

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DO QUANG NHAT,

Petitioner,

Case No. 2:26-cv-1715-SPC-NPM

v.

FIELD OFFICE DIRECTOR, ICE
MIAMI FIELD OFFICE, et al.,

Respondents.

**FEDERAL RESPONDENTS' RESPONSE TO
PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner Do Quang Nhat seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241, seeking his immediate release from immigration custody on the basis that the length of his detention is unlawful. To date, Petitioner has been detained for 200 days. However, because his removal is significantly likely to occur in the reasonably foreseeable future, Federal Respondents respectfully request that this Court deny his Petition.

BACKGROUND

Petitioner is a national and citizen of Vietnam. (Exhibit 1, Composite Exhibit, at 2). Petitioner last entered the United States on October 20, 2002, at Los Angeles International Airport. (*Id.*). In November 2017, Petitioner was convicted of felony possession of a controlled substance. (*Id.* at 3). Following his conviction, Petitioner was placed in removal proceedings and ordered removed by an immigration judge on

December 21, 2018. (*Id.* at 2, 5–6). He was subsequently released on an order of supervision. (*Id.* at 15–19).

On November 10, 2025, Petitioner reported for his scheduled order of supervision appointment at an ICE location. (*Id.* at 2). Due to a change in circumstances, immigration officials revoked his release. (*Id.* at 9). Petitioner was provided with notice of the revocation of his release and an informal interview to respond to the reasons for the revocation. (*Id.* at 9–11). He was then taken into immigration custody. (*See id.* at 22).

As of January 30, 2026, Petitioner’s application for travel documents has been submitted and is pending approval with Removal and International Operations (“RIO”) within the Department of Homeland Security. (*See* Exhibit 2, Garrido Declaration, ¶ 7). Once the application is approved by RIO, ERO will submit a travel document request to the Vietnamese consulate, and the Vietnamese government has 30 days to issue a travel document once they receive the request.¹ (*Id.* ¶¶ 7–8). ICE attests that they have been able to repatriate almost 1,400 Vietnamese nationals in the current fiscal year. (*Id.* ¶ 9). Since February 2025, all travel documents that could be processed have been issued. (*Id.* ¶ 10). Moreover, ICE states that they frequently have charter flights to Vietnam, and the next charter flight to Vietnam is tentatively

¹ The attached declaration states that “[o]n January 30, 2026, petitioner’s travel document package was submitted to the Vietnamese consulate, RIO pending approval.” (Ex. 2 ¶ 7). It is undersigned counsel’s understanding that this is a two-step process. First, the ERO submits an application for travel documents to RIO—a division within DHS—for approval, which can take an undefined amount of time. Once the application is approved, then it is submitted to the Vietnamese government, which has to issue the travel documents within 30 days.

scheduled for early June 2, 2026. (*Id.* ¶ 11). While in custody, ICE reviewed Petitioner's custody status and determined it was appropriate to continue to detain Petitioner because of his pending removal. (Ex. 1 at 20–21). To date, Petitioner has been detained for 200 days. (*See id.* at 22).

CERTIFIED HABEAS RETURN

Federal courts may grant writs of habeas corpus for a petitioner “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). Petitioner bears the burden of proving his custody violates federal law. *Whitfield v. U.S. Sec’y of State*, 853 F. App’x 327, 329 (11th Cir. 2021). In a habeas case, respondent “shall make a return certifying the true cause of the detention.” 28 U.S.C. § 2243 (“The person to whom the writ or order is directed shall make a return certifying the true cause of the detention.”). Petitioner is detained pursuant to 8 U.S.C. § 1231.

ARGUMENT

After a final removal order, an alien must be removed within ninety days—i.e., the removal period. 8 U.S.C. § 1231(a)(1); *Zadvydas v. Davis*, 533 U.S. 678, 683 (2001). During the removal period, the alien must be detained. 8 U.S.C. § 1231(a)(2); *Zadvydas*, 533 U.S. at 683. An alien, however, can be detained beyond that removal period. 8 U.S.C. §§ 1231(a)(1)(C), (a)(6); *Zadvydas*, 533 U.S. at 683. This is called a “post-removal” period. *Johnson v. Guzman Chavez*, 594 U.S. 523, 529 (2021).

There is no statutory limit on how long ICE can detain an alien during the post-

removal period. *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 579 (2022). Due to constitutional concerns, the U.S. Supreme Court has interpreted the post-removal period to allow extended detention for “a period reasonably necessary to bring about that alien’s removal from the United States.” *Zadvydas*, 533 U.S. at 689. In all, a reasonable length of detention “is presumptively six months.” *Guzman Chavez*, 594 U.S. at 529; *see also Akinwale*, 287 F.3d at 1052 (stating six-month period is inclusive of any ninety-day removal period). If the presumptively reasonable period expires without removal, then a burden-shifting framework comes into play regarding the “significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 689. Once an alien “provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future,” the government must either rebut that showing or release the alien. *Jennings v. Rodriguez*, 583 U.S. 281, 299 (2018).

Here, Petitioner alleges that he was detained on November 10, 2025, and filed the present petition on May 20, 2026. (Doc. 1). Accordingly, he had been detained for 192 days when he filed the petition and, to date, has been detained for 200 days. (*See id.*). Thus, the Petition should be deemed timely and adjudicated on the merits.

Even though the six-month period for presumptively reasonable detention has expired, Petitioner has failed to establish that removal is not likely in the reasonably foreseeable future. Here, Petitioner’s application for travel documents has been submitted and is now pending approval from RIO. (*See Ex. 2 ¶ 7*). Once RIO approves the documents, the ERO attaché will then issue a request for a travel document from

the Vietnamese government, who then has 30 days to issue said travel document. (*Id.* ¶ 8). While Petitioner's travel documents are not yet finalized, all travel documents that could have been processed have been issued over the past year, and there are frequent charter flights to Vietnam. (*Id.* ¶¶ 10, 11). Thus, unlike in *Nguyen v. Field Office Director, Miami Field Office, U.S. ICE*, where the court was only provided with a general description of the United States's current diplomatic relationship with Vietnam as evidence of likelihood of removal, here, ICE has affirmatively taken steps to secure travel documents for Petitioner for his removal. No. 3:26-cv-512-MMH-LLL, 2026 WL 1132921, at *3 (M.D. Fla. Apr. 27, 2026); (*see* Ex. 2). Accordingly, Federal Respondents respectfully contend that the Petition should be denied. *See Huynh v. Warden, Fla. Soft Side S. Facility*, No. 2:26-cv-934-SPC-NPM, 2026 WL 1004614, at *2 (M.D. Fla. Apr. 14, 2026) (finding that ICE had successfully established a significant likelihood that the petitioner would be removed to Vietnam when ICE was in the process of obtaining travel documents).

CONCLUSION

Based on the foregoing, the Court should deny the Petition and dismiss the action. Should the Court determine that inadequate process has been provided or that detention has been unlawfully extensive, Federal Respondents respectfully defer to the Court as to the appropriate remedy.

Date: May 28, 2026

Respectfully submitted,

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