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8
9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 THI THUY VINH NGUYEN,

12
13 Petitioner,

14 v.

15 CHRISTOPHER LAROSE; et al.,

16 Respondents.
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Case No.: 26-cv-2749-BAS-VET
RESPONSE TO PETITION

1 **I. INTRODUCTION**

2 Petitioner has filed a habeas petition under 28 U.S.C. § 2241. For the reasons set
3 forth below, Respondents respectfully request that the Court deny the habeas petition.

4 **II. BACKGROUND**

5 Petitioner is a native and citizen of Vietnam. On December 1, 2024, Petitioner
6 unlawfully entered the United States without inspection near Otay Mesa. At that time,
7 Petitioner did not have a valid visa or other authorization to enter the United States and
8 was not then admitted or paroled into the United States. He was taken in U.S.
9 Immigration and Customs Enforcement (ICE) custody and mandatorily detained
10 pursuant to 8 U.S.C. § 1225(b)(1). After being found to have demonstrated a credible
11 fear, on January 17, 2025, a Notice to Appear (NTA) was issued and Petitioner was
12 placed into removal proceedings under 8 U.S.C. § 1229a. On November 6, 2025, an
13 immigration judge (IJ) denied Petitioner's asylum application, ordered Petitioner
14 removed to Vietnam, and granted Petitioner withholding of removal to Vietnam under
15 Section 241(b)(3) of the Immigration and Nationality Act (Act). Petitioner and DHS
16 both waived appeal, and the removal order became final on November 6, 2026. Once
17 subject to a final order of removal, Petitioner became subject to mandatory detention
18 under 8 U.S.C. § 1231(a).

19 On November 13, 2025, ICE Enforcement and Removal Operations (ERO) began
20 the process for identifying a third country for removal. On April 21, 2026, ERO received
21 confirmation of Petitioner's acceptance for removal to the third country of Palau
22 pursuant to a Third Country Removal agreement between the United States and Palau
23 that was signed on December 24, 2025.¹ On April 30, 2026, at approximately 6:30 p.m.,
24 ERO transferred Petitioner from OMDC to Florence, Arizona for final staging of
25

26 ¹ As part of the Third Country Removal agreement, Palau provided diplomatic
27 assurances that the aliens removed from the United States pursuant to the Third Country
28 Removal agreement will not be subjected to persecution or torture. On February 4,
2026, the Department of State determined that the diplomatic assurances were credible.

1 removal to Palau. On May 1, 2026, after being notified of Petitioner's habeas petition
2 and motion for temporary restraining order, ERO cancelled the plans for imminent
3 removal. Later on May 1, 2026, ERO received a second notification that Petitioner was
4 accepted for removal to the third country of Palau pursuant to a Third Country Removal
5 agreement between the United States and Palau. ERO intends to remove Petitioner to
6 Palau, absent any stay or temporary restraining order, before the end of this month.

7 III. ARGUMENT

8 "Section 241(a) of the Immigration and Nationality Act (INA), codified at 8
9 U.S.C. § 1231(a), authorizes the detention of noncitizens who have been ordered
10 removed from the United States." *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 575
11 (2022). The INA provides that an alien ordered removed must be detained for 90 days
12 pending the government's efforts to secure the alien's removal through negotiations
13 with foreign governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General "shall
14 detain" the alien during the 90-day removal period under subsection (a)(1)).

15 Section 1231(a)(6) "authorizes further detention if the Government fails to
16 remove the alien during those 90 days." *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001).
17 Detention authority under this statute, however, is limited to "a period reasonably
18 necessary to bring about the alien's removal from the United States" and "does not
19 permit indefinite detention." *Id.* at 689. The Supreme Court has held that a six-month
20 period of post-removal detention constitutes a "presumptively reasonable period of
21 detention." *Id.* at 701. Release is not mandated after the expiration of the six-month
22 period unless "there is no significant likelihood of removal in the reasonably foreseeable
23 future." *Id.*

24 If an individual ordered removed "is not removed to his or her country of choice
25 or citizenship, he or she shall be removed to any of the following countries" listed in 8
26 U.S.C. § 1231(b)(2)(E). *Hadera v. Gonzales*, 494 F.3d 1154, 1156--57 (9th Cir. 2007).
27 The enumerated countries are:

28 (i) The country from which the alien was admitted to the United States

1 (ii) The country in which is located the foreign port from which the alien
2 left for the United States or for a foreign territory contiguous to the United
3 States.

