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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI'I

QUOC HUYNH

Petitioner,

v.

SHIKHA DOSANJ, *in her official capacity as Warden of the Federal Detention. Center, Honolulu, Hawai'i*; 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.

Civil Case No. CV26-00014 SASP-WRP

PETITIONER'S OPTIONAL REPLY TO RESPONDENT'S OPPOSITION TO PETITIONER'S WRIT OF HABEAS CORPUS PETITION UNDER 28 U.S.C. § 2241

INTRODUCTION

Petitioner now replies to the Respondent's opposition to Petitioner's Petition for Writ of Habeas Corpus ("the Petition") for relief pursuant to 28 U.S.C. § 2241. Respondent has failed to provide a sufficient basis to show that Petitioner's removal to The Socialist Republic of Vietnam is likely in the reasonably foreseeable future, and the Petition should be granted. *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).

While Respondent has noted certain undisputed facts regarding the legal history of this case, Respondent has ignored other significant material facts presented by Petitioner that directly undermine Respondent's assertion that removal is reasonably foreseeable, including the prolonged inability to secure travel documents and the absence of any response from the current Vietnamese government.

ARGUMENT

1. Respondent's Err in Asserting that there is a Significant Likelihood of Removal in the Reasonably Foreseeable Future.

As noted by Respondent, a request for travel documents was first mailed to ICE Headquarters for submission to the Embassy of the Socialist Republic of

Vietnam (hereinafter "Vietnam") in 2013. A second request by ICE was made on November 28, 2025, and the Vietnamese government has not responded to either request. Mr. Huynh applied for a Vietnamese passport on June 23, 2025, through the law office of Carmen Di Amore-Siah and the office has not received a response from the Vietnam government. The passage of more than a decade without a response to Respondent's requests demonstrates a persistent inability, not a temporary delay, to effectuate Petitioner's removal.

While ICE claims to be actively trying to get a response from the Vietnamese government and asserts that there is an evolving diplomatic relationship between the two governments, there is no evidence presented by Respondent that Vietnam will accept Petitioner in the near or foreseeable future.

The Memorandum of Understanding ("MOU") signed on November 21, 2020 between the U.S. and Vietnam that Respondent states in § 3 that the two governments consider the "humanitarian and family unity aspects of repatriation." Respondent has not taken into account this aspect, as Petitioner has deep family and community ties in the United States, and has no family ties to the current "Socialist Republic of Vietnam." [redacted]

The U.S. will probably not be able to repatriate persons such as Mr. Huynh to a third country such the current communist Vietnam, where he has never lived.

The United States lost the war against the current government of Vietnam. Those loyal to the U.S., such as Mr. Huynh's family, were accepted into the United States as refugees.

Although he had been issued a final order of removal by the Immigration Court, on March 23, 2000, due to a Memo of Understanding (MOU) between the U.S. and Vietnamese governments signed on January 22, 2008, he was placed under an Order of Supervision, and has regularly reported to ICE and complied with all conditions of release for more than two decades.

This MOU states that "Vietnamese citizens are not subject to return to Vietnam under this Agreement if they arrived in the Unted States before July 12, 1995, the date on which diplomatic relations were re-established between the U.S. Government and the Vietnamese Government. The U.S. Government and the Vietnamese Government maintain their respective legal positions relative to Vietnamese citizens who departed Vietnam for the United States prior to that date."

The current government of Vietnam considered those families, such as that of Mr. Huynh, traitors, as his family fought on the side of the former government of South Vietnam. Persecution by the current government of Vietnam forced Mr. Huynh and his family to flee that country as refugees.

2. Petitioner Has Established He is Entitled to Release from Detention

Petitioner has been detained since June 23, 2025, a period of over seven months. In *Zadydas v. Davis,* 533 U.S. 678,689 (2001), 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. Once a Petitioner provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the government must rebut that showing, which the Respondent has failed to do. No evidence is given that the current Vietnamese government will accept Petitioner, and no basis has been given that receipt of a travel document from the Vietnamese government is likely.

3. Respondent Errs in Asserting that the Public Interest Favors Continued Detention

Under the criteria for release stated in 8 C.F.R.§241.4(e), the decisionmaker must conclude that " (1) Travel documents for the alien are not available or, in the opinion of the Service, immediate removal, while proper, is otherwise not practicable or not in the public interest."

Respondent has admitted that travel documents are not available, so that immediate removal is not possible. In addition, Petitioner's removal is not in the public interest. Petitioner has established deep and substantial community ties in Hawaii, including a long-term marriage to a USC, with whom he has two sons; one

is a United States Marine and the other a college student. In addition he has been a business owner who pays taxes, and has a stable employment history. He has also had civic engagement. He has been rehabilitated and has no repeat criminal behavior for over 25 years.

