Chief Magistrate Judge Theresa L. Fricke

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

TUAN MINH VO, Petitioner, v. BRUCE SCOTT, *et al.*, Respondents.	Case No. 2:26-cv-00996-TLF FEDERAL RESPONDENTS'[1] RETURN MEMORANDUM Noted for Consideration: April 15, 2026.

I. INTRODUCTION

This is not a typical post-order habeas case. The Court should deny Petitioner Tuan Minh Vo's Petition for Writ of Habeas Corpus. Dkt. 7 ("Pet."). Petitioner challenges his post-order detention at the Northwest ICE Processing Center ("NWIPC") as unconstitutional and unlawful while he awaits removal from the United States.

Between 1992 and 2026, Petitioner has been arrested sixty-two times and been convicted of multiple crimes, including crimes of domestic violence assault, harassment, stalking, and child abuse, child neglect, or child abandonment. Petitioner's prolific and concerning criminal history

[1] Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

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

constitute multiple violations of his order of supervision and each criminal act committed after his order of supervision was issued independently justifies re-detention. Petitioner is a native and citizen of Vietnam subject to an administratively final order of removal in 2014. Petitioner had previously been released on an order of supervision because of ICE's inability to obtain a travel document to Vietnam at that time.

U.S. Immigration and Customs Enforcement ("ICE") took Petitioner into custody on November 12, 2025, after multiple failed attempts to arrest him and multiple rounds of notice. ICE revoked Petitioner's order of supervision on that day based on ICE's determination that there was a significant likelihood of Petitioner's removal in the reasonably foreseeable future. Petitioner presents no evidence that his re-detention violates substantive or procedural due process, nor that ICE failed to comply with governing regulations.

While his Petition discusses removal to a third country, Petitioner presents *no evidence* of any intention by ICE to do so. The facts here demonstrate that ICE is actively working to complete the necessary travel documents request to Vietnam. Petitioner's removal is reasonably foreseeable, and any third-country claim is unripe for judicial review.

Petitioner's detention is lawful. He is a noncitizen subject to an administratively final order of removal, and he is lawfully detained under Section 241 of the Immigration and Nationality Act ("INA"). *See* 8 U.S.C. § 1231. His detention also is not indefinite under *Zadvydas*, 533 U.S. 678, 701 (2001) because removal is significantly likely in the reasonably foreseeable future. Accordingly, Federal Respondents respectfully request the Court deny the Petition. No evidentiary hearing is necessary.

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

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Post-Order Detention

The INA governs the detention and release of noncitizens during and following their removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527-29 (2021). The general detention periods are commonly 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 mandated detention during the "removal period," which is the 90-day period following the issuance of a final order of removal. 8 U.S.C. § 1231(a)(2). During the removal period, ICE is charged with attempting to effectuate removal of a noncitizen from the United States. 8 C.F.R. § 241.2(b); 8 U.S.C. § 1231(a)(1).

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. 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 v. Davis*, 533 U.S. 678, 689 (2001). The Supreme Court has identified six months as a presumptively reasonable time necessary to bring about a noncitizen's removal. *Id.*, at 701. Once it is determined that there is no significant

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

likelihood of removal in the reasonably foreseeable future, noncitizens may be released on an Order of Supervision ("OSUP"). 8 C.F.R. § 241.13(h).

B. Petitioner Tuan Minh Vo

Petitioner is a native of Vietnam and a citizen of Vietnam. Declaration of Harold Britt Jr. ("Britt Decl.") ¶ 3. Petitioner entered the United States in San Francisco, California on or about April 8, 1992, as a refugee. *Id.* Petitioner subsequently adjusted his status to Lawful Permanent Resident on July 30, 1993. *Id.* On November 4, 2005, Petitioner filed Form N-400 Application for Naturalization with the United States Citizenship and Immigration Services ("USCIS"). *Id.* On August 16, 2010, USCIS denied Petitioner's naturalization application because Petitioner lacked good moral character as a result of numerous criminal convictions. *Id.*

