

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

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DUNG MINH LE,

Petitioner, Case No. 3:26-cv-01148-JEP-PDB

v.

WARDEN, NORTH FLORIDA

DETENTION FACILITY, et al.,

Respondents.

_____ /

**PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION
TO PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

Respondents ask this Court to deny Dung Minh Le's petition on two grounds: (1) that the petition was filed before the expiration of the six-month *Zadvydas* period; and (2) that his Order of Supervision ("OSUP") was properly revoked. Both arguments fail. Although Petitioner had not

yet reached six months of detention when he filed his Petition, he has now remained continuously detained since February 6, 2026. Accordingly, the Court may consider the current circumstances of detention and the absence of any meaningful progress toward removal in evaluating Petitioner's claims. As to the OSUP revocation, the record is plain: ICE detained Petitioner on February 6, 2026, yet did not serve the revocation notice until May 19, 2026—over three months later—and did not conduct the required informal interview until May 21, 2026. That is not “prompt” compliance under 8 C.F.R. § 241.13(i)(3). Courts in this very district have repeatedly ordered release on identical regulatory failures. Petitioner is entitled to immediate release.

ARGUMENT

I. PETITIONER'S CONTINUED DETENTION IS UNLAWFUL AND RESPONDENTS CANNOT SHOW A SIGNIFICANT LIKELIHOOD OF REMOVAL IN THE REASONABLY FORESEEABLE FUTURE.

When this petition was filed on May 5, 2026, Petitioner had been detained approximately 90 days. Respondents argued the claim was premature. That argument no longer justifies dismissal. Petitioner has remained continuously detained since February 6, 2026, and has now been in custody well beyond the six-month Zadvydas threshold as of the date of this reply. See *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002) (six-month period “must have expired at the time the § 2241 petition was filed” to state a claim). Where, as here, the six-month period has expired during the pendency of the litigation, dismissal for prematurity would elevate form over substance and require the filing of a new petition raising the identical claims already before the Court. Courts in this district have recognized the futility of such a result. See *Franco v. Warden*, No. 3:26-cv-176-JEP-SJH, Doc. 16 at 3 (M.D. Fla. Apr. 22, 2026) (addressing Zadvydas on the

merits where prematurity was initially raised but detention continued); Huynh v. Warden, No. 3:25-cv-1536-WWB-MCR, Doc. 18 at 5 (M.D. Fla. Feb. 25, 2026) (granting release where petitioner filed after six months in ICE custody).

Once the six-month period has run, the burden-shifting framework requires Petitioner to provide “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). Petitioner readily satisfies this burden. Vietnam has maintained a well-documented policy against accepting nationals who entered the United States prior to July 12, 1995, a policy memorialized in the 2008 U.S.-Vietnam Memorandum of Understanding. Dung Minh Le was ordered removed in April 2006 and has been on OSUP continuously since July 2006—nearly twenty years—without removal ever being effectuated. His own detention history (Respondents’ Ex. 2) shows he was previously held for 92 days in 2006 at the Honolulu Federal Detention Center and released to OSUP without removal. Those two decades of non-removal constitute powerful evidence that his removal is not significantly likely in the reasonably foreseeable future.

Respondents offer only the circular assertion that because Vietnam ordered his removal, removal is therefore imminent. But the identical argument—pointing to a removal order while offering no concrete progress on travel documents or repatriation—was rejected by Judge Berger in this district just months ago. In Huynh, the government submitted a deportation officer’s declaration stating that a travel document request had been submitted and was pending. Judge Berger found that evidence “speculative and unsupported” and ordered release, observing that “[r]espondents have not provided any details about why a travel document has not been obtained in the past twenty-plus years or whether there are changed circumstances such that a travel document is likely to be obtained now.” Huynh, No. 3:25-cv-1536-WWB-MCR, Doc. 18 at 7.

Respondents here offer even less: no declaration, no pending travel document request, no evidence whatsoever that Vietnam will accept Petitioner. The government's burden is not met by the mere existence of a decades-old removal order.

II. ICE'S FAILURE TO PROVIDE A PROMPT INFORMAL INTERVIEW VIOLATED 8 C.F.R. § 241.13(i)(3) AND INDEPENDENTLY REQUIRES RELEASE.