It must also be concluded under 8 C.F.R. §241.4(e) that: " (2) The detainee is a non-violent person; (3) The detainee is likely to remain non-violent if released, (4) The detainee is not likely to pose a threat to the community following release;, (5) The detainee is not likely to violate the conditions of release; and (6) The detainee does not pose a significant flight risk if released." He has a family, a home, and a job to rebuild.

Respondent has failed to even allege that Petitioner might violate these considerations. Rehabilitation of Mr. Huynh is indicated by consideration of the first factor, discussed on page 5 of this optional reply, and also factors 2-6.

Those factors are: 2.) Detainee is non-violent, 3.) Detainee on release will remain non-violent, 4.) Detainee no threat to community, 5.) Detainee not likely to violate conditions of release, and 6.) Detainee not a flight risk.

4. Due Process Favors Petitioner's Release from Detention

Respondent is not legally required to detain Respondent, and the detention itself violates due process. The Ninth Circuit recognizes that loss of physical liberty, impairment of access to counsel, and interference with preparation for a merits

hearing constitute irreparable harm. *Rodriguez v. Robbins,* 715 F.3d 1127, 1144 (9th Cir. 2013), *rev'd on other grounds sub nom. Nat'l Ass'n of Mfrs. V. Dept't of Def.,* 583 U.S. 109,131 (2018).

Petitioner is suffering unique harm from his more than seven months of detention. He has lawfully resided in Hawaii since 1993, and has a USC wife and two USC sons. He has had stable employment including ownership of a business during that time.

Under the test in *Mathews vs. Eldridge,* 424 U.S. 319, 334-35 (1976), there are three factors to consider in deciding if procedural protections satisfy the Due Process Clause. One factor to consider is the government's interest in detention, and in the case of Mr. Huynh this interest is minimal as Petitioner has consistently cooperated with ICE supervision for many years by having an annual interview. Initially, and in agreement with the current Vietnamese government and the U.S., refugees from the former South Vietnam, who had arrived prior to July 25, 1995, into the U.S. could not be removed to Vietnam even with an order of removal. Mr. Huynh's initial removal order was initiated almost 20 years ago, and he has resided in the U.S. without immigration violations or criminal arrests or convictions since then. In addition, his USC son and USC wife have separately applied for I-130.

Another *Matthews* factor also favors Petitioner in that his liberty interests are substantial. Respondent has no basis for saying that the annual reporting supervision

of Respondent was in place only until he could be removed from the United States; the government was satisfied with Mr. Huynh's supervised status for many years and has only recently shown any interest in removing him. His liberty interest against civil detention is fundamental, and the consequences of immigration detention are profound- loss of freedom, disruption of family unity, interruption of employment and education of his son, and impediments to defending against removal.

The third *Matthews* factor also favors Petitioner. The risk of erroneous deprivation of rights by removal to Vietnam or a third country is substantial. He has pending applications for issuance of an immigrant visa, and *Zadvydas* permits his release because his removal is unlikely in the reasonably foreseeable future.

Removal to the current Socialist Republic of Vietnam is equivalent to removing Mr. Huynh to a third country. Mr. Huynh's family is strongly anti-communist. Due process includes the right to a credible fear hearing for Petitioner, and he would voice fear of removal to any third country.

5. The Balance of Equities and Public Interest Favor Injunctive Relief

Removing Petitioner from detention imposes no meaningful burden on DHS, which retains full authority to litigate removability and to execute any lawful order that may ultimately issue. Continued detention has disrupted the family unit and undermines the I-130 applications. The public interest favors due process, judicial

oversight, and restraint. *Winter v. Nat. Res Def. Council, Inc.,* 555 U.S. 7,20 (2008); *Washington v. Trump,* 847 F.3 1151, 1162 (9th Cir. 2017.)

CONCLUSION

Petitioner has been detained for over six months, and Respondent has not shown that Petitioner's removal to Vietnam is likely in the reasonably foreseeable future, although Respondent has had the authority to deport certain detained Vietnamese who had arrived in the United States prior to 1995, subject to removal, since the most recent Memo of Understanding between the United States and the Socialist Republic of Vietnam was signed on November 21, 2020. Mr. Huynh lived in a different nation, South Vietnam, and left as a child refugee.

DHS has not identified any exigency, flight risk, danger, or noncompliance. Due process is violated by detention without necessity. The Mathews factors favor Petitioner as his liberty interests are substantial, the risk of erroneous deprivation from detention is significant. And the government's interests do not outweigh needed safeguards where Petitioner has always cooperated with supervised release and has a pending I-130 application.

Respectfully Submitted,

Carmen Di Amore-Siah
Lead Counsel for Petitioner

CERTIFICATE OF SERVICE

I, Carmen Di Amore-Siah, hereby certify that on this date, a true and correct copy of the foregoing was served on the following at their last known address by electronic service via CM/ECF:

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DATED: February 17, 2026 at Honolulu, HI

Carmen Di Amore-Siah
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