On July 28, 1994, Petitioner was convicted in the Circuit Court for the State of Oregon, County of Multnomah, Case number 940533306 of Possession of a Stolen Motor Vehicle (a Felony), which resulted in 24 months of probation, and Fleeing or Attempting to Elude a Police Officer (a Misdemeanor), which resulted in 24 months of probation. *Id.* ¶ 4. On September 17, 1999, Petitioner was convicted in Multnomah County Circuit Court of Oregon of one count of Prostitution, a Class A misdemeanor. *Id.* ¶ 5. Petitioner was sentenced to 12 months of probation. *Id.*

On January 11, 2001, Petitioner was convicted in the Circuit Court for the State of Oregon, County of Multnomah, for the offense of Unauthorized Use of a Motor Vehicle (a Felony) Case number 000836176, which resulted in 24 months of probation. *Id.* ¶ 6. On June 7, 2001, Petitioner was convicted in the Circuit Court for the State of Oregon, County of Clackamas, for the offense of Unauthorized use of a Motor Vehicle (a Felony) Case number CR0100310, which resulted in 13 months of imprisonment. *Id.* ¶ 7. Overall, between 1992 and 2026, Petitioner has been arrested approximately ***sixty-two*** times between Oregon and Washington and convicted multiple times,

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

including for the following charges: Assault in the Fourth Degree on September 17, 2009, against his partner, for which he was sentenced to 60 days of confinement and 3 years of probation. *Id.* ¶ 8.

On March 25, 2009, Petitioner was detained by ERO Portland, Oregon, during a targeted operation by the Portland ERO Fugitive Enforcement team at a residence where Petitioner was staying. *Id.* ERO Portland served Petitioner with a Notice to Appear pursuant to Section 237(a)(2)(A)(i) of the Immigration and Nationality Act ("INA"). *Id.* ERO Portland also served the Petitioner with a Custody Redetermination Notice, and Petitioner requested that an immigration judge review his custody decision. *Id.* Petitioner also received a Notice of Hearing in Removal Proceedings to occur at the Tacoma Immigration Court on April 28, 2009. *Id.*

On April 28, 2009, the Tacoma Immigration Court ordered that Petitioner be released on a $1,500 bond. *Id.* Appeal was waived by both parties. *Id.* The same court then scheduled an Individual Merits hearing for the Petitioner for June 3, 2009. *Id.* On May 28, 2009, Petitioner, through his counsel, filed a Motion for Continuance of the hearing. *Id.* The continuance was granted on the same date, and the case was reset for June 24, 2009. *Id.* However, on June 10, 2009, Petitioner, through his counsel, again filed for continuance with the court. *Id.* On June 23, 2009, the same court granted continuance and reset the hearing to July 27, 2009. *Id.*

On July 27, 2009, the Tacoma Immigration Court granted Petitioner's application for cancellation of removal for certain permanent residents pursuant to Section 240A(b)(1) of the INA. *Id.* Both parties waived appeal. *Id.* Petitioner was then released from custody under an Order of Supervision ("OSUP") at an unknown date and time. *Id.*

On June 14, 2013, DHS served Petitioner with an updated Notice to Appear pursuant to Section 237(a)(2)(E)(i) of the INA – an alien who at any time after entry has been convicted of a crime of domestic violence, a crime of stalking, or a crime of child abuse, child neglect, or child

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

abandonment. *Id.* ¶ 9; Declaration of Alixandria K. Morris ("Morris Decl."), Exs. 1-2 (NTA; I-213). The Notice to Appear was mailed to the Petitioner via certified mail. Britt Decl. ¶ 9. On July 30, 2013, DHS mailed another Notice to Appear to the Petitioner pursuant to the same INA Section via certified mail after Petitioner came to the attention of ERO Portland as part of an initiative to identify aliens on parole/probation in the State of Oregon who are amenable to administrative removal proceedings. *Id.* At the time of issuance of the notice, Petitioner was on probation in Multnomah County, Oregon, from a conviction for Assault-4 Domestic Violence and Harassment. *Id.*

