

District Judge Robert S. Lasnik
Magistrate Judge Grady J. Leupold

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

LIEN NGOC DO,

Petitioner,

v.

BRUCE SCOTT, *et al.*,

Respondents.

Case No. 2:25-cv-02187-RSL-GJL

FEDERAL RESPONDENTS'¹
RETURN MEMORANDUM

Noted for Consideration:
November 21, 2025.

I. INTRODUCTION

This Court should deny Petitioner Lien Ngoc Do's Petition for Writ of Habeas Corpus. Dkt. 1 ("Pet."). Petitioner challenges her post-order detention at the Northwest ICE Processing Center ("NWIPC") as unconstitutional and unlawful while she awaits removal from the United States. Petitioner is a citizen of Vietnam, she was ordered removed to Vietnam, and Vietnam has increased cooperation with the United States this fiscal year.

Against this backdrop, Petitioner was detained and issued a Notice to Appear ("NTA") on June 23, 1998, following her Washington State felony conviction for assaulting a child in 1997.

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

1 In August of 1998, Petitioner was ordered removed by an immigration judge. After Petitioner
2 withdrew her appeal, her removal order became administratively final on September 22, 1999.
3 Petitioner was later released an Order of Supervision on March 15, 2000.

4 U.S. Immigration and Customs Enforcement (“ICE”) revoked Petitioner’s order of
5 supervision on August 12, 2025. ICE is working to effectuate Petitioner’s removal to Vietnam.
6 While the vast majority of her Petition discusses removal to a third country, Petitioner presents
7 *no evidence* of any intention to do so. Indeed, Petitioner’s generic statistical summaries are
8 outdated as they rely on Vietnamese removal data only through 2023. In contrast, the facts here
9 demonstrate that ICE has already completed the travel document request to Vietnam and ICE
10 anticipate that a travel document will be issued shortly after the request is forwarded to the
11 Vietnamese consulate. As a result, ICE believes that her removal is reasonably foreseeable. ICE
12 has no intention of removing Petitioner to a third country.

13 Ngoc Do’s detention is lawful. She is a noncitizen subject to an administratively final
14 order of removal, and she is lawfully detained under Section 241 of the Immigration and
15 Nationality Act (“INA”). *See* 8 U.S.C. § 1231. Ngoc Do’s detention also is not indefinite under
16 *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). With increased inter-governmental cooperation,
17 ICE is actively working to effectuate Ngoc Do’s removal to Vietnam and expects to be able to do
18 so in the reasonably foreseeable future.

19 Accordingly, Federal Respondents respectfully request the Court deny the Petition. This
20 return is supported by the pleadings and documents on file in this case, the Declaration of
21 Deportation Officer Brett Booth (“Booth Decl.”), with accompanying exhibits, and the
22 Declaration of Alixandria K. Morris (“Morris Decl.”). Federal Respondents do not believe any
23 hearing is necessary.
24

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Detention Authorities and Removal Procedures

The INA governs the detention and release of noncitizens during and following their removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). The general detention periods are generally referred to as “pre-order” (meaning before the entry of a final order of removal) and, relevant here, “post-order” (meaning after the entry of a final order of removal). *Compare* 8 U.S.C. § 1226 (authorizing pre-order detention) *with* § 1231(a) (authorizing post-order detention).

When a final order of removal has been entered, a noncitizen enters a 90-day “removal period.” 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security “shall remove the [noncitizen] from the United States.” *Id.* To ensure a noncitizen’s presence for removal and to protect the community from noncitizens who may present a danger, Congress has mandated detention while removal is being effectuated:

During the removal period, the [Secretary of Homeland Security]² shall detain the [noncitizen]. Under no circumstance during the removal period shall the [Secretary] release [a noncitizen] who has been found inadmissible under section 1182(a)(2) or 1182(a)(3)(B) of this title or deportable under section 1227(a)(2) or 1227(a)(4)(B) of this title.

