

CHIEF MAGISTRATE JUDGE THERESA L. FRICKE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TUAN MINH VO,	)	No. CV26-996-TLF
Petitioner,	)	
vs.	)	REPLY TO GOVERNMENT'S
	)	RESPONSE TO PETITION FOR WRIT
PAMELA BONDI, Attorney General of	)	OF HABEAS CORPUS
the United States, et al.,	)	
Respondents.	)	

I. INTRODUCTION

The government begins its return memorandum by stating that “[t]his is not a typical post-order habeas case” because Petitioner Tuan Vo has a criminal history with multiple arrests and convictions between 1992 and 2026.¹ Dkt. 10 at 1. But as this Court recently made clear, “[i]f *Zadvydas* is satisfied, release is warranted even if the petitioner has a criminal record.” *Zheng v. Immigration and Customs Enforcement Field Dir.*, No. 2:25-cv-02483-TLF, 2026 WL 850531, at *2 (W.D. Wash. Mar. 27, 2026) (citing *Baltodano v. Bondi*, --F. Supp. 3d--, No. C25-1958RSL, 2025 WL 3484769, at *5 (W.D. Wash. Dec. 4, 2025)). Indeed, *Zadvydas* had “a long criminal record” and “a

¹ Deportation Officer Harold Britt, Jr. summarizes Mr. Vo’s alleged criminal history without providing authenticated records verifying that history. In *Khim v. Bondi*, Judge Lasnik noted that a similar summary made by a deportation officer in that case constituted inadmissible hearsay because the records were not “submitted to the Court or authenticated” and thus the court declined to consider the officer’s summary of petitioner’s criminal history. No. 2:25-cv-02383-RSL, 2025 WL 3653724, at *1 n.3 (W.D. Wash. Dec. 17, 2025).

1 history of flight, from both criminal and deportation proceedings,” but that record did
2 not prevent the Court from holding that “the Constitution’s demands, implicitly limits
3 an alien’s post-removal-period detention to a period reasonably necessary to bring
4 about that alien’s removal from the United States.” *Zadvydas v. Davis*, 533 U.S. 678,
5 689 (2001). Because Mr. Vo’s detention is presumptively unreasonable, his continued
6 detention is unreasonable and he should be released. *Zadvydas*, 533 U.S. at 699–700,
7 *see also Khim*, 2025 WL 3653724, at *1 n.3 (“[T]he focus of the *Zadvydas* analysis is
8 whether there is a significant likelihood of removal in the reasonably foreseeable future,
9 not whether the petitioner poses a flight risk or a danger to the community.”).

10 The government’s remaining arguments have been repeatedly rejected by the
11 courts, including this Court, and should be rejected once again here.

12 **II. PETITIONER’S CONTINUED DETENTION IS UNLAWFUL AND HE**
13 **SHOULD BE RELEASED.**

14 Mr. Vo was born in war-torn Vietnam in 1974. “After the Vietnam War ended in
15 1975, the United States accepted ‘hundreds of thousands of Vietnamese refugees’ under
16 various humanitarian programs,” including Mr. Vo and his family. *Dao v. Bondi*, 2026
17 WL 18626, at *3 (W.D. Wash. Jan. 2, 2026) (quoting *Trinh v. Homan*, 466 F. Supp. 3d
18 1077, 1083 (C.D. Cal. 2020)). Mr. Vo came to the United States with his family as a
19 refugee in 1992 and adjusted his status to Lawful Permanent Resident on July 30, 1993.
20 Dkt. 12-2 at 4. An immigration court ordered his removal to Vietnam on November 4,
21 2014. His motion to reopen the removal proceedings was denied and his subsequent
22 appeal of that order was also denied by the Board of Immigration Appeals, rendering
23 the original order of the immigration court final. Dkt. 10 at 6.

24 The government does not dispute that Mr. Vo is detained under 8 U.S.C.
25 § 1231(a)(6). Dkt. 10 at 3. Under that statute, noncitizens subject to administratively
26 final orders of removal must be detained for 90 days to effectuate their removal. *See* 8

1 U.S.C. § 1231(a)(2). While a “special statute authorizes further detention if the
2 Government fails to remove the alien during those 90 days,” allowing the “indefinite
3 detention” of noncitizens “would raise serious constitutional concerns.” *Zadvydas*, 533
4 U.S. at 682 (citing 8 U.S.C. § 1231)(a)(6)). “[T]o avoid a serious constitutional threat,”
5 the Supreme court held that “once removal is no longer reasonably foreseeable,
6 continued detention is no longer authorized by statute.” *Id.* at 699. The Court further
7 found six months was a “presumptively reasonable period of detention.” *Id.* at 701.

