

Chief Magistrate Judge Theresa L. Fricke

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

SANIT VA CHA,

Petitioner,

v.

BRUCE SCOTT,¹ *et al.*,

Respondents.

Case No. 2:26-cv-01137-TLF

FEDERAL RESPONDENTS'
RETURN MEMORANDUM

Noted for Consideration:
April 17, 2026.

I. INTRODUCTION

This Court should deny Petitioner Sanit Va Cha's Petition for Writ of Habeas Corpus because Petitioner's removal is not speculative, indefinite, or constitutionally infirm—it is imminent. Dkt. 1 ("Pet."). ICE has obtained a valid travel document from Laos and secured a forthcoming flight for removal in the coming days. Critically, ICE did not detain Petitioner until it had secured a valid travel document in hand, confirming that removal was significantly likely in the reasonably foreseeable future. Petitioner is detained for the sole purpose Congress contemplated in 8 U.S.C. § 1231(a): to effectuate a final order of removal where removal is

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

1 significantly likely in the reasonably foreseeable future.

2 Any risk that his re-detention or revocation of his order of supervision (“OSUP”) is an
3 erroneous deprivation of his liberty is limited. *See Saechao v. Scott*, No. 2:26-CV-00548-TMC,
4 2026 WL 626765, at *5 (W.D. Wash. Mar. 5, 2026). Because ICE did not detain Petitioner until
5 it had secured a travel document, detaining him to facilitate that removal is not erroneous. *Id.* If
6 Respondents fail to remove Petitioner and his detention is erroneous, he may seek relief under
7 *Zadvydas*. This post-deprivation remedy, along with the agency’s regulations governing re-
8 detention, is sufficient to protect Petitioner’s liberty interest in being free from indefinite detention
9 when removal is not foreseeable.

10 Petitioner’s criminal history, including convictions for assault in the first degree, assault
11 in the second degree, and unlawful use of a weapon, further underscores the Government’s strong
12 interest in executing his long-standing removal order and in revoking his prior OSUP. For years,
13 Petitioner remained at liberty only because removal was not practicable. That circumstance has
14 now changed. ICE lawfully revoked his supervision after securing a travel document.

15 Because removal is imminent, detention is authorized by statute, and Petitioner’s
16 requested relief exceeds the narrow scope of habeas review, the Petition should be denied.

17 II. FACTUAL AND PROCEDURAL BACKGROUND

18 A. Legal Background

19 1. Post-Order Detention

20 The detention of noncitizens with final orders of removal is governed by 8 U.S.C. §
21 1231(a), which establishes a 90-day removal period during which detention is mandatory to
22 facilitate removal. 8 U.S.C. §§ 1231(a)(1)(A), (a)(2). For noncitizens who are inadmissible,
23 removable for criminal offenses, or determined to be a risk to the community or unlikely to
24 comply with the removal order, detention may extend beyond this period. 8 U.S.C. § 1231(a)(6).

1 To address potential due process concerns under the Fifth Amendment, the Supreme Court in
2 *Zadvydas v. Davis*, 533 U.S. 678 (2001), construed 8 U.S.C. § 1231(a)(6) to limit detention to a
3 period reasonably necessary to accomplish removal, establishing a presumptively reasonable six-
4 month period after the removal period begins. *Id.* at 689, 701. After six months, the noncitizen
5 bears the initial burden to provide good reason to believe there is no significant likelihood of
6 removal in the reasonably foreseeable future; if met, the burden shifts to the government to rebut
7 that showing with evidence of foreseeability. *Id.* at 701. The “reasonably foreseeable future” is
8 not rigidly defined but considers factors such as diplomatic efforts, travel document procurement,
9 and alternative removal options, without requiring a specific timeline. *See Prieto-Romero v.*
10 *Clark*, 534 F.3d 1053, 1063 (9th Cir. 2008). This framework applies equally to inadmissible
11 noncitizens. *Clark v. Martinez*, 543 U.S. 371, 377-78 (2005). Detention does not violate due
12 process merely because it exceeds six months; rather, it must be shown to be potentially indefinite,
13 lacking a legitimate immigration purpose. *Zadvydas*, 533 U.S. at 690-91; *see also Rodriguez Diaz*
14 *v. Garland*, 53 F.4th 1189, 1208 (9th Cir. 2022).

