

DETAINED
District Judge John H. Chun

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

DUY TRUNG TRUONG,

Petitioner,

v.

TODD BLANCHE, *et al.*;

Respondents.

Case No.: 2:26-cv-00950-JHC

PETITIONER'S RESPONSE TO RETURN
(TRAVERSE)

Noted for Consideration: April 8, 2026

PETITIONER'S RESPONSE TO RETURN (TRAVERSE)

A. The government makes no argument to justify continued detention.

Respondents correctly state the length of presumptively reasonable detention under *Zadvydas v. Davis*, 553 U.S. 678, 701 (2001), and it acknowledges that the time has passed, Dkt. 4, at 7. While Immigration and Customs Enforcement (ICE) Office of Enforcement and Removal Operations (ERO) attempted to request travel documents to Mexico and Uganda earlier this year, there is no evidence that those requests were successful or that removal to either of those countries is reasonably foreseeable. *See* Dkt. 5, ¶¶ 11-12. There is also no evidence that removal to any other country is reasonably foreseeable. *See* Dkt. 4, at 8. Petitioner's removal order became

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1 administratively final over eight months ago, Dkt. 6-3. Petitioner has met his burden to show that
2 his detention is now unreasonable, and Respondents have not refuted his assertion. *Pelich v. I.N.S.*,
3 329 F.3d 1057, 1059 (9th Cir. 2003). Petitioner asks this Court to grant a writ of habeas corpus
4 and to order his immediate release.

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6 **B. Petitioner's arguments regarding re-detention are not premature and he is seeking
protection of his Due Process rights.**

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8 Petitioner seeks the Court's articulation of his Due Process rights, to deter Respondents
9 from violating those rights in the future. The contours of Due Process are found in the familiar
10 three-part test of *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under that test, first, Petitioner has a
11 clear liberty interest in not being physically detained. His liberty interest survives the removal
12 order because he has already been detained for longer than the presumptively reasonable time
13 under *Zadvydas*. In order to initiate yet more detention time, the government would need to prove
14 at a hearing that removal was substantially likely in the reasonably foreseeable future. Because the
15 presumptively reasonable time has already elapsed, and then some, Petitioner submits that the only
16 way Respondents could prove that removal was likely enough to justify additional detention would
17 be to have travel documents in hand. Second, under *Mathews*, a hearing would prevent erroneous
18 deprivation of liberty, because it would require Respondents to prove that it was ready to remove
19 Petitioner. And third, although Respondents have an interest in enforcing removal orders, which it
20 has already had over eight months to pursue, it has no interest in indefinite detention beyond the
21 limits recognized in *Zadvydas*.

22 Respondents argue that "there is already a process for revoking an Order of Supervision"
23 (OSUP) and that this Court should not create new procedures. Dkt. 4, at 8. But the regulations
Respondents cite to are insufficient to protect Due Process. In *Saelee*, the government argued,

1 “There is no basis in law for imposing yet more procedures that neither Congress nor the relevant
2 agencies have adopted.” *Saelee v. Bondi*, No. 2:25-cv-02677-TLF, 2026 U.S. Dist. LEXIS 15979,
3 *14 (W.D. Wash. Jan. 28, 2026). The court ruled, “But even if a particular statute or regulation
4 does not require a pre-arrest hearing in these specific circumstances, this does not mean such a
5 hearing is not required by Due Process.” *Id.* Similarly in *Thach Wana v. Bondi*, which the
6 government acknowledges, Dkt. 4, at 7, the court ruled, “Those meager procedures [in 8 C.F.R. §
7 241.13(i)(3)] do not, however, provide the process due under the Fifth Amendment...” *Thach*
8 *Wana v. Bondi*, No. 2:25-cv-02321-RSL, 2025 U.S. Dist. LEXIS 258932, *13 (W.D. Wash. Dec.
9 15, 2025); *see also*, *Sieng Kim Khim v. Bondi*, No. 2:25-cv-02383-RSL, 2025 U.S. Dist. LEXIS
10 261018, *10-11 (W.D. Wash. Dec. 17, 2025). Courts in other districts have ruled similarly.
11 *Valencia Zapata v. Kaiser*, 801 F. Supp. 3d 919 (N.D. Cal. Sept. 26, 2025); *Doe v. Becerra*, 787
12 F. Supp. 3d 1083 (E.D. Cal. March 3, 2025); *Jorge M.F. v. Jennings*, 534 F. Supp. 3d 1050 (N.D.
13 Cal. Apr. 14, 2021).

14 15 **C. Conclusion**

16 Petitioner has been in custody for over eight months following the administrative finality
17 of the removal order. Respondents have not offered any argument that there is significant
18 likelihood of removal in the reasonably foreseeable future. The detention has become
19 unreasonable. Petitioner asks the Court to grant his Prayer for Relief, including immediate release.
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1 Dated: April 8, 2026.

2 /s/ Hilary Smith

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