Even if this Court were to defer ruling on the *Zadvydas* claim, Petitioner is entitled to immediate release because the OSUP revocation was not effected in accordance with ICE's own mandatory regulations. The issue presented is straightforward. The same judge assigned to this case—Judge Pratt—already resolved it in *Franco v. Warden*, No. 3:26-cv-176-JEP-SJH (M.D. Fla. Apr. 22, 2026).

The governing regulation is 8 C.F.R. § 241.13(i)(3), which requires that “[u]pon revocation, the alien will be notified of the reasons for revocation of his or her release” and that ICE “conduct an initial informal interview promptly after [the revocation] to afford the alien an opportunity to respond to the reasons for revocation.” (Emphasis added.) The regulation is mandatory. *Franco*, No. 3:26-cv-176-JEP-SJH, Doc. 16 at 5.

The undisputed facts here parallel—and exceed in severity—the regulatory violation found in *Franco*. Petitioner was returned to ICE custody on February 6, 2026 (Respondents' Ex. 2, Detention History). ICE did not serve the revocation notice until May 19, 2026—103 days after detention. ICE did not conduct the informal interview until May 21, 2026—105 days after detention. Respondents concede both facts. (Opp. at 8.) They attempt to minimize them by arguing that the regulatory delay does not rise to a constitutional violation and that “[t]he error has already been remedied.” (Id.) Neither argument holds.

First, Judge Pratt in *Franco* expressly held that ICE is “required to follow its own regulations” and that the failure to do so is independently sufficient to require release, without any need to find a constitutional violation. *Franco*, Doc. 16 at 7 (citing *Gonzalez v. Reno*, 212 F.3d 1338, 1349 (11th Cir. 2000) (“Executive agencies must comply with the procedural requirements imposed by statute and must respect their own procedural rules and regulations.”)). There, an informal interview conducted four months after re-detention was held to violate the “prompt” requirement. *Id.* at 5–6. Here, the delay was likewise approximately four months; the same violation warrants the same result.

Second, Respondents’ “already remedied” argument was squarely rejected in *Franco*. The government made the identical argument there—that because the informal interview had ultimately been conducted, there was no continuing violation. Judge Pratt rejected it, holding that the violation was the failure to provide the interview promptly after re-detention, and that a belated interview does not undo the unlawful detention that preceded it. *Id.* at 6–7.

Third, Respondents never identify what condition of supervision Petitioner allegedly violated. The Notice of Revocation (Ex. 1) merely checks two boxes—“You violated a condition of your release” and “Circumstances have changed such that there is a significant likelihood of removal in the reasonably foreseeable future”—and appends only a reference to the April 27, 2006 removal order. That order has existed for twenty years. It explains nothing about what changed, when it changed, or why ICE acted in February 2026 after two decades of supervision without incident. A conclusory, boilerplate assertion unsupported by specific facts cannot provide meaningful notice or permit a meaningful response. The right to respond is illusory when no actual reasons are provided. Due process requires more than a checked box. *See Franco*, Doc. 16 at 5 (the informal interview must afford “an opportunity to respond to the reasons for revocation”—

which presupposes that actual reasons, not boilerplate, have been communicated); *Kong v. United States*, 62 F.4th 608, 619 (1st Cir. 2023) (re-detention under § 241.13(i)(2) requires “an individualized determination”). Indeed, Respondents’ own interview record reflects that Petitioner denied ever violating his OSUP, yet the Opposition never identifies any specific violation that justified revocation.

The same result was reached in a cascade of persuasive authority from courts across the country. In *Grigorian v. Bondi*, No. 25-CV-22914-RAR, 2025 WL 2604573 (S.D. Fla. Sept. 9, 2025), the Southern District of Florida held that failure to provide an informal interview for over 75 days violated the regulatory prompt-interview requirement. In *Pham v. Warden*, No. 1:25-CV-1873 DC AC, 2026 WL 673404 (E.D. Cal. Mar. 10, 2026), the court held that “[a]n interview weeks or months after revocation of release is not a prompt initial informal interview.” In *Bui v. Warden*, No. 25-CV-2111 JES DEB, 2025 WL 2988356 (S.D. Cal. Oct. 23, 2025), an interview four months post-detention was held insufficient. All of these cases were cited approvingly by Judge Pratt in *Franco*. The weight of authority is uniform.