On March 20, 2014, the Portland, Oregon Immigration Court issued to the Petitioner a Notice of Hearing scheduled for July 15, 2014. *Id.* ¶ 10. The case was then rescheduled to November 4, 2014, and a new notice was issued by the same court on or about July 15, 2014, to the Petitioner in person. *Id.* On November 4, 2014, Petitioner failed to show up for his scheduled hearing, and the Portland Immigration Court determined that Petitioner failed to appear in court and thus abandoned any al all claims for relief from removal. *Id.*; Morris Decl., Ex. 3 (IJ final order of removal). Moreover, the court ordered the Petitioner removed to Vietnam. Britt Decl. ¶ 10. Petitioner filed a Motion to Reopen proceedings with the court and the same court denied that motion on or about December 17, 2014. *Id.* Petitioner appealed the denial to the Board of Immigration Appeals ("BIA") on December 17, 2014. *Id.* On September 15, 2015, the BIA denied Petitioner's appeal, and the original order of the immigration court became final. *Id.*

On December 1, 2016, DHS issued a Warrant of Removal/Deportation of Petitioner pursuant to Section 237(a)(2)(E)(i) of the INA based on a final order by the Immigration Court of Portland. *Id.* ¶ 11. The warrant was not executed. *Id.* Two more warrants were issued – on May 17, 2017, and May 22, 2017. *Id.* ERO was not able to execute these warrants either. *Id.* ERO

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

Portland, on multiple occasions, sent Petitioner notices to resume reporting to ERO as required under his OSUP without success. *Id.*

On November 12, 2025, ERO Portland issued a Notice of Revocation of Release based on Petitioner's violations of the OSUP requirements, specifically over fifteen arrests and eight convictions between 2016 and 2025, in addition to Petitioner's failure to report to ICE since November 17, 2015. *Id.* ¶ 12; Morris Decl., Ex. 4 (Notice of Revocation). Petitioner was detained in a targeted enforcement operation by Portland ERO on November 12, 2025, and transferred from the Portland District Office to the Northwest ICE Processing Center ("NWIPC"). Britt Decl. ¶ 12.

On December 8, 2025, ERO began the process of obtaining a Vietnamese Travel Document by submitting a request for the translation of the document necessary to obtain a Travel Document. *Id.* Then on December 15, 2025, ERO forwarded the Travel Document application internally for quality control. *Id.* On December 18, 2025, ERO sent the final version of the Travel Document application to ICE's international team at DHS headquarters in Washington, D.C. for processing. *Id.*

ERO Tacoma then followed up with the international team about the status of the Travel Document on December 30, 2025, February 4, 2026, February 28, 2026, March 12, 2026, March 27, 2026. *Id.* Finally, on April 1, 2026, the international team responded by stating that the Travel Document application has been submitted to the DHS Attache for processing. *Id.* Once the DHS Attache submits the forms to the Government of Vietnam, DHS believes it should take approximately 30 days from the time of submission to receive the Travel Document. *Id.* ERO Tacoma intends to remove Petitioner to Vietnam either by commercial flight, or by charter flight if one is available. *Id.*

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

Petitioner assisted ERO Tacoma with submitting the request for the Travel Document by providing the necessary information. *Id.* ICE Tacoma is not seeking a third country removal at this time. *Id.*

III. LEGAL STANDARD

It is axiomatic that "[t]he district courts of the United States . . . are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute." *Exxon Mobil Corp. v. Allopath Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). "[T]he scope of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present day." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 125 n.20 (2020). Title 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions.

To warrant a grant of habeas corpus, the burden is on the petitioner to prove that his or her custody is in violation of the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

IV. ARGUMENT

A. Petitioner's detention comports with substantive due process.

Petitioner argues that his detention is unlawful in violation of *Zadvydas*. The burden is on Petitioner to show that there is "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Pelich v. I.N.S.*, 329 F.3d 1057, 1059 (9th Cir. 2003) (citing *Zadvydas*). If a petitioner meets his evidentiary burden, the government must then introduce evidence to refute the petitioner's assertion. *Id.* It is undisputed that Petitioner is subject to an administratively final removal order. Morris Decl., Ex. 3.