15 2. OSUP and Revocation

16 Once it is determined that there is no significant likelihood of removal in the reasonably
17 foreseeable future, DHS may release noncitizens on an Order of Supervision (“OSUP”). 8 C.F.R.
18 § 241.13(h). The right to remain under an OSUP is not unlimited. Revocation of an OSUP is
19 governed by 8 C.F.R. §§ 241.13(i), 241.4(l), and may occur either: (1) if the noncitizen “violates
20 any of the conditions of release,” *id.* §§ 241.13(i)(1), 241.4(l)(1); or (2) if it is determined “that
21 there is a significant likelihood that the alien may be removed in the reasonably foreseeable
22 future.” *Id.* § 241.13(i)(2).

23 Whether there is a significant likelihood that the alien may be removed in the reasonably
24 foreseeable future is determined by assessing a series of factors, including “the history of the

1 alien's efforts to comply with the order of removal, the history of the Service's efforts to remove
2 aliens to the country in question or to third countries ... and the views of the Department of State
3 regarding the prospects for removal of aliens to the country or countries in question.” *Id.* §
4 241.13(f). Alternatively, certain designated officials may also revoke an OSUP as an act of
5 discretion when revocation is in the public interest. *Id.* § 241.4(l)(2).

6 Section 241.13(i)(3) provides that upon revocation, the alien “will be notified of the
7 reasons for revocation of his or her release” and will receive an “initial informal interview
8 promptly” after being detained, to “afford the alien an opportunity to respond to the reasons for
9 revocation stated in the notification.” *Id.* § 241.13(i)(3).

10 During such an interview, the noncitizen “may submit any evidence or information that
11 he or she believes shows there is no significant likelihood he or she be removed in the reasonably
12 foreseeable future, or that he or she has not violated the order of supervision.” *Id.* “The revocation
13 custody review will include an evaluation of any contested facts relevant to the revocation and a
14 determination whether the facts as determined warrant revocation and further denial of release.”
15 *Id.* Then, if the alien’s request for release is denied, he or she “may submit a request for review
16 of his or her detention . . . six months after [DHS’s] last denial of release[.]” *Id.* § 241.13(j).

17 **B. Petitioner Sanit Va Cha**

18 Petitioner is a native and citizen of Laos. Declaration of Harold Britt (“Britt Decl.”) ¶ 4.
19 On July 12, 1978, Petitioner was admitted to the United States at or near Portland, Oregon. *Id.* ¶
20 5. On March 26, 1997, the Multnomah County Circuit Court convicted Petitioner of Assault in
21 the First Degree (ORS 163.185), Assault in the Second Degree (ORS 163.175) and on April 22,
22 1997, Unlawful Use of a Weapon (ORS 166.220). *Id.* ¶ 6. Petitioner was sentenced to 70 months
23 prison on count one and 18 months prison for count two. *Id.*

1 On May 20, 1997, a Notice to Appear (“NTA”) was issued charging Petitioner with
 2 removability under two sections of the Immigration and Nationality Act (“INA”). *Id.* ¶ 7;
 3 Declaration of Alixandria K. Morris (“Morris Decl.”), Ex. 1. First, Petitioner was charged as
 4 removable under section 237(a)(2)(A)(iii) of the INA, in that Petitioner had been convicted of an
 5 Aggravated Felony. Britt Decl. ¶ 7. Second, Petitioner was charged as removable under section
 6 236(a)(2)(C) of the INA, in that Petitioner had been convicted under any law of purchasing,
 7 selling, offering for sale, exchanging, using, owning, possessing, or carrying, or of attempting to
 8 conspire to purchase, sell, offer for sale, exchange, use, own, possess, or carry, in violation of any
 9 law, any weapon, part, or accessory which is a firearm or destructive device. *Id.*

10 On November 5, 2002, Petitioner was ordered removed from the United States by an
 11 Immigration Judge (“IJ”)². *Id.* ¶ 8. Petitioner did not appeal the IJ’s decision. *Id.* On February 4,
 12 2003, Petitioner was released on an Order of Supervision (“OSUP”)³, as ERO was unable to
 13 remove Petitioner to Laos at that time. *Id.* ¶ 9. On January 30, 2026, Laos issued a Travel
 14 Document for Petitioner’s removal. *Id.* ¶ 10; Morris Decl., Ex. 3. On March 24, 2026, Petitioner
 15 was contacted and instructed to report on March 27, 2026. Britt Decl. ¶ 12.

