *Texas v. United States*, 523 U.S. 296, 300 (1998) (internal citations omitted). "For a case to be ripe, it must present issues that are definite and concrete, not hypothetical or abstract." *Bishop,* 863 F.3d at 1153. This ripeness standard applies equally in the habeas context. *Cf. Spencer v. Kemna*, 523 U.S. 1, 16 (1998) (rejecting habeas petitioner's alleged consequences as "a possibility rather than a certainty or even a probability" and as "purely a matter of speculation").

Here, Petitioner's claims relating to his hypothetical future removal to a third country are without merit, speculative, and not ripe for review. Pet. at pp. 25-27. There is no case or controversy because there is no concrete indication that such removal to a third country will occur or is likely to occur. The record contains no evidence supporting the claim. To the contrary, the record evidence indicates that ICE is currently seeking a travel document only to Vietnam. Curran Decl. ¶¶ 13-16. Accordingly, Petitioner's requests for this court to limit or prohibit the Federal Respondents from removing Petitioner to any third country must be dismissed as premature. *See*

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

e.g., *Suong*, 2025 WL 3718644, at *6 ("[A]ssurances that the Government is only seeking travel documents for Cambodia (and possibly Thailand in the future)—signed under the penalty of perjury—and the lack of evidence put forth by [Petitioner] suggesting this statement is untrue as to his specific case, precludes the Court from finding a genuine threat of foreseeable enforcement."); *Huynh v. Bondi*, No. C25-2093-KKE, 2025 WL 3534210, at *5 (W.D. Wash. Dec. 10, 2025) ("Respondents have attested that they have no intent to remove [Petitioner] to any country other than Vietnam, and have begun the process of securing travel documents for his removal to Vietnam . . . At this juncture, [Petitioner's] claims are too speculative to form a live controversy as to the third country removal issue."); *Tran v. Bondi*, C25-01897-JLR, 2025 WL 3140462, at *4 (W.D. Wash. Nov. 10, 2025) ("[Petitioner's] claims based on the possibility of third-country removal are speculative and invite the court to decide claims that are not part of a live controversy.").

//

//

//

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

DATED this 13th day of January, 2026.

Respectfully submitted,

CHARLES NEIL FLOYD
United States Attorney

s/ Katherine G. Collins
KATHERINE G. COLLINS, CA #315903
Assistant United States Attorney
United States Attorney's Office
Western District of Washington
700 Stewart Street, Suite 5220
Seattle, Washington 98101-1271
Phone: 206-553-7970
Fax: 206-553-4067
Email: katherine.collins@usdoj.gov

Attorneys for Federal Respondents

I certify that this memorandum contains 2,523 words, in compliance with Local Civil Rules.