In *Zadvydas*, the Supreme Court determined that it is "presumptively reasonable" for the Government to detain a noncitizen for six months following entry of a final removal order, while it worked to remove the noncitizen from the United States. 533 U.S. at 701. Thus, the Supreme

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

Court implicitly recognized that six months is the *earliest* point at which a noncitizen's detention could raise constitutional issues. *Id.* Moreover, the Supreme Court noted the six-month presumption "does not mean that every [noncitizen] not removed must be released after six months. To the contrary, [a noncitizen] may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.*

Here, Petitioner has been detained since November 12, 2025: 4 months and 29 days. There is no evidence that Petitioner has been in ICE custody since his removal order became administratively final in 2014; thus, his detention should be considered at this time to have run for nearly five months. Because Petitioner's period of post-order detention has not yet reached the six month presumptively reasonable time period under Zadvydas, this Court need not analyze this issue any further.

Even if this Court wanted to analyze further and assuming arguendo that Petitioner's period had run beyond six months, Petitioner fails to demonstrate that there is good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future. ICE is working to obtain a travel document to Vietnam. Britt Decl. ¶ 12. Vietnam is cooperating with the United States on removal of pre-1995 entrants. *Id.* Once the travel document is received, ICE can remove Petitioner as ICE conducts charter flights or arranges for commercial flights to Vietnam once a travel document is issued. *Id.* ¶ 12.

Thus, Petitioner's length of detention is presumptively reasonable. And Petitioner has failed to demonstrate a good reason to believe that there is no significant likelihood of his removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701. Accordingly, Petitioner's detention does not violate principals of substantive due process.

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

B. Petitioner is not Entitled to a Pre-Detention Hearing in the Post-Order Context

The cases Petitioner invokes in arguing that due process requires a hearing prior to Petitioner's being re-detained are inapposite. Pet., pgs. 9-12 (Section VIII). Petitioner cites *E.A. T.-B. v. Wamsley*, No. CV25-1192-KKE, 2025 WL 2402130, *Ledesma Gonzalez v. Bostock*, No. CV25-1404-JNW-GJL, 2025 WL 2841574, and other recent out-of-district cases, which are all not applicable under post-removal §1231 detention. *See* Pet., pgs. 9-12. Petitioner does not dispute that he is subject to an administratively final order of removal. Each of the cases cited by Petitioner to support that a pre-detention hearing is warranted are decided in the context of pre-order detention or under regulatory schemes wholly distinct from the post-order detention framework at issue here. As such, the authorities cited in this section to argue a requirement for a hearing prior to being detained provide little meaningful guidance.

Federal Respondents acknowledge that some opinions in this District have found that the Due Process Clause requires a pre-deprivation hearing before revocation of an OSUP. *See, e.g.*, *Thach Wana v. Bondi, et al.*, No. 2:25-CV-02321-RSL, 2025 WL 3628634, at *5 (W.D. Wash. Dec. 15, 2025); *Sieng Kim Khim v. Bondi, et al.*, No. 2:25-CV-02383-RSL, 2025 WL 3653724, at *4 (W.D. Wash. Dec. 17, 2025). However, this Court should not infer arguments or case law which the Petitioner did not argue. *Romero–Aguilar v. Holder*, 397 Fed. Appx. 399, 2010 WL 3825644 (9th Cir. Sept. 29, 2010).

The Court should likewise not entertain any new arguments regarding this issue in his reply brief; "[i]t is well-settled . . . that a habeas petitioner cannot amend his petition – much less introduce wholly new claims – in his reply brief." *McClellon v. Rickard*, No. 24-CV-10053 (VSB) (BCM), 2025 WL 3286917, at *10 (S.D.N.Y. June 24, 2025); *see also Cacoperdo v. Demosthenes*, 37 F.3d 504, 507 (9th Cir. 1994) ("In order for the State to be properly advised of additional claims, they should be presented in an amended petition or . . . in a statement of

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

additional grounds."); *Zamani v. Carnes*, 491 F.3d 990, 997 (9th Cir. 2007) ("The district court need not consider arguments raised for the first time in a reply brief."); *Calderon v. Noem*, No. 2:25-CV-2136-LK-TLF, 2025 WL 3754042, at *4 (W.D. Wash. Dec. 29, 2025).