8 U.S.C. § 1231(a)(2).

Section 1231(a)(6) authorizes ICE to continue detention of noncitizens after the expiration of the removal period. Unlike Section 1231(a)(2), Section 1231(a)(6) does not mandate detention and does not place any temporal limit on the length of detention under that provision:

[A noncitizen] ordered removed who is inadmissible under section 1182, removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or

² Although 8 U.S.C. § 1231(a)(2) refers to the “Attorney General” as having responsibility for detaining noncitizens, the Homeland Security Act of 2002, Pub. L. No. 107-296 § 441(2), 116 Stat. 2135, 2192 (2002), transferred this authority to the Secretary of the Department of Homeland Security (“DHS”), of which ICE is a component. *See also* 6 U.S.C. § 251.

1 who has been determined by the [the Secretary of Homeland Security] to be a risk
2 to the community or unlikely to comply with the order of removal, *may* be detained
3 *beyond the removal period* and, if released, shall be subject to the terms of
4 supervision in paragraph (3).

5 8 U.S.C. § 1231(a)(6) (emphasis added).

6 During the removal period, ICE³ is charged with attempting to effect removal of a
7 noncitizen from the United States. 8 U.S.C. § 1231(a)(1). Although there is no statutory time limit
8 on detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen may
9 be detained only “for a period reasonably necessary to bring about that [noncitizen’s] removal
10 from the United States.” *Zadvydas*, 533 U.S. at 689. The Supreme Court has further identified six
11 months as a presumptively reasonable time to bring about a noncitizen’s removal. *Id.* at 701. The
12 *Zadvydas* Court recognized that as the length of detention grows, a sliding scale of burdens is
13 applied to assess the continuing lawfulness of a noncitizen’s post-order detention. *Id.* (stating that
14 “for detention to remain reasonable, as the period of postremoval confinement grows, what counts
15 as the ‘reasonably foreseeable future’ conversely would have to shrink”). Thus, the Supreme
16 Court implicitly recognized that six months is the *earliest* point at which a noncitizen’s detention
17 could raise constitutional issues. *Id.*

18 Here, Petitioner is the subject of an administrative order of removal that became
19 administratively final on September 22, 1999. Booth Decl. ¶ 4. Following an agreement
20 increasing cooperation from the government of Vietnam, Petitioner was taken into custody on
21 August 21, 2025. *Id.* ¶¶ 10, 15. Since then, she has been in custody 90 days as of the day of this
22 filing. The “presumptively reasonable” six-month custody period has not yet expired. *Zadvydas*,
23 533 U.S. at 701.

24 ³ Under 8 C.F.R. § 241.2(b), ICE deportation officers are delegated the Secretary of Homeland Security’s authority to execute removal orders.

1 Federal Respondents contest that detention be calculated in the aggregate. Even if this
2 Court accounts for Petitioner's detention over twenty-five years ago, combined with her current
3 detention—Petitioner's total detention is approximately eight and a half months. Petitioner's
4 removal order became final on September 22, 1999, and she was released on an Order of
5 Supervision ("OSUP") on March 15, 2000. Therefore, her prior post-order detention was
6 approximately five and a half months. Combined with her current 90-day detention, Petitioner's
7 total post-order detention time would be approximately eight and a half months. While her
8 detention may be prolonged, it is certainly not indefinite.

9 **B. Petitioner Lien Ngoc Do**

10 Petitioner is a native and citizen of Vietnam. *See* Pet. ¶ 18; Booth Decl. ¶ 3. She was
11 lawfully admitted to the United States as a permanent resident in 1991. Booth Decl. ¶ 4. On March
12 7, 1997, Petitioner was convicted of Assault of a Child in the Second Degree in violation of
13 Revised Code of Washington ("RCW") § 9A.36.021(1)(a) and 9A.36.130(1)(a), and was
14 sentenced to 31 months. *Id.* ¶ 5. 6. On June 23, 1998, Petitioner was placed in removal
15 proceedings and issued a Notice to Appear ("NTA") charging her removable based on the assault
16 conviction as an aggravated felony (crime of violence). Booth Decl. ¶ 6; Morris Decl., Exs. 1, 2
17 (Notice to Appear; I-213).⁴ On August 27, 1998, Petitioner was ordered removed to Vietnam by
18 an immigration judge. Booth Decl. ¶ 7; Morris Decl. Ex. 3 (Order of Removal). Petitioner
19 appealed to the Board of Immigration Appeals, and her appeal was denied on May 18, 1999.