4 (iii) A country in which the alien resided before the alien entered the
5 country from which the alien entered the United States.

6 (iv) The country in which the alien was born.

7 (v) The country that had sovereignty over the alien's birthplace when the
8 alien was born.

9 (vi) The country in which the alien's birthplace is located when the alien
10 is ordered removed.

11 *Id.* (quoting § 1231(b)(2)(E)(i)–(vi)). “If removal to any of these countries is
12 ‘impracticable, inadvisable, or impossible,’ the individual shall be removed to ‘another
13 country whose government will accept the alien into that country.’” *Id.* (quoting
14 § 1231(b)(2)(E)(vii)).

15 Here, Petitioner was granted withholding of removal to Vietnam—her country of
16 birth and citizenship, as well as the country designated during her removal proceedings.
17 Apart from Vietnam, there appears to be no other country that would meet the
18 definitions under subsections (i) through (vi), and Petitioner has made no showing to
19 the contrary. *See Rokhfirooz v. Larose*, No. 25-CV-2053-RSH-VET, 2025 WL
20 2646165, at *2 (S.D. Cal. Sept. 15, 2025) (“A prisoner bears the burden of
21 demonstrating that ‘he is in custody in violation of the Constitution or laws or treaties
22 of the United States.’”) (quoting 28 U.S.C. § 2241(c)(3), brackets omitted). Because
23 removal to the above enumerated countries is “impracticable, inadvisable, or
24 impossible,” ICE may remove Petitioner to a third country that will accept Petitioner’s
25 removal. 8 U.S.C. § 1231(b)(2)(E)(vii). In invoking its authority under 8 U.S.C. §
26 1231(b)(2)(E), ICE continues to detain Petitioner for purposes of executing his removal
27 order to a third country.

28 Since Petitioner’s removal order became final, ICE has worked expeditiously to
effectuate her resettlement in a third country. On April 21, 2026, and May 1, 2026, ERO
received confirmation of Petitioner’s acceptance for removal to the third country of
Palau pursuant to a Third Country Removal agreement between the United States and

1 Palau. ERO intends to remove Petitioner to Palau, absent any stay or temporary
 2 restraining order, before the end of this month. Accordingly, there is a significant
 3 likelihood of removal in the reasonably foreseeable future and Petitioner's mandatory
 4 detention under 8 U.S.C. § 1231(a) is lawful.

5 To the extent Petitioner is challenging ICE's decision to detain her for the
 6 purpose of removal, such a challenge is precluded by statute. *See* 8 U.S.C. § 1252(g)
 7 ("Except as provided in this section and *notwithstanding any other provision of law*
 8 (statutory or nonstatutory), *including section 2241 of Title 28, or any other habeas*
 9 *corpus provision*, and sections 1361 and 1651 of such title, no court shall have
 10 jurisdiction to hear any cause or claim by or on behalf of any alien arising from the
 11 decision or action by the Attorney General to commence proceedings, adjudicate cases,
 12 or *execute removal orders* against any alien under this chapter.") (emphasis added); *see*
 13 *also Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999) ("There
 14 was good reason for Congress to focus special attention upon, and make special
 15 provision for, judicial review of the Attorney General's discrete acts of "commenc[ing]
 16 proceedings, adjudicat[ing] cases, [and] execut[ing] removal orders"—which represent
 17 the initiation or prosecution of various stages in the deportation process."); *Limpin v.*
 18 *United States*, 828 Fed. App'x 429 (9th Cir. 2020) (holding district court properly
 19 dismissed under 8 U.S.C. § 1252(g) "because claims stemming from the decision to
 20 arrest and detain an alien at the commencement of removal proceedings are not within
 21 any court's jurisdiction").

22 IV. CONCLUSION

23 For the reasons stated herein, Respondents respectfully request that the Court
 24 deny the requests for relief and dismiss the petition.

25 DATED: May 8, 2026

ADAM GORDON
 United States Attorney

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 27 ERIN M. DIMBLEBY
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