Thus, the Court should not consider any issues related to Petitioner's re-detention in this case.

C. Petitioner fails to demonstrate that his OSUP revocation did not comport with due process or was inconsistent with ICE's procedural regulations

Even if this Court *were* to consider issues related to re-detention, which it should not, Petitioner's arguments still fail. "Due process is flexible and calls for such procedural protections as the particular situation demands." *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976). The *Mathews* test demonstrates that Petitioner's detention is consistent with his due process rights. Under *Mathews*, "[t]he fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Id.*, at 333 (internal quotation marks omitted). This calls for an analysis of (1) "the private interest that will be affected by the official action," (2) "the risk of an erroneous deprivation of such interest through the procedures used, and probable value, if any, of additional or substitute procedural safeguards," and (3) the Government's interest. *Id.*, at 334-35.

1. Petitioner's liberty interest in remaining released on conditions is reduced

Respondents recognize the "weighty liberty interests implicated by the Government's detention of noncitizens." *Reyes v. King*, No. 19-cv-8674, 2021 WL 3727614, at *11 (S.D.N.Y. Aug. 20, 2021). However, Petitioner's interest in his liberty *generally* does not mean that he possesses a separate or heightened liberty interest in the continuation of his conditional release

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

on OSUP.[2] The recognized liberty interests of U.S. citizens and aliens are not coextensive: the Supreme Court has 'firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens.'" *Rodriguez Diaz*, 53 F.4th at 1206 (quoting *Demore v. Kim*, 538 U.S. 510, 522 (2003)). As the Supreme Court has explained, "[i]n the exercise of its broad power over naturalization and immigration, Congress regularly makes rules that would be unacceptable if applied to citizens." *Mathews v. Diaz*, 426 U.S. 67, 79-80 (1976).

Petitioner's release on OSUP was always subject to many conditions, including that he not commit crimes. Petitioner has been arrested sixty-two times and been convicted of multiple crimes, including crimes of domestic violence, stalking, child abuse, child neglect, or child abandonment. Britt Decl. ¶ 8; Morris Decl., Ex. 4. Petitioner's prolific and concerning criminal history constitute multiple violations of his order of supervision and each criminal act committed after his order of supervision was issued independently justifies re-detention. Accordingly, Petitioner cannot now claim that the Respondents promised him ongoing, limitless freedom from detention or that his re-detention is unwarranted.

2. The existing procedures for OSUP revocation are constitutionally sufficient and Petitioner has failed to demonstrate that his detention violates ICE's regulations.

Turning to the second *Mathews* factor, the risk of a constitutionally significant deprivation of Petitioner's liberty here is minimal, and Petitioner fails to show that ICE did not comply with procedural safeguards in this case. Petitioner presents no evidence for his claims that the agency failed to give him both notice and an opportunity to be heard regarding his OSUP revocation.

As outlined above, Congress established a clear statutory framework in 8 C.F.R. §

[2] Federal Respondents acknowledge that courts in this District have found that noncitizens have a liberty interest in their release on OSUP but respectfully disagree with those decisions.

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

241.13(i) that sets forth the requirements and process for affecting an OSUP revocation. When an alien has violated any condition of their release, as Petitioner did many times over in committing *numerous* criminal offenses, or ICE determines that there is a "significant likelihood" an alien can be removed from the United States within the "reasonably foreseeable future," ICE is clearly permitted to revoke the OSUP and take the alien into custody; nothing else is required for revocation under these circumstances. *Id.* § 241.13(i)(1) and (2); *see also Nizar Esmail v. Noem*, et al., 2025 WL 3030590, at *2 (C.D. Cal. Sept. 12, 2025).[3]

8 C.F.R. § 241.13(i)(3) further outlines the OSUP revocation procedures and provides that "upon revocation," i.e., not before revocation, "the alien will be notified of the reasons for the revocation" and to conduct an "initial interview promptly after his or return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification." *Id.* § 241.13(3).