Respondents’ reliance on 8 C.F.R. § 241.13(i)(2) for the proposition that ICE had authority to revoke the OSUP because circumstances had changed misses the point entirely. Petitioner does not contest ICE’s authority to revoke; he contests the procedure used. Even where revocation authority exists, the agency must follow its own regulatory procedures. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265 (1954); *Franco*, Doc. 16 at 7 (citing *Accardi*). ICE did not do so here.

Respondents also point to the Notice of Revocation (Ex. 1) as evidence of compliance. But that document itself proves the violation: it is dated May 18, 2026, and the Proof of Service shows it was personally served on Petitioner on May 19, 2026 at Baker C.I. at 1:00 p.m. Petitioner had

been in custody since February 6, 2026—over three months earlier. A notice served three months into detention, followed by an informal interview two days later, cannot be characterized as “prompt” by any measure. The government’s own exhibit undermines its position.

Moreover, the informal interview form (Respondents’ Ex. 3) reflects that Petitioner told the interviewing officer he had been on OSUP since 2006, never missed an appointment, and never committed a violation of supervision. He has two adult children in the United States. The record contains no written ICE findings addressing Petitioner’s statements or explaining why, after twenty years of full compliance, his circumstances have now “changed” in a way that justifies indefinite re-detention. The government’s revocation notice checks two boxes—“violated a condition of release” and “significant likelihood of removal”—without any individualized factual support. This is precisely the type of bare, conclusory revocation that courts have found insufficient.

III. PETITIONER’S TWENTY YEARS OF OSUP COMPLIANCE AND THE VIETNAM REPATRIATION BARRIER ESTABLISH THE UNLAWFULNESS OF HIS CONTINUED DETENTION.

The government’s opposition does not engage with the most important facts in this record. Dung Minh Le has been in the United States for decades. He was placed on OSUP on July 28, 2006—approximately twenty years ago—following a removal order entered April 27, 2006. During those twenty years, he was never removed. The government offers no explanation for why removal, impossible for two decades, has suddenly become likely now. Indeed, the Notice of Revocation identifies no new diplomatic agreement, no travel document issuance, no acceptance by Vietnam, and no other event occurring in 2026 that would distinguish Petitioner’s circumstances from the preceding twenty years. The detention history (Ex. 2) shows only that Petitioner was

previously detained briefly in 2006 and released without removal. There is no pending travel document request in the record. There is no evidence of renewed diplomatic efforts with Vietnam. There is no statement from a deportation officer. The record contains no such evidence.

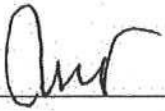
The Eleventh Circuit has emphasized that the *Zadvydas* inquiry focuses on whether removal is reasonably foreseeable *in fact*, not merely in theory. *Akinwale*, 287 F.3d at 1052. After six months of detention with no removal progress, the burden shifts to the government. The government has not met that burden here. Release is required.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Grant the Petition for Writ of Habeas Corpus;
- B. Declare that Respondents failed to comply with the requirements of 8 C.F.R. § 241.13(i)(3) by failing to provide prompt notice and a prompt informal interview following Petitioner's re-detention;
- C. Find that Respondents have failed to establish a significant likelihood of Petitioner's removal in the reasonably foreseeable future;
- D. Order Petitioner's immediate release from ICE custody;
- E. Restore Petitioner to the Order of Supervision under which he successfully resided from July 2006 until his re-detention in February 2026, subject to any reasonable reporting requirements deemed appropriate by the Court.
- F. Award such other and further relief as the Court deems just and proper.

Respectfully submitted,



Dung Minh Le, Petitioner Pro Se



Sanderson, FL 32087

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on _____, 2026, I delivered a true and correct copy of the foregoing Reply to Respondents' Opposition to Petition for Writ of Habeas Corpus to Middle District of Florida



Dung Minh Le