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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

QUOC HUYNH,

Petitioner,

vs.

SHIKHA DOSANJ, in her official capacity as Warden of the Federal Detention Center, Honolulu, Hawaii; POLLY KAISER, in his official capacity as Acting Field Office Director of the Immigration and Customs Enforcement, San Francisco Field Office; KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security; PAMELA BONDI, in her official capacity as Attorney General of the United States,

Respondents.

CASE NO. CV26-00014 SASP-WRP

RESPONDENTS SHIKHA DOSANJ, IN HER OFFICIAL CAPACITY AS WARDEN OF THE FEDERAL DETENTION CENTER, HONOLULU, HAWAII; POLLY KAISER, IN HIS OFFICIAL CAPACITY AS ACTING FIELD OFFICE DIRECTOR OF THE IMMIGRATION AND CUSTOMS ENFORCEMENT, SAN FRANCISCO FIELD OFFICE; KRISTI NOEM, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE DEPARTMENT OF HOMELAND SECURITY; PAMELA BONDI, IN HER OFFICIAL CAPACITY AS ATTORNEY GENERAL OF THE UNITED STATES' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28

U.S.C. § 2241 [ECF NO. 1];
DECLARATION OF LEON YET KUI HO;
CERTIFICATE OF SERVICE

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RESPONDENTS SHIKHA DOSANJ, WARDEN, FEDERAL DETENTION CENTER, HONOLULU, HAWAII, IN HER OFFICIAL CAPACITY; POLLY KAISER, ACTING FIELD OFFICE DIRECTOR, SAN FRANCISCO FIELD OFFICE, IMMIGRATION AND CUSTOMS ENFORCEMENT, IN HIS OFFICIAL CAPACITY; PAM BONDI, ATTORNEY GENERAL OF THE UNITED STATES, IN HER OFFICIAL CAPACITY; KRISTI NOEM, SECRETARY OF HOMELAND SECURITY, IN HER OFFICIAL CAPACITY'S
RESPONSE TO PETITION FOR WRIT
OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 [ECF NO. 1]

I. INTRODUCTION

Respondents hereby oppose the Petition in this 28 U.S.C. § 2241 habeas proceeding.¹ Petitioner QUOC HUYNH (“Petitioner”) has not provided a sufficient basis to show that his removal to Vietnam is not likely in the reasonably foreseeable future and the Petition should be denied. *See Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (stating that, after six months of detention, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the government must respond with evidence sufficient to rebut that showing).

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¹ Respondents move to strike and to dismiss all respondents other than Shikha Dosanj from this case. A petitioner seeking *habeas corpus* relief may only name the officer having custody of him as the respondent. *See* 28 U.S.C. § 2242; *Rumsfeld v. Padilla*, 542 U.S. 426, 430 (2004); *Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024).

II. BACKGROUND

A. Petitioner was First Ordered Removed in 2009 and Later Placed on DHS Supervision.

Petitioner is a native and citizen of Socialist Republic of Vietnam who was admitted to the United States on November 7, 1990 as a lawful permanent resident. Declaration of Leon Yet Kui Ho (“Decl.”), ¶¶6–7; ECF No. 1 ¶2. In the years immediately following his admission to the United States, Petitioner sustained several criminal convictions: Misdemeanor Forgery, in violation of California Penal Code (“Cal. PC”) § 470, in November 1994; Attempted First Degree Burglary, in violation of Cal. PC §§ 459, 460(a) and 664 in April 1995; and Burglary in the First Degree, in violation of Hawaii Revised Statute § 708-0810, in January 2001. Decl. ¶7, ECF No. 1 at ¶¶7–9.

In September 2007, Petitioner returned to the United States on a trip to Vietnam and applied for admission as a returning lawful permanent resident. Decl. ¶8, ECF No. 1 at ¶4. Petitioner was denied entry into the United States and was placed in removal proceedings pursuant to INA § 212(a)(2)(A)(i)(I), based on being an alien who has been convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime. *Id.*

In June 2009, an immigration judge denied Petitioner’s waiver of

inadmissibility or cancellation of removal and ordered Petitioner to be removed from the United States. Decl. 9; ECF No. 1 at ¶5. On or about July 2, 2009, Petitioner filed an appeal with the Board of Immigration Appeals (BIA) and his appeal was dismissed on November 16, 2009). Decl. ¶¶10–11. On or about December 27, 2010, Petitioner filed a Petition For Review with the Ninth Circuit and the Ninth Circuit denied the Petition For Review on November 1, 2012 (the Ninth Circuit Mandate was issued on December 26, 2012). *Id.* at ¶¶12–13.