16 On March 27, 2026, Petitioner reported to ERO in Portland, Oregon. *Id.* ¶ 13. Petitioner
 17 was informed that ERO has a valid travel document from Laos that expires on April 30, 2026,
 18 and ERO revoked his OSUP. *Id.*; Morris Decl., Ex. 2. Petitioner was taken into custody at 8:30
 19 A.M.. Britt Decl. ¶ 13. Petitioner did not challenge the decision to revoke OSUP nor did he want
 20 to participate in an informal interview. *Id.*

23 ² Petitioner does not dispute that he is subject to a final order of removal. *See* Dkt. 1 ¶¶ 2, 6.

24 ³ While Petitioner asserts that he was released on OSUP on March 9, 2005, Federal Respondents do not believe this
 discrepancy to be material to this habeas action. *See* Pet. ¶ 3; *but see* Britt Decl. ¶ 9. The contention herein is not
 whether or when Petitioner was released on OSUP, only with the revocation of his OSUP and the current detention.

1 On March 27, 2026, Petitioner was transported to the NWIPC in Tacoma, Washington for
2 removal. *Id.* ¶ 14. On March 31, 2026, Petitioner was served with an I-205 administrative warrant
3 of arrest. *Id.* ¶ 15. Petitioner refused to sign, but stated that he wants to leave. *Id.* On April 3,
4 2026, Petitioner filed a Motion to Stay Removal and a Motion to Reopen to the Portland, Oregon
5 Immigration Court. *Id.* ¶ 16. There is presently no stay of removal issued by the Immigration
6 Court. *Id.*

7 Petitioner is currently scheduled to be removed to Laos on a commercial flight later this
8 month, April 2026. *Id.* ¶ 17. Thus, there is a significant likelihood of removal in the reasonably
9 foreseeable future. *Id.*

10 III. LEGAL STANDARD

11 This Court has jurisdiction over Petitioner's habeas corpus petition under 28 U.S.C. §
12 2241, which authorizes federal district courts to grant writs of habeas corpus to individuals in
13 custody in violation of the Constitution or laws of the United States. 28 U.S.C. § 2241(c)(3).
14 Jurisdiction is proper in the district where the petitioner is physically detained and where the
15 immediate custodian is located. *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004). Here, Petitioner
16 is detained at the NWIPC in Tacoma, Washington, within the Western District of Washington,
17 and the respondents include officials with custody over him. *See Braden v. 30th Judicial Circuit*
18 *Court of Ky.*, 410 U.S. 484, 495 (1973). The petition does not seek review of the removal order
19 itself, which would be barred by 8 U.S.C. § 1252(a)(5), but rather challenges the constitutionality
20 of continued detention, thus invoking proper habeas jurisdiction.

21 IV. ARGUMENT

22 A. Petitioner's Continued Detention Does Not Violate Due Process

23 Under 8 U.S.C. § 1231(a), the government must remove a noncitizen within 90 days of a
24 final removal order, during which detention is mandatory. 8 U.S.C. § 1231(a)(2). For criminal

1 noncitizens like Petitioner, detention may extend beyond 90 days if the individual poses a risk to
2 the community or is unlikely to comply. 8 U.S.C. § 1231(a)(6). Petitioner's claim under *Zadvydas*
3 *v. Davis*, 533 U.S. 678 (2001), must fail because he has not carried his initial burden to
4 demonstrate good reason that his removal is not significantly likely in the reasonably foreseeable
5 future, and even if he had, the government's active and diligent removal efforts decisively rebut
6 any such showing.