Here, ICE took custody of Petitioner following multiple failed attempts to execute an arrest warrant against petitioner based on his criminal history constituting multiple violations of his order of supervision, after multiple rounds of notice were given, and after Petitioner failed to report on multiple occasions. Britt Decl. ¶¶ 11-12. Upon revocation, ICE provided Petitioner with written notice of the specific reasons for its determination. *Id.* ¶ 12; Morris Decl., Ex. 4. The notice states that Petitioner will be given an informal interview promptly. Morris Decl., Ex. 4, pg. 2. Petitioner presents *no evidence* that he was not given notice and an informal interview. Petitioner's lack of verification of his own petition compounds Petitioner's problematic lack of evidence, as there is no way for this Court to independently verify the allegations made in his complaint.

[3]While ICE may also revoke an OSUP as an act of discretion if revocation is in the public interest, pursuant to 8 C.F.R. § 241.4(l)(2), this is not what ICE has chosen to do in this case.

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700 STEWART STREET, SUITE 5220
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(206) 553-7970

3. The Government has a strong interest in returning aliens to custody who violate conditions of release.

Turning to the third *Mathews* factor, the Ninth Circuit has emphasized that the *Mathews* test "must account for the heightened government interest in the immigration detention context." *Rodriguez Diaz*, 53 F.4th at 1206. Invoking the Supreme Court's 2003 *Demore* decision, the Ninth Circuit in *Rodriguez Diaz* recognized that "the government clearly has a strong interest in preventing aliens from 'remain[ing] in the United States in violation of our law.'" *Rodriguez Diaz*, 53 F.4th at 1208 (quoting *Demore*, 538 U.S. at 518). The government likewise has a strong interest in removing individuals when there is a significant likelihood of their removal.

This interest is particularly compelling here, given Petitioner's extensive criminal history. Petitioner has been arrested *sixty-two* times and has been convicted, incarcerated, and served multiple criminal sentences, each criminal act committed after his order of supervision was issued constitutes a violation of his order of supervision. Britt Decl. ¶¶ 8-10. The nature, frequency, and persistence of his offenses demonstrate a continued pattern of unlawful conduct, undeterred even by repeated periods of incarceration.

In sum, the three *Mathews* factors demonstrate that Petitioner's detention comports with procedural due process and that ICE adhered to its own regulations in revoking Petitioner's OSUP.

D. Petitioner's Third Country Claims are Without Merit and Not Ripe for Review

Petitioner presents no evidence of any intention by ICE to remove Petitioner to a third country. *See* Pet., pgs. 4, 14-21, 24-27. Because ICE is only seeking to obtain a travel document to Vietnam and is actively coordinating removal to that country, Petitioner's third-country claims rest on a hypothetical scenario that has not materialized. Accordingly, these claims are not ripe

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

for review. A case or controversy requires a concrete and imminent injury, not a speculative possibility.

Petitioner purports to bring claims challenging the constitutionality of his possible removal to a third country as a likely violation of the Fifth Amendment, 8 U.S.C. § 1231, the Eighth Amendment, the Convention Against Torture, the INA, the APA, and relevant implementing regulations. Pet., pgs. 4, 14-21, 24-27. Petitioner has a removal order to Vietnam. Morris Decl., Ex. 3. ICE has requested a travel document from Vietnam. Britt Decl. ¶ 12. ICE anticipates removal as soon as a travel document is received and then on the next available flight. *Id.*

Only in the alternative, and if the Court were to reach the merits, the statutory scheme permits removal to a third country under appropriate circumstances. *See* 8 U.S.C. § 1231(b)(2)(E). But because no third-country removal is contemplated here, the issue is premature. Thus, these claims should be dismissed..

E. Petitioner's Administrative Procedure Act claims must be dismissed for lack of Subject Matter Jurisdiction

Petitioner seeks to challenge his detention on grounds that violated Sections 706(2)(A), (B) and (C) of the Administrative Procedure Act ("APA"). Pet., pg. 4. The Court has no subject matter jurisdiction to hear these claims.