B. Petitioner's Detention/Release

On or about January 30, 2013, the Immigration and Customs Enforcement, Enforcement and Removal Operations (ICE/ERO) mailed Petitioner a Form I-166, Notice to Removable Alien, to report to a United States Immigration Officer on February 19, 2013. *Id.* at ¶14. On February 19, 2013, Petitioner reported to the ICE/ERO office in Honolulu, Hawaii and he was arrested and detained. *Id.* at ¶15.

On or about April 29, 2013, a request for a travel document was mailed to ICE Headquarters for submission to the Embassy of the Socialist Republic of Vietnam. *Id.* at ¶16. On May 16, 2013, Petitioner was released from ICE/ERO custody on an Order of Supervision because there was No Significant Likelihood of Removal in the Reasonably Foreseeable Future (NSLRRFF). *Id.* at ¶17.

On or about June 10, 2025, ICE/ERO mailed Petitioner a Form G-56, Call-in Letter, to report to ICE/ERO on June 23, 2025. *Id.* at ¶18. On June 23, 2025,

Petitioner reported to the ICE/ERO office, where his order of supervision was revoked and he was arrested and detained. *Id.*

On or about November 28, 2025, a request for travel document was submitted to ICE Headquarters for submission to the Embassy of the Socialist Republic of Vietnam. *Id.* at ¶20. On or about December 12, 2025, Petitioner was served a Decision to Continue Detention letter informing him that he would not be released from custody. *Id.* at ¶21.

On or about December 17, 2025, Petitioner was interviewed by a panel of two deportation officers, pursuant to 8 C.F.R. § 241.4(i)(3), to allow Petitioner to submit information to support his release. *Id.* at ¶22. The panel recommended that Petitioner remained detained. *Id.*

On or about January 1, 2026, Petitioner's case was referred for further custody review and decision. *Id.* at ¶23. As of January 31, 2026, a travel document from the Socialist Republic of Vietnam has yet to be issued, nor has a future custody decision yet been received from ICE headquarters. *Id.*

C. Efforts To Remove Petitioner To The Socialist Republic of Vietnam

The Headquarters Office of the Removal and International Operations (“RIO”) for the Removal Management Division of ICE is responsible for assisting Enforcement and Removal Operation’s field offices in obtaining travel documents necessary to execute administratively final orders of removal. *Id.* at ¶¶23, 26. RIO

has been actively engaging the Government of Vietnam in pursuit of a travel document for Petitioner and employs an Assistant Attache for Removal (“AAR”) who works directly with the Government of Vietnam, specifically on repatriation efforts. *Id.* In November of 2025, the AAR presented the travel document request for Petitioner and this request remains pending. *Id.*

III. ARGUMENT

A. Petitioner Failed To Establish That He Is Entitled to Release From Detention

1. Detention Following a Final Order of Removal

When an alien becomes subject to a final removal order, 8 U.S.C. § 1231(a)(2) provides that the government “shall” detain the alien during a 90-day removal period. 8 U.S.C. § 1231(a)(2). After the removal period ends, the government “may” detain four categories of aliens: (1) those who, like Petitioner, are inadmissible to the United States pursuant to 8 U.S.C. § 1182; (2) those who are removable on certain specified grounds, including 8 U.S.C. § 1227, including felony convictions; (3) those who immigration authorities have determined “to be a risk to the community”; and (4) those immigration authorities have determined to be “unlikely to comply with the order of removal.” *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 578–79 (2022) (quoting 8 U.S.C. § 1231(a)(6)).

In *Arteaga-Martinez*, the Supreme Court held that 8 U.S.C. § 1231(a)(6) does not require a bond hearing before an Immigration Judge after six months of

detention in which the government bears the burden of proving by clear and convincing evidence that a noncitizen poses a flight risk or a danger to the community. *Arteaga-Martinez*, 596 U.S. at 580–81 (stating that the text of section 1231(a)(6) does not address or even hint at the requirement of a bond hearing after six months of detention). In *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001), however, the Supreme Court held that section 1231(a)(6) “does not permit indefinite detention” and instead “limits an alien’s post-removal-period detention to a period reasonably necessary to bring about that alien’s removal from the United States. The Supreme Court stated that, after six months of detention, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the government must respond with evidence sufficient to rebut that showing. *Id.* at 701. The Court was careful to note, however, that: “This 6–month presumption, of course, does not mean that every alien not removed must be released after six months. To the contrary, an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.*

In his Petition, Petitioner provides no evidence or reason to believe that there is no significant likelihood of his removal in the reasonably foreseeable future. Petitioner summarily asserts that his detention is indefinite because he cannot be deported to Vietnam due to his criminal history and his family’s support for South

Vietnam. ECF No. 1 ¶50. However, the relationship between the United States and Vietnam has been evolving. For example, in November 2020, the United States and Vietnam agreed to a process for the deportation of certain citizens of Vietnam who entered the United States prior to 1995. *See* November 21, 2020 Memorandum of Understanding Between the Department of Homeland Security and the United States of America and the Ministry of Public Security of the Socialist Republic of Vietnam on the Acceptance of the Return of Vietnamese Citizens who Arrived in the United States Before July 12, 1995 and Who Have Been Ordered Removed from the United States *available at* ALC-FOIA-Re-Release-MOU-bates-1-8-8-10-21.pdf (last visited Oct. 10, 2025).