7 In *Zadvydas*, the Supreme Court interpreted 8 U.S.C. § 1231(a)(6) to limit post-removal-
8 order detention to a period reasonably necessary to effectuate removal, establishing a six-month
9 presumptively reasonable period. *Id.* at 689, 701. Detention beyond this period does not
10 automatically violate due process; rather, the inquiry focuses on whether there is a significant
11 likelihood of removal in the reasonably foreseeable future, a flexible concept that accounts for
12 ongoing diplomatic negotiations, procurement of travel documents, and exploration of alternative
13 removal destinations. *Id.* at 701; *see also Prieto-Romero v. Clark*, 534 F.3d 1053, 1063-65 (9th
14 Cir. 2008). The Ninth Circuit has clarified that this analysis requires a case-specific evaluation of
15 factors including the government's good-faith efforts, the duration of detention relative to
16 removal prospects, and the availability of third-country options. *Rodriguez Diaz v. Garland*, 53
17 F.4th 1189, 1208 (9th Cir. 2022). "Foreseeable future" is flexible, considering diplomatic efforts
18 and alternatives. *Prieto-Romero v. Clark*, 534 F.3d 1053, 1063-65 (9th Cir. 2008). *Clark v.*
19 *Martinez*, 543 U.S. 371, 377-78 (2005), extended *Zadvydas* to inadmissible noncitizens. Third-
20 country removals are authorized under 8 U.S.C. § 1231(b)(2)(E), requiring diplomatic assurances
21 against persecution. *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018).

22 Here, the Government does not concede that the six-month presumptive period has
23 elapsed because Petitioner's current period of post-revocation detention began on March 27,

2026, and has lasted only fourteen days as of the date of this filing.⁴ The relevant *Zadvydas* inquiry focuses on whether removal is significantly likely in the reasonably foreseeable future at the time of review. Where detention follows revocation of an OSUP based on materially changed circumstances, including the procurement of a travel document, the analysis properly considers the present detention period and current removal prospects. Britt Decl. ¶¶ 10-13; Morris Decl., Ex. 3.

Even if the Court were to aggregate prior detention for purposes of analysis, Petitioner still cannot satisfy his burden because removal is now concretely foreseeable. Mere duration does not suffice to establish a constitutional violation. Even assuming that Petitioner met his threshold burden, ICE's multifaceted efforts rebut it comprehensively. ICE obtained a travel document prior to detaining Petitioner. Britt Decl. ¶¶ 10-13; Morris Decl., Exs. 2-3. ICE anticipates a flight to Laos at the end of April, and ICE anticipates removing Petitioner on this flight. Britt Decl. ¶ 17.

Thus, Petitioner has a definitive timeframe of anticipated removal, which rebuts any argument that his detention is indefinite. Detention becomes indefinite in situations where the country of removal refuses to accept the noncitizen or if removal is legally barred. *See Diouf v. Mukasey*, 542 F.3d 1222, 1233 (9th Cir. 2008). The situation is entirely different here where ICE has obtained a travel document, has an anticipated timeframe of a forthcoming flight, and intends to remove petitioner on the next available flight to Laos. Thus, Petitioner's removal is imminent, constituting a significant likelihood of removal in the reasonably foreseeable future. Britt Decl. ¶¶ 10-13, 17; Morris Decl., Ex. 3; *see also Zadvydas*, 533 U.S. at 701.

⁴ Federal Respondents acknowledge that Courts in this district disagree as to whether the presumptively reasonable period expires six months after a final order, regardless of detention. *See Tran v. Bondi*, No. CV-25-01897-JLR, 2025 WL 3140462 (W.D. Wash. Nov. 10, 2025); *but see Thach Wana v. Bondi*, et al., No. 2:25-CV-02321-RSL, 2025 WL 3628634, at *3, n.2 (W.D. Wash. Dec. 15, 2025). For the reasons set forth in their briefing in the Tran case, Federal Respondents do not agree with this decision. In any event, Petitioner's detention is still lawful even past the presumptively reasonable period for the reasons stated herein.

1 **B. Petitioner has failed to demonstrate that his OSUP revocation did not comport with**
2 **due process or was inconsistent with ICE's procedural regulations**

3 As an initial matter, a case substantially similar to Petitioner's in this district was recently
4 denied for precisely the same reasons that this habeas should be denied. *See Saechao v. Scott*, No.
5 2:26-CV-00548-TMC, 2026 WL 626765, at *5 (W.D. Wash. Mar. 5, 2026). In that case, the Court
6 found:

7 Here, although the consequences to Petitioner from removal to Laos are drastic, the
8 risk that his detention is an erroneous deprivation of his liberty is limited. Because
9 ICE did not detain Petitioner until it had secured a travel document, it is unlikely
10 that detaining him to facilitate that removal is erroneous, even without a hearing. If
11 Respondents fail to remove Petitioner and his detention is erroneous, he may seek
12 relief under *Zadvydas*. This post-deprivation remedy, along with the agency's
13 regulations governing re-detention, is likely sufficient to protect Petitioner's liberty
14 interest in being free from indefinite detention when removal is not foreseeable.