8 To assess whether a noncitizen’s post-removal-period detention is constitutional,
9 the Supreme Court crafted a burden-shifting framework. *Zadvydas*, 533 U.S. at 701.
10 Under this framework, if a petitioner establishes that his removal is not likely in the
11 reasonably foreseeable future, and the government fails to rebut that showing, then he
12 must be released under conditions of supervision. Applied here, *Zadvydas* mandates
13 Mr. Vo’s release.

14 Although it is unclear whether Mr. Vo was initially detained for the 90-day
15 mandatory removal period in 2014,² the government argues that because his current
16 detention began on November 12, 2025, his “period of post-order detention has not yet
17 reached the six month presumptively reasonable time period under *Zadvydas*,” and that
18 “this Court need not analyze this issue any further.” Dkt. 10 at 7, 9. But *Zadvydas*’
19 “presumptively reasonable period of detention,” *id.* at 701, begins running “following
20 the entry of the order of his removal.” *Tran v. Bondi*, No. C25-01897-JLR, 2025 WL
21 3140462, at *3 (W.D. Wash. Nov. 10, 2025) (citing *Zadvydas*, 533 U.S. at 701).
22 Because Mr. Vo’s final removal order to Vietnam was issued almost 12 years ago on
23

24 ² The petition avers on information and belief that Mr. Vo was detained for six months
25 after he was ordered removed in 2014. Dkt. 1-1 at 3. The government’s return
26 memorandum does not indicate whether Mr. Vo was initially detained and if so, for
how long. Thus, whether Mr. Vo was initially detained is unclear. It is undisputed
however that his removal order became final on November 4, 2014. Dkt. 11, ¶ 10.

1 November 14, 2014, the *Zadvydas*'s presumptively reasonable period has long ended.
2 Dkt. 11, ¶ 10.

3 Even assuming for argument's sake that *Zadvydas*' presumptively reasonable
4 period began when Mr. Vo was detained on November 12, 2025, this Court recently
5 rejected the argument that a petitioner cannot challenge his current detention until after
6 the six-month period has expired. In *Zheng, supra*, the government, as here, argued that
7 the petitioner could not challenge the legality of his detention because the six-month
8 presumptively reasonable period did not expire for another month. 2026 WL 850531, at
9 *3. This Court rejected the argument, holding that "petitioner can still challenge his
10 detention within the presumptively reasonable six-month period" because "[a]t no point
11 did the *Zadvydas* Court preclude a noncitizen from challenging their detention before
12 the end of the presumptively reasonable six-month period." *Id.* (citing *Trinh*, 466
13 F. Supp. 3d at 1092)). *See also id.* at *4 (citing *Zadvydas*, 533 U.S. at 701) (The
14 "Supreme Court in *Zadvydas* created only a 'presumptively reasonable,' benchmark of
15 6-months and not a legally unchallengeable period of six months.").

16 The question presented then "whether the detention in question exceeds a period
17 reasonably necessary to secure removal,' or in other words, whether there is a
18 'significantly likelihood of removal in the reasonably foreseeable future.'" *Id.* at *2
19 (citing *Zadvydas*, 533 U.S. at 699, 701). Here, the facts averred in Mr. Vo's petition,
20 including that Vietnam has historically refused to accept Vietnamese nationals and that
21 almost 12 years have elapsed since he was ordered removed, Dkt. 1-1 at 6, provides
22 "good reason to believe that there is no significant likelihood of removal in the
23 reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701.