In this case, the RIO is actively attempting to obtain travel documents for Petitioner to be removed. RIO made the request for travel documents in late November 2025 and is awaiting a response from the Vietnamese government. Based on the efforts of RIO and the evolving relations between the United States and the Vietnam, Petitioner is expected to be deported to Vietnam in the near future.

Petitioner's detention satisfies the standard articulated in *Zadvydas*, and thus, he has been provided with all that is constitutionally required in this context. Although Petitioner has been in custody for longer than six months, the six-month presumption articulated by *Zadvydas* does not entitle an alien to release after six

months. To the contrary, *Zadvydas* provides an alien may be held in confinement until it has been determined that there is no significant likelihood of his removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701. Here, Petitioner will be expeditiously removed from the United States once Vietnam issues the requested travel document.

2. Re-detention is permitted to effectuate removal.

The applicable regulations also expressly permit the re-detention of an alien like Petitioner for the purpose of effectuating his removal. The regulations provide that supervised release can be revoked for one of two reasons: (1) for a “violation of the conditions of release” or (2) for “revocation for removal,” the latter of which applies here. 8 C.F.R. §§ 241.13(i)(1), (2) (“Revocation of Release”).

Specifically, any alien “may be continued in detention for an additional six months in order to effect the alien’s removal.” 8 C.F.R. § 241.13(i)(1). In addition, “[t]he 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 there is a significant likelihood that the alien may be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2).

Once release is revoked and the alien is returned to custody, the alien will be notified of the reasons for the revocation and the Service will conduct an informal interview to allow the alien to respond to the reasons for revocation. 8 C.F.R.

§ 241.13(i)(3). The alien may submit any evidence or information he believes shows there is no significant likelihood he will be removed in the reasonably foreseeable future. *Id.* If the alien is not released from custody following the informal interview described in subparagraph (i)(3),² the provisions of 8 C.F.R. § 241.4 shall govern the alien's continued detention pending removal. *Id.* If the Service has denied an alien's request for release, the alien may submit a request for review of his detention six months after the Service's last denial of release under this section. 8 C.F.R. § 241.13(j).

If an alien is detained, the governing regulation provides, in pertinent part, that an alien will not be released from custody, if in the judgment of the Service travel documents can be obtained or are forthcoming. *See* 8 C.F.R. § 241.4(g)(2), (3). Section 241.4(g)(2) provides: "In general. The district director shall continue to undertake appropriate steps to secure travel documents for the alien both before and after the expiration of the removal period. . . . The Service's determination that receipt of a travel document is likely may by itself warrant continuation of detention pending the removal of an alien from the United States." 8 C.F.R.

§ 241.4(g)(2). The next paragraph, the regulation provides, "In making a custody determination, the district director . . . shall consider the ability to obtain a travel

² 8 C.F.R. § 241.13(i)(2) lists "paragraph (h)(3)," however, the informal interview process appears to be described in paragraph (i)(3).

document for the alien. If it is established at any stage of the custody review that, in the judgment of the Service, travel documents can be obtained, or such document is forthcoming, the alien will not be released unless immediate removal is not practicable or in the public interest.” 8 C.F.R. § 241.4(g)(3). Finally, to consider release, the relevant decisionmaker must conclude that travel documents are available for the alien. 8 C.F.R. § 241.4(e). The decisionmaker then considers the other factors in 8 C.F.R. § 241.4(e), such as whether the alien poses a threat to the community.³

In this case, ICE has reviewed Petitioner’s re-detention as he was informed on December 12, 2025 that he would not be released from custody. ECF No. 1 at ¶21. Five days later, on December 17, 2025, Petitioner was interviewed by two deportation officers to allow Petitioner to support a request for release and Petitioner’s case has been referred to headquarters for a custody review and determination. *Id.* at ¶¶22–23. Moreover, Petitioner did not provide any information to show that he believes there is no significant likelihood he will be removed in the reasonably foreseeable future, and no such showing has been made before this Court.

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³ Petitioner references a “Policy” regarding the release for citizens who were granted a withholding of removal or relief under the Convention Against Torture. Neither of these scenarios apply to Petitioner. ECF No. 1 ¶68.

B. The Due Process Clause Does Not Prevent Petitioner’s Detention

Petitioner’s re-detention is not proscribed by the Due Process Clause.