Where other adequate statutory remedies exist, the APA does not apply. *See* 5 U.S.C. § 704 ("Agency action made reviewable by statute and final agency action *for which there is no other adequate remedy in a court* are subject to judicial review.") (emphasis added). Simply put, "federal courts lack jurisdiction over APA challenges whenever Congress has provided another 'adequate remedy.'" *Brem-Air Disposal v. Cohen*, 156 F.3d 1002, 1004 (9th Cir. 1998).

Where, as here, the gravamen of the claim challenges the legality of custodial detention

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

and seeks release from custody, habeas corpus provides an adequate and exclusive remedy. *See* 5 U.S.C. § 704. Because Petitioner's APA claims are directed at the fact and duration of his detention, they are not independently reviewable under the APA.

F. Petitioner Has Not Properly Verified His Habeas Petition

The habeas petition should be denied for the additional reason that it is not properly verified. Habeas petitions must be verified "by the person for whose relief it is intended or by someone acting in his behalf." 28 U.S.C. § 2242. Local Civil Rule 100(e) permits third parties to verify a petition on behalf of someone in custody, but that person "shall set forth therein the reason why [the petition] is not made and verified by the party in custody, and ***shall state he or she knows the facts set forth therein***, ***or*** if upon information and belief, ***the sources of his or her information shall be stated***." (emphasis added).

Here, Petitioner has not signed his petition, and his counsel—who signed the petition—has not verified it pursuant to Local Civil Rule 100(e). *See* Dkt. 7, pg. 28. Moreover, Petitioner has not filed a declaration attesting to the facts relevant to his claims. The absence of a declaration compounds the problematic absence of the verification. *Compare Manjit Singh v. Bondi*, No. C26-0477-KKE, 2026 WL 586230, at *2 (W.D. Wash. Mar. 2, 2026) (considering petition properly verified when Petitioner's counsel complied with Local Civil Rule 100(e)), *with Pogosian v. Santacruz*, No. 5:26-cv-00540-SRM-E, 2026 WL 413639, at *3 (C.D. Cal. Feb. 11, 2026) (denying motion for temporary restraining order when "the facts in the Petition are not verified, there is no statement addressing 28 U.S.C § 2242 or [the local civil rule], and the facts in the exhibits and declaration d[id] not inform th[e] inquiry"). Accordingly, the Court should dismiss this petition for this additional reason. At a minimum, the Court should require Petitioner (or his counsel) to cure the defects related to verification and require Petitioner to submit a declaration independently asserting and swearing that he was not provided due process upon revocation of

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

his order of supervision prior to giving any consideration to that argument.

G. The Court should deny Petitioner's remaining requests for relief

Subsections (d) - (g) in Petitioner's Prayer for Relief exceed the narrow scope of habeas review.

First, Petitioner improperly requests this Court order that "Respondents may not re-detain Petitioner without first holding a hearing before a neutral decisionmaker at which the government bears the burden of establishing flight risk or danger to the community by clear and convincing evidence based on changed circumstances since Petitioner was previously released." Pet., Prayer for Relief ¶ (d), pgs. 27. The Supreme Court has always affirmed the constitutionality of detention pending removal proceedings, notwithstanding that the government has never borne the burden to justify such detention by clear and convincing evidence. *See, e.g., Demore v. Kim*, 538 U.S. 510, 522, 532 (2003); *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1211 (9th Cir. 2022) ("We are aware of no Supreme Court case placing the burden on the government to justify the continued detention of [a noncitizen], much less through an elevated 'clear and convincing' showing."). In fact, even when considering a noncitizen subjected to potentially indefinite detention after the conclusion of removal proceedings, the Supreme Court has placed the burden on the noncitizen, as opposed to the Government, to justify release. *See Zadvydas*, 533 U.S. at 701. Thus, the Court should not order ICE to bear the burden of proof prior to re-detention. At most, the Government should be required to demonstrate dangerousness or flight risk by a preponderance of the evidence in line with the immigration officer's initial determination. 8 C.F.R. § 1236.1(c)(8).