24 **III. THE GOVERNMENT HAS FAILED TO MEET ITS BURDEN.**

25 The government fails to provide "evidence sufficient to rebut that showing."
26 *Zadvydas*, 533 U.S. at 701. Deportation Officer Britt's declaration shows, at best, only

1 an intent to obtain a travel document. He states that on December 8, 2025, “ERO began
2 the process of obtaining a Vietnamese Travel Document by submitting a request for the
3 translation of the document necessary to obtain a Travel Document.” Dkt. 11, ¶ 12. The
4 final version of the Travel Document application” was sent to “ICE’s international team
5 at DHS headquarters in Washington, D.C. for processing” on December 18. *Id.*, ¶ 12.
6 While the Tacoma ERO apparently followed up with the international team on February
7 4, February 28, March 12, and March 27, 2026, the Tacoma ERO did not receive a
8 response until April 1, 2026. *Id.* And the only response that was received was “that the
9 Travel Document application *has been submitted to the DHS Attache for processing.*”
10 *Id.* (emphasis added). In other words, no travel document request has yet been sent to
11 Vietnam and there is no timeline for when a request will be sent. Rather, Deportation
12 Officer Britt states only that “[o]nce the DHS Attache submits the forms” that “it
13 should take approximately 30 days from the time of submission to receive the travel
14 document.” *Id.*

15 Multiple courts have held evidence describing only an intent to submit a travel
16 document request fails to show removal to Vietnam is likely “in the reasonably
17 foreseeable future.” *See, e.g., Abubaka v. Bondi*, No. C25-1889RSL, 2025 WL
18 3204369, (W.D. Wash. Nov. 17, 2025) (finding petitioner met burden to show removal
19 to Vietnam was not likely “in the reasonably foreseeable future” where the government
20 was preparing to submit a request for travel documents but had not actually submitted a
21 request); *Tran v. Bondi*, No. C25-01897-JLR, 2025 WL 3140462, at *3 (W.D. Wash.
22 Nov. 10, 2025) (“ICE is not permitted to hold [petitioner] indefinitely while it waits for
23 travel documents from Vietnam.”). Further “[t]hat there is ‘some possibility that
24 Vietnam will accept Petitioner at some point . . . is not the same as a significant
25 likelihood that he will be accepted in the reasonably foreseeable future.’” *Dao v. Bondi*,
26

No. 2:25-cv-02340-LK, 2026 WL 18626, at *5 (W.D. Wash. Jan. 2, 2026) (quoting *Abubaka*, 2025 WL 3204369, at *5).

The government also does not address the evidence submitted in support of Mr. Vo's 2241 Petition. Specifically, Petitioner submitted the Declaration of Tin Thanh Nguyen, an immigration attorney in North Carolina, filed in *Nguyen v. Scott*, 796 F. Supp. 3d 703, 714 (W.D. Wash. 2025). *See* Dkt. 1-3. In that case, Judge Cartwright noted that Mr. Tin Thanh Nguyen is an attorney who in 2025 "worked on or assisted with the cases of almost a hundred pre-1995 immigrants for who ICE has requested travel documents from Vietnam," and "[a]cross these cases, Mr. Nguyen has yet to see Vietnam issue a travel document within 30 days or less for a pre-1995 arrival Rather, in his experience, it can take many months to get any answer from Vietnam about whether it will issue a travel document for these arrivals." 796 F. Supp. 3d at 717. The court found that "the process for procuring travel documents from Vietnam for pre-1995 immigrants continue to be uncertain and protracted." *Id.* at 723. Here, the time estimate of "30 days from the time of submission" has even less reliability given that the application is still being processed by the DHS Attache and Deportation Officer Britt does not say when the application will be sent on to the Vietnamese government. Dkt. 11, ¶ 12.

On this record, the government has failed to meet its burden of rebutting Mr. Vo's showing under *Zadvydas*. Mr. Vo's continued detention is thus no longer authorized by statute, and he must be released on an order of supervision under appropriate conditions. *See Zadvydas*, 533 U.S. at 696.

IV. NUMEROUS COURTS IN THIS DISTRICT HAVE REJECTED THE GOVERNMENT'S ASSERTION THAT DUE PROCESS DOES NOT

**REQUIRE A PRE-DEPRIVATION HEARING BEFORE THE
REVOCATION OF AN OSUP.**

Citing to *Mathews v. Eldridge*, 424 U.S. 319, 333–34 (1976), Mr. Vo’s petition contains a separate due process claim, arguing that procedural due process in the context of an individual released on an OSUP requires notice and an opportunity to be heard. Dkt. 1-1 at 9–12.