15 *Id.*

16 Petitioner's habeas—and in particular his arguments regarding his OSUP revocation—
17 should be denied under the same rationale applied by the Court in *Saechao*. *Id.* ICE did not seek
18 to re-detain Petitioner until after it had secured a valid travel document. Britt Decl. ¶¶ 10-13.
19 Thus, the risk that his detention is an erroneous deprivation of his liberty is limited. *Saechao v.*
20 *Scott*, 2026 WL 626765, at *5 (W.D. Wash. Mar. 5, 2026). Therefore, the Court need not analyze
21 the *Mathews* factors in this case.

22 If the Court were to analyze the *Mathews* factors, they favor Respondents here.

23 “Due process is flexible and calls for such procedural protections as the particular situation
24 demands.” *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976). The *Mathews* test demonstrates that
25 Petitioner's detention is consistent with his due process rights. Under *Mathews*, “[t]he
26 fundamental requirement of due process is the opportunity to be heard at a meaningful time and
27 in a meaningful manner.” *Id.*, at 333 (internal quotation marks omitted). This calls for an analysis
28 of (1) “the private interest that will be affected by the official action,” (2) “the risk of an erroneous

1 deprivation of such interest through the procedures used, and probable value, if any, of additional
 2 or substitute procedural safeguards,” and (3) the Government’s interest. *Id.*, at 334-35.

3 **1. Petitioner’s liberty interest in remaining released on conditions is reduced**

4 Respondents recognize the “weighty liberty interests implicated by the Government’s
 5 detention of noncitizens.” *Reyes v. King*, No. 19-cv-8674, 2021 WL 3727614, at *11 (S.D.N.Y.
 6 Aug. 20, 2021). However, Petitioner’s interest in his liberty *generally* does not include a separate
 7 or heightened interest in continuing conditional release on an OSUP.⁵ The recognized liberty
 8 interests of U.S. citizens and aliens are not coextensive: the Supreme Court has “firmly and
 9 repeatedly endorsed the proposition that Congress may make rules as to aliens that would be
 10 unacceptable if applied to citizens.” *Rodriguez Diaz*, 53 F.4th at 1206 (quoting *Demore v. Kim*,
 11 538 U.S. 510, 522 (2003)). As the Supreme Court has explained, “[i]n the exercise of its broad
 12 power over naturalization and immigration, Congress regularly makes rules that would be
 13 unacceptable if applied to citizens.” *Mathews v. Diaz*, 426 U.S. 67, 79-80 (1976).

14 Petitioner’s release on OSUP was always subject, in part, to ICE’s inability to remove him
 15 at that time. Here, the ICE revoked Petitioner’s OSUP only *after* receiving a travel document to
 16 remove Petitioner to Laos. Britt Decl. ¶¶ 10-13; Morris Decl., Ex. 3. Accordingly, Petitioner
 17 cannot now claim that the Respondents promised him ongoing, limitless freedom from detention,
 18 especially in the face of a travel document to his home country and his criminal history. Britt
 19 Decl. ¶¶ 10-13; Morris Decl., Ex. 3.

20
 21
 22
 23
 24 ⁵ 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.

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

4 Turning to the second *Mathews* factor, the risk of a constitutionally significant deprivation
5 of Petitioner's liberty here is minimal, and Petitioner fails to show that ICE did not comply with
6 procedural safeguards in this case. Petitioner presents no evidence for his claims that the agency
7 failed to give him both notice and an opportunity to be heard regarding his OSUP revocation. And
8 the evidence presented herein definitively rebuts any unevidenced assertions by Petitioner. Britt
9 Decl. ¶¶ 12-13; Morris Decl., Ex. 2.