Although the Fifth Amendment entitles aliens to due process of law, the Ninth Circuit interprets the Due Process Clause “consistent with longstanding precedent recognizing that the process due aliens must account for the government’s countervailing interests in immigration enforcement – considerations that do not apply to U.S. citizens.” *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1205–06 (9th Cir. 2022). It is well-established that “Congress may make rules as to aliens that would be unacceptable if applied to citizens.” *Demore v. Kim*, 538 U.S. 510, 522 (2003). This is true because “any policy toward aliens is vitally and intricately interwoven with contemporaneous policies in regard to the conduct of foreign relations, the war power, and the maintenance of a republican form of government, which are core sovereign powers.” *Id.*

Assuming the factors set forth in *Mathews v. Eldridge* apply in this context to determine whether procedural protections satisfy the Due Process Clause,⁴ the Court considers the following the three factors: (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such

⁴ The Supreme Court when confronted with constitutional challenges to immigration detention has not resolved them through express application of *Mathews*. *Rodriguez Diaz*, 53 F.4th at 1206 (9th Cir. 2022) (citing Supreme Court cases).

interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; (3) the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). *Mathews* is not a bright-line test, but a flexible standard that must account for the heightened governmental interest in the immigration detention context. *Rodriguez-Diaz* at 53 F.4th at 1206–07.

The first factor favors Respondents because Petitioner's liberty interest in his supervised release is low. From the outset, his supervision was in place only until he could be removed from the United States. *See Diouf v. Napolitano*, 634 F.3d 1081, 1086–87 (9th Cir. 2011) (finding § 1231(a)(6) detainees have a lesser liberty interest because they are closer to actional removal) *abrogated on other grounds*. Petitioner's diminished interest in this context weighs against imposing the hearing requirement or release.

The second *Mathews* factor also favors Respondents. In the context of an alien with a final order that is in the process of being removed, the risk of erroneous deprivation is relatively low. Here, Petitioner is undisputedly subject to a final order of removal, Petitioner has no pending applications that would prevent his removal, § 1231(a)(6) undisputedly authorizes Petitioner's detention in order to effectuate his removal order, and *Zadvydas* permits his detention because his

removal is likely in the reasonably foreseeable future.

The final factor weighs decisively in Respondents' favor. The government has a strong interest in preventing aliens from remaining in the United States in violation of our law and, to this end, effectuating a final order of removal as expeditiously as possible, particularly when the order relates to an alien, like Petitioner, who has a criminal history. *See Rodriguez Diaz*, 53 F.4th at 1208. Once the government determines that an alien may be removed in the reasonably foreseeable future, there should not be any additional hurdles, such as a pre-detention hearing, to effectuate what is already a final order. District courts cannot provide injunctive relief to forestall removal via habeas cases and the courts should not do indirectly what it is prohibited from doing directly. *See Rauda v. Jennings*, 55 F.4th 773 (9th Cir. 2022); *see also Reyes-Aguilar v. United States Dep't of Homeland Security*, No. 2012 WL 12849082 (C.D. Cal. Oct. 10, 2012) (citing cases that find a district court cannot halt the execution of an order of removal).

On balance, if applied, the *Mathews* factors weigh decisively in Respondents' favor.

C. Petitioner Is Not Entitled To Relief Under the APA.

To the extent Petitioner fashions his counts concerning the lawfulness of his re-detention as claims under the Administrative Procedures Act, they should be denied. See ECF No. 1 ¶85. As discussed above, his detention is permitted by

statute and regulation, and Petitioner has been afforded all the process required by the regulations. Thus, there is no basis to declare his re-detention arbitrary or contrary to law or regulation.

In addition, this case should not be reviewed under the APA in the first instance. The APA provides for judicial review only of agency actions “for which there is no other adequate remedy in a court.” 5 U.S.C. § 704. Here, because a writ of habeas corpus provides Petitioner with an adequate remedy to his detention challenge, suit under the APA is expressly precluded. “Congress did not intend the general grant of review in the APA to duplicate existing procedures for review of agency action,” *Bowen v. Massachusetts*, 487 U.S. 879, 903 (1988). Habeas corpus, the “symbol and guardian of individual liberty,” *Peyton v. Rowe*, 391 U.S. 54, 59 (1968), has long provided such a remedy, and petitioner cannot dispute that such an adequate remedy exists for him to challenge his detention here.

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IV. CONCLUSION

For the foregoing reasons, it is respectfully requested that this Honorable Court deny the Petition.

DATED: February 10, 2026 at Honolulu, Hawaii.

KENNETH M. SORENSON
United States Attorney
District of Hawaii

/s/ Edric M. Ching

By _____
EDRIC M. CHING
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CERTIFICATE OF SERVICE

I hereby certify that, on this date and by the method of service noted below,
a true and correct copy of the foregoing was served on the following at their last
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