In response, the government first asserts that Mr. Vo’s due process claim should not be considered because “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.” Dkt. 10 at 10. The government’s argument is perplexing given that Mr. Vo’s Petition cites to multiple cases holding that noncitizens with final orders of removal have liberty interests in their continuing release from custody, and that due process requires that they receive proper notice and an opportunity to respond before they can be re-detained. *See* Dkt. 1-1 at 11 (citing cases). Moreover, the government acknowledges that courts in this district “have found that the Due Process Clause requires a pre-deprivation hearing before revocation of an OSUP.” Dkt. 10 at 10 (citing cases including *Khim v. Bondi*, 2025 WL 3653724, at *4, cited to by Petitioner at Dkt. 1-1 at 11).

Alternatively, the government asserts that “[e]ven if this Court were to consider issues related to re-detention, which it should not, Petitioner’s arguments still fail.” Dkt. 10 at 11. Again, multiple courts have found under similar circumstances that all three *Mathews* factors favor the Petitioner.

The government primarily argues that because Mr. Vo violated the conditions of his OSUP by committing alleged crimes and has failed to report since 2015, “that ICE is clearly permitted to revoke the OSUP and take the alien into custody; nothing else is required for revocation under these circumstances.” Dkt. 10 at 13. But as stated in

1 *Perera v. Jennings*, No. CV21-4136-BLF, 2021 WL 2400981, at *5 (N.D. Cal. June 11,
 2 2021), “the interest at stake is not whether the Government may detain [a noncitizen
 3 after releasing him], but whether they may do so without providing him an
 4 individualized bond hearing.” *See also Pinchi v. Noem*, 792 F.Supp.3d 1025 (N.D. Cal.
 5 2025) (“[E]ven when ICE has the initial discretion to detain or release a noncitizen
 6 pending removal proceedings, after the individual is released from custody, she has a
 7 protected liberty interest in remaining out of custody”).

8 Courts in this district and elsewhere have also made clear that revocation of an
 9 OSUP requires notice and a pre-deprivation hearing even when the government alleges
 10 supervised release violations. *See, e.g., Tessema v. Bondi*, No. C25-2330-JNW-MLP,
 11 2025 WL 4033288, at *1 (W.D. Wash. Dec. 11, 2025), report and recommendation
 12 adopted, No. C25-2330-JNW-MLP, 2026 WL 84922 (W.D. Wash. Jan. 12, 2026);
 13 *Pineda v. Chestnut*, No. 1:25-cv-01970-DC-JDP (HC), 2026 WL 25510, at *5 (E.D.
 14 Cal. Jan. 5, 2026) (“Although Respondents allege in their opposition that Petitioner
 15 repeatedly violated the terms of her release [citation omitted], no neutral arbiter has
 16 determined whether those facts show that Petitioner is a flight risk or danger to the
 17 community.”); *Tesara v. Wamsley*, No. C25-1723-KKE-TLF, 2025 WL 3288295, at *1,
 18 *6 (W.D. Wash. Nov. 25, 2025) (even when it alleges supervised release violations, the
 19 Government must provide notice and a pre-detention hearing to comply with due
 20 process); *Nguyen v. Bondi*, No. 2:25-CV-02723-RAJ, 2026 WL 183819, at *4 (W.D.
 21 Wash. Jan. 23, 2026) (revocation of an OSUP requires notice and a pre-deprivation
 22 hearing). This case presents nothing that would warrant a different result.

23 Moreover, “the Government’s interest in detaining petitioner without a hearing is
 24 ‘low.’” *Carbello v. Andrews*, No. CV25-978-KES-EPG, 2025 WL 2381464, *8 (E.D.
 25 Cal. Aug. 15, 2025) (cleaned up). That is because “in immigration court, custody
 26 hearings are routine and impose a minimal cost.” *Id.* Courts in this district have also