10 As outlined above, DHS established a clear regulatory framework in 8 C.F.R. § 241.13(i)
11 that sets forth the requirements and process for affecting an OSUP revocation. When an alien has
12 violated any condition of their release, as Petitioner did through his criminal activity, or ICE
13 determines that there is a "significant likelihood" an alien can be removed from the United States
14 within the "reasonably foreseeable future," ICE is clearly permitted to revoke the OSUP and take
15 the alien into custody; nothing else is required for revocation under these circumstances. *Id.* §
16 241.13(i)(1) and (2); *see also Nizar Esmail v. Noem*, et al., 2025 WL 3030590, at *2 (C.D. Cal.
17 Sept. 12, 2025).⁶ Additionally, when ICE's revocation is based on an alien's violation of a
18 condition of release, the statute does not require that only certain officials may revoke the OSUP.
19 *See generally* 8 C.F.R. § 241.13(i); *see also Nizar Esmail*, 2025 WL 3030590, at *2, n.3
20 (distinguishing between Sections 241.4 and 241.13, explaining that "Section 241.13 applies to
21 cases where a petitioner is in revocation proceedings, whereas Section 241.4 applies to routine
22 custody reviews for aliens detained after the 90-day removal period.").

23
24 ⁶While 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(i)(2), this is not what ICE has chosen to do in this case.

1 8 C.F.R. § 241.13(i)(3) requires notice “upon revocation,” i.e., not before revocation, “the
2 alien will be notified of the reasons for the revocation” and to conduct an “initial interview
3 promptly after his or return to Service custody to afford the alien an opportunity to respond to the
4 reasons for revocation stated in the notification.” *Id.* § 241.13(3).

5 Here, ICE took custody of Petitioner based on its determination that Petitioner could be
6 removed expeditiously only after it obtained a valid travel document. Britt Decl. ¶¶ 10-13, 17.
7 Upon revocation, ICE provided Petitioner with written notice of the specific reasons for its
8 determination, including a likelihood of removal. Morris Decl., Ex. 2. ICE records reflect that
9 Petitioner declined or refused an informal interview with an ICE officer. Britt Decl. ¶ 13.
10 Accordingly, Petitioner fails to meet his burden to demonstrate his unevicenced contentions that
11 he was detained without cause, notice, and an opportunity to respond.

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

14 Turning to the third *Mathews* factor, the Ninth Circuit has emphasized that the *Mathews*
15 test “must account for the heightened government interest in the immigration detention context.”
16 *Rodriguez Diaz*, 53 F.4th at 1206. Invoking the Supreme Court’s 2003 *Demore* decision, the Ninth
17 Circuit in *Rodriguez Diaz* recognized that “the government clearly has a strong interest in
18 preventing aliens from ‘remain[ing] in the United States in violation of our law.’” *Rodriguez Diaz*,
19 53 F.4th at 1208 (quoting *Demore*, 538 U.S. at 518). The government likewise has an interest in
20 enforcing removal orders. In sum, the three *Mathews* factors demonstrate that Petitioner’s
21 detention comports with procedural due process and that ICE adhered to its own regulations in
22 revoking Petitioner’s OSUP. Britt Decl. ¶ 13; Morris Decl., Ex. 2.
23
24

C. Petitioner's Petition for Review is Irrelevant in this Context

The Court does not have jurisdiction to prevent or delay removal to Laos on the basis of a pending petition for review absent a stay. *Rauda v. Jennings*, 55 F.4th 773, 777 (9th Cir. 2022) (quoting *Tazu v. Att'y Gen. United States*, 975 F.3d 292, 297 (3d Cir. 2020)); see e.g., *Saechao v. Scott*, No. 2:26-CV-00548-TMC, 2026 WL 626765, at *5 (W.D. Wash. Mar. 5, 2026); *Aleman v. Bondi*, No. 2:25-CV-02346-JNW, 2026 WL 102457, at *4 (W.D. Wash. Jan. 14, 2026); *Velasco Gomez v. Scott*, No. C25-0522JLR-BAT, 2025 WL 1726465, at *4-6 (W.D. Wash. June 20, 2025); *Martin v. Bondi*, 2:26-CV-00749-DGE, 2026 WL 699354, at *1 (W.D. Wash. Mar. 12, 2026).

Thus, the Court should not consider Petitioner's arguments regarding a pending petition for review as basis for granting this habeas.

D. 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., ¶¶ 8, 39-46. 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 and seeks release from custody, habeas corpus provides an adequate and exclusive remedy. See 5

1 U.S.C. § 704. Because Petitioner's APA claims are directed at the fact and duration of his
2 detention, they are not independently reviewable under the APA. .

3 **V. CONCLUSION**

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

6 Dated this 10th day of April, 2026.

7 Respectfully submitted,

8 s/ Alixandria K. Morris

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19 I certify that this memorandum contains 4,035
20 words, in compliance with the Local Civil Rules.