Second, Petitioner asks the Court to enjoin Respondents from re-detaining him unless several conditions are satisfied, including obtaining and providing a valid travel document to Vietnam, allowing Petitioner an opportunity to depart on his own, and re-detaining him only after concrete travel arrangements are made. Pet., Prayer for Relief ¶ (e). Nothing in *Zadvydas* imposes

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

such prerequisites on the Government's authority to re-detain a noncitizen when circumstances change and removal again becomes reasonably foreseeable. The requested injunction would effectively impose new procedural requirements not found in the governing statutes or precedent.

Moreover, to the extent Petitioner seeks an order restricting the Government's execution of the removal order or dictating the manner in which it may occur, this Court lacks jurisdiction to grant such relief. *See e.g., Saechao v. Scott*, No. 2:26-CV-00548-TMC, 2026 WL 626765, at *5 (W.D. Wash. Mar. 5, 2026). Under 8 U.S.C. § 1252(g), federal courts lack jurisdiction over claims arising from the Government's decisions or actions to "commence proceedings, adjudicate cases, or execute removal orders." In *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471 (1999), the Supreme Court held that § 1252(g) bars judicial review of these discrete exercises of prosecutorial discretion. Consistent with that principle, the Ninth Circuit in *Rauda v. Jennings*, 55 F.4th 773 (9th Cir. 2022), held that district courts lack jurisdiction to enjoin the execution of a removal order pending collateral immigration proceedings. *Id.* at 777-78. Petitioner's request to require ICE to permit him to arrange his own departure likewise concerns the "whether" and "when" of removal as it goes to the timing and execution of the removal order, which are matters committed to the Executive's discretion and outside this Court's jurisdiction under § 1252(g).

Third, Petitioner asks this Court to enjoin his removal to a third country without notice, a meaningful opportunity to respond, and due process in reopened removal proceedings. Pet., Prayer for Relief, subsection (f), pg. 25. For the reasons stated above, Petitioner's request is speculative without any substantiated claim that he has been denied this process. Further, this Court cannot lawfully enjoin Plaintiff's immigration proceedings. To do so would directly violate the jurisdiction-stripping provision at 8 U.S.C. § 1252. Accordingly, this request for injunctive relief should be denied.

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

Fourth, Petitioner requests that this court enjoin Respondents from removing Petitioner to any third country where he is likely to face imprisonment or other punishment upon arrival. Pet., Prayer for Relief, subsection (g), pg. 28. This request is plainly controverted by Supreme Court precedent. *Johnson v. Guzman Chavez*, 594 U.S. 523, 531-32 (2021) ("If an alien is granted withholding-only relief, DHS may not remove the alien to the country designated in the removal order unless the order of withholding is terminated. But because withholding of removal is a form of country specific relief, nothing prevents DHS from removing the alien to a third country other than the country to which removal has been withheld or deferred.") (citation modified). Petitioner's request seeks this Court to overrule Congress' long-held statutory scheme at 8 U.S.C. § 1231(b)(1)(C)(iv), and Supreme Court precedent on the matter. *Id.* Additionally, since no third country has been identified, Petitioner's request is speculative and not ripe for review for the reasons stated above. Thus, this request for relief should be denied.

Accordingly, the Court should deny the additional relief requested in Petitioner's Prayer for Relief subsections (d)-(g).

V. CONCLUSION

For the foregoing reasons, Federal Respondents respectfully request that this Court deny the Petition.

Dated this 10th day of April, 2026.

Respectfully submitted,

s/ Alixandria K. Morris
ALIXANDRIA K. MORRIS, TX No. 24095373
Assistant United States Attorney
United States Attorney's Office
Western District of Washington
700 Stewart Street, Suite 5220
Seattle, Washington 98101
Phone: 206-553-7970
Fax: 206-553-4067

Email: alixandria.morris@usdoj.gov

Attorney for Federal Respondents

I certify that this memorandum contains 5,646 words, in compliance with the Local Civil Rules.