1 repeatedly held, “[b]ased on review of the *Mathews* factors,” that a “Petitioner has a
2 protected liberty interest in his continuing release from custody, and that due process
3 requires that Petitioner receive proper notice and an opportunity to respond before he
4 can be re-detained.” *Jimenez v. Bondi*, No. C25-2167RSM, 2025 WL 3466925, at *2
5 (W.D. Wash. Dec. 3, 2025). In *Jimenez*, the court granted the petition and ordered
6 Mr. Jimenez’s immediate release, barring re-detention “without providing adequate
7 notice of the reasons for his re-detention and a meaningful opportunity to respond.” *Id.*
8 at *3. The government does not address *Jimenez* or the many other cases coming to the
9 same conclusion. *See, e.g., P.T. v. Hermosillo*, No. C25-2249-KKE, 2025 WL 3294988,
10 at *3 (W.D. Wash. Nov. 26, 2025); *Perez v. Mordant*, No. 2:25-CV-00947-SPC-DNF,
11 2025 WL 3466956, at *5 (M.D. Fla. Dec. 3, 2025); *S-M-J v. Bostock*, No. 6:25-CV-
12 01425-MTK, 2025 WL 3137296, at *5 (D. Or. Nov. 10, 2025).

13 Regarding *Mathews*’ third factor, the government’s interest in re-detaining
14 Mr. Vo without a hearing is low. The government asserts that it has a particularly strong
15 interest “given Petitioner’s extensive criminal history.” Dkt. 10 at 14. Notwithstanding
16 that the government took no action to revoke Mr. Vo after his arrests or convictions,
17 which allegedly occurred years earlier or his failure to report in 2015, and instead
18 waited until 2025 to do so, that is not the governmental interest at issue here. As stated
19 by the court in *P.T.*, “[i]n the final *Mathews* factor, the Court considers the
20 Government’s interest in arresting and detaining Petitioner *without a hearing*.” 2025
21 WL 3294988, at *3 (emphasis added).

22 Finally, the government’s assertion that no hearing was necessary because the
23 post-detention administrative process described in the regulations provided Mr. Vo with
24 the safeguards he needs should also be rejected. As the court pointed out in *Guillermo*
25 *M.R. v. Kaiser*, 791 F. Supp. 3d 1021 (N.D. Cal. 2025), the regulations provide no
26 opportunity to have a neutral party evaluate ICE’s unilateral determination of contested

1 facts. And that it is this lack of “any neutral review” which “creates a heightened risk of
2 deprivation for Petitioner.” *Id.* at 1034.

3 **V. PETITIONER IS ENTITLED TO AN ORDER PROHIBITING ANY NEW**
4 **RE-DETENTION WITHOUT NOTICE AND A HEARING.**

5 Mr. Vo also seeks an order prohibiting any future re-detention absent notice and
6 a hearing before a neutral decisionmaker. Dkt. 1-1 at 23. The government’s return
7 makes clear that Mr. Vo has been labeled as a target for immigration arrest based on his
8 alleged criminal conviction history. ICE has detained him once without process and
9 without a significant likelihood of removal in the reasonably foreseeable future. Thus,
10 without injunctive relief, he may be subject to the same due process violation again.
11 Several courts in this district have granted similar relief under comparable
12 circumstances. *See, e.g., Abghari v. Hermosillo*, 2:26-CV-00269-JNW, 2026 WL
13 503317, at *4 (W.D. Wash. Feb. 24, 2026) (finding that absent injunctive relief,
14 “Abghari may be subject to the same due process violation again”); *Kumas v. Bondi*,
15 No. 2:26-cv-00721-RAJ, 2026 WL 847846, at *2 (W.D. Wash. Mar. 26, 2026) (“The
16 Court finds that imposing conditions on any future re-detention of Mr. Kumas is
17 necessary to fully effectuate the intent of this order.”); *Wana v. Bondi*, No. 25-cv-2321,
18 2025 WL 3628634, at *6 (W.D. Wash. Dec. 15, 2025) (prohibiting re-detention without
19 notice and a hearing); *Do v. Scott*, No. 24-cv-2187, 2025 WL 3496909, at *6 (W.D.
20 Wash. Dec. 5, 2025) (prohibiting re-detention without valid travel document and other
21 specified conditions).

22 **VI. NUMEROUS COURTS HAVE ALSO REJECTED THE**
23 **GOVERNMENT’S ARGUMENT THAT PETITIONER’S CLAIMS**
24 **REGARDING REMOVAL TO A THIRD COUNTRY ARE NOT YET**
25 **RIPE.**

26 Mr. Vo’s petition also asks for an order precluding his removal to a third country
absent notice and a meaningful opportunity to respond and precluding ICE from

1 removing him to a third country under its punitive removal policies. The government
 2 asserts—ignoring that multiple courts in this district have rejected that same assertion—
 3 that this Court should deny Mr. Vo’s request because it is not ripe for review given it
 4 has no plans to deport him to anywhere but Vietnam. A similar argument was rejected
 5 in *Nguyen v. Scott*, 769 F. Supp. 3d at 726. There, the government also represented that
 6 it was seeking only to remove the petitioner to his home country of Vietnam and even
 7 stipulated that it would not attempt to move him to any other country unless Vietnam
 8 rejected him. The court was unpersuaded, explaining that “the Ninth Circuit has found
 9 such voluntary promises insufficient” to eliminate the potential irreparable injury that
 10 petitioner could face if the promise were withdrawn, particularly given the underlying
 11 allegations that third party removals were being conducted rapidly and without an
 12 opportunity for due process. 796 F. Supp. 3d at 737. *See also Zheng*, 2026 WL 850531,
 13 at *5 (this Court finding injunctive relief appropriate regarding third country removal).

14 Just as other courts in this district have done after rejecting the government’s
 15 ripeness contention and turning to the substantive issue, this Court should grant the two
 16 forms of relief Mr. Vo requested regarding third-country removal. *See Abubaka*, 2025
 17 WL 3204369, at *7–8 (ruling in petitioner’s favor on merits third-country removal and
 18 both due process and punitive nature of removal); *Nguyen*, 2025 WL 3534168, at *10
 19 (same); *Baltodano*, 2025 WL 3484769, at *10 (ordering government “not to remove
 20 petitioner to any third country where he is likely to face imprisonment or harm”).

21 **VII. THE COURT HAS SUBJECT MATTER JURISDICTION OVER THE** 22 **APA CLAIM.**³

23 The government further argues that Mr. Vo’s claims can only be brought through
 24 Habeas Corpus, Dkt. 10 at 15–16, “Federal courts have reject this argument, finding

25 ³ The government also argues that Mr. Vo’s habeas petition should be denied “for the
 26 additional reason that it is not properly verified as required by Local Civil Rule 100(e).”

that ‘APA and habeas review may coexist.’” *Le v. Bondi*, --F. Supp. 3d--, 2026 WL 309239, at *3 (W.D. Wash. Feb. 5, 2026) (citing *Bautista v. Santacruz*, 813 F. Supp. 3d 1084, 1107 (C.D. Cal. 2025) (quoting *R.I.L-R v. Johnson*, 80 F. Supp. 3d 164, 185 (D.D.C. 2015)).

VIII. HABEAS IS A FLEXIBLE REMEDY AND THE RELIEF REQUESTED IS GROUNDED IN LAW.

The Supreme Court has made clear that the habeas statute is aimed at providing petitioners with “a swift, *flexible*, and summary determination of his claim.” *Preiser v. Rodriguez*, 411 U.S. 475, 495 (1973) (emphasis added). The relief requested by petitioner is grounded in law and within the Court’s equitable powers to grant.

A. An order for a pre-redetention hearing is a permissible remedial remedy for a violation of *Zadvydas*.

Contrary to the government’s claims, Dkt. 10 at 17, the Court may order relief that helps to effectuate the release order, thus falling within the heartland of the classic habeas remedy. Courts in this district have held that requiring a pre-redetention notice and hearing helps to ensure that a petitioner whose removal is not reasonably foreseeable is not put on an endless *Zadvydas* hamster wheel: “The Court finds that imposing conditions on any future re-detention of Mr. Kumas is necessary to fully effectuate the intent of this order.” *Kumas*, 2026 WL 847846, at *2. *See also Uprety v. Bondi*, No. CV25-2443-JNW, 2026 WL 194227, at *4 (W.D. Wash. Jan. 26, 2026) (“Without any re-detention standard, the Government could theoretically re-detain [petitioner] immediately after release, which would render the Court’s order meaningless.”). Precisely on-point Supreme Court precedent is not required for a

Dkt. 10 at 16. But the petition contains a “Verification Pursuant to LCR 100(e)” at page 28 of the petition. See Dkt 1-1 at 28. This is the same verification contained in numerous other petitions filed by the FPD without complaint from the government or the courts.

1 § 2241 claim (as it may be under AEDPA), and the Court may grant relief on this
2 ground without explicitly finding that remedy in the text of *Zadvydas*.

3 **B. Requiring a travel document in hand is a necessary remedial remedy.**

4 Similarly, the request that ICE obtain a travel document in hand before re-
5 detention is a remedial measure, necessitated by the government's clear pattern of
6 indefinitely detaining individuals such as Mr. Vo despite there being no timeline for
7 obtaining a travel document. The equitable power to order such remedial measures
8 flows from the habeas statute's authorization for courts "dispose of the matter as law
9 and justice require." 28 U.S.C. § 2243; *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987).
10 Federal courts thus have broad authority, in the context of the unique facts and
11 circumstances of each case, to fashion a remedy tailored to the injury suffered from the
12 constitutional violation. *See Braunskill*, 481 U.S. at 775.

13 Relief necessitated by the government's pattern of re-detention without prospects
14 of efficient removal does not interfere with the "execution" of removal orders under
15 8 U.S.C. § 1252, unless ICE plans to remove Mr. Vo without travel documents. The
16 jurisdiction-stripping provision of 8 U.S.C. § 1252(g) prohibits habeas courts from
17 "hear[ing] any cause or claim by or on behalf of any alien arising from the decision or
18 action by the Attorney General to commence proceedings, adjudicate cases, or execute
19 removal orders." It does not forbid the imposition of constitutional due process
20 requirements that do not fall under these narrowly construed categories. *Ibarra-Perez v.*
21 *United States*, 154 F.4th 989, 997 (9th Cir. 2025) ("[W]e have been clear that § 1252(g)
22 does not prohibit challenges to unlawful practices merely because they are in some
23 fashion connected to removal orders"). Section 1252(g) does not bar due process
24 claims. *Id.* (citing *Walters v. Reno*, 145 F.3d 1032, 1052–53 (9th Cir. 1998)) (finding
25 that the petitioners' objective was not to review the merits of their proceeding, but
26

1 rather “to enforce their constitutional rights to due process in the context of those
2 proceedings”).

3 **C. Third-country removal is not speculative, and Mr. Vo faces irreparable**
4 **harm.**

5 Mr. Vo is a pre-1995 refugee from Vietnam and the government has been unable
6 to remove him in the nearly 12 years since his order of removal became final. Under
7 these circumstances, the threat of third-country removal is not speculative. And he faces
8 the threat of irreparable harm: the government’s third-country removal program is
9 likely to involve prison and/or lack of legal status. *See* American Immigration Counsel,
10 *What Are Third Country Removals? Factsheet* (Dec. 5, 2025),
11 [https://www.americanimmigrationcouncil.org/fact-sheet/what-are-third-country-](https://www.americanimmigrationcouncil.org/fact-sheet/what-are-third-country-removals-factsheet/)
12 [removals-factsheet/](https://www.americanimmigrationcouncil.org/fact-sheet/what-are-third-country-removals-factsheet/) [<https://perma.cc/H8BX-RAT5>] (“Under the ‘Asylum Cooperative
13 Agreements,’ asylum-seekers sent to Guatemala and other countries were supposed to
14 be given the opportunity to apply for asylum there; however, the asylum systems in
15 these countries were not always functional, and lacked the capacity to process even a
16 fraction of those that governments agreed to accept from the United States.”); Sarah
17 Stillman, *Disappeared to a Foreign Prison*, *New Yorker* (Nov. 20, 2025) (describing
18 arrangements with third countries to imprison detainees upon arrival and reporting that
19 “the U.S. has reportedly sought third-country-deportation agreements with nations
20 including Ukraine, Libya, Saudi Arabia, Uganda, and Kosovo, sometimes threatening
21 countries with economic or diplomatic consequences if they don’t oblige.”).

22 The Court should therefore order that Mr. Vo not be removed to a third country
23 where he is likely to face imprisonment or harm. *See Nguyen*, 796 F. Supp. 3d at 739
24 (granting preliminary injunction against “removing Petitioner to any country where he
25 is likely to face imprisonment upon arrival”).
26

1 **IX. CONCLUSION**

2 This Court should grant the habeas petition on all grounds.

3 DATED this 15th day of April 2026.

4 Respectfully submitted,

5 *s/ Vicki W.W. Lai*

6 Assistant Federal Public Defender

7 Attorney for Tuan Minh Vo