20
21 ⁴ To the extent Petitioner intends to infer she is no longer removable as charged by the second-degree felony for
22 assaulting a child, this is the improper forum to raise this issue. *See* Pet. ¶ 26. First, Petitioner could file a motion to
23 reopen her removal proceedings, which she has not done. Second, Petitioner's 1999 removal order remains final
24 regardless of a change in technical terms. Third, her second-degree felony conviction for assaulting a child
continues to make Petitioner removable in 2025, including both the "crime of child abuse" and the "particularly
serious crime" grounds for removal. *See e.g., Matter of Medoza Osorio*, 26 I&N Dec. 703 (BIA 2016) (broadly
defining the crime of child abuse); and *Matter of Frentescu*, 18 I&N Dec. 244 (BIA 1982) (defining "particularly
serious crime" and stating withholding of deportation and asylum are not available to an alien convicted of a
particularly serious crime.).

1 Booth Decl. ¶¶ 7-8. 9. On June 22, 1999, Petitioner filed an appeal with the Ninth Circuit Court
2 of Appeals. *Id.* ¶ 9. On September 22, 1999, Petitioner voluntarily withdrew the appeal.
3 Petitioner's removal order was administratively final at this time. *Id.* ¶ 10.

4 On October 19, 2005, ICE released Petitioner on an order of supervision because there
5 was not a significant likelihood of removal. Booth Decl. ¶ 11; Morris Decl. Ex. 4 (Order of
6 Supervision). Therefore, Petitioner's post-order detention in 1999-2000 totaled approximately
7 five and a half months.

8 The Government of Vietnam has agreed to increase cooperation with the United States
9 and issue travel documents for its citizens. *Id.* ¶ 15. Following this agreement increasing
10 cooperation with the government of Vietnam, Petitioner was taken into ICE custody on August
11 21, 2025. *Id.* ¶¶ 12, 15. As of November 4, 2025, ICE had completed the necessary travel
12 documents for Petitioner's removal to Vietnam and submitted them for approval. *Id.* ¶ 14. Once
13 approved, the documents will be forwarded to the necessary government contacts in Vietnam. *Id.*
14 ¶ 14.

15 Though Petitioner stated in her petition that she believed ICE may be trying to remove her
16 to a third country, that is not the case and Petitioner provides no evidence ICE is seeking to remove
17 her to a third country. *See* Pet., pgs. 2, 8-10, 13-17. Petitioner is a citizen of Vietnam, she was
18 ordered removed to Vietnam in 1998, Petitioner's travel documents have only been completed
19 for the country of Vietnam, Vietnam has been cooperating in removal proceedings and agreed to
20 issue travel documents for its citizens, and ICE is currently working to removal Petitioner solely
21 to Vietnam. Booth Decl. ¶¶ 7, 12-15; Morris Decl., Ex. 3.

22 Petitioner's argument that she could be removed to a third country is without merit,
23 speculative, and not ripe for review. There is no case or controversy because there is no concrete
24 indication that such removal to a third country will occur. The record contains no evidence

1 supporting this claim. ICE is currently seeking a travel document to Vietnam, and there is no
2 ongoing effort to remove Petitioner to any third country. Accordingly, this claim should be
3 dismissed as premature.

4 ICE anticipates Petitioner's removal to Vietnam will occur in the reasonably foreseeable
5 future due to Vietnam's increased cooperation. ICE further believes that Petitioner's travel
6 document will be issued in 30-90 days. Booth Decl. ¶ 15.

7 III. ARGUMENT

8 A. Petitioner's detention is not indefinite or unconstitutionally prolonged

9 Petitioner has not demonstrated that her detention has become "indefinite" or
10 unconstitutional. In *Zadvydas*, the Supreme Court analyzed whether the potentially open-ended
11 duration of detention pursuant to 8 U.S.C. § 1231(a)(6) is constitutional. The Court read an
12 implicit limitation of post-removal detention "to a period reasonably necessary to bring about that
13 alien's removal from the United States." *Zadvydas*, 533 U.S. at 689. It was further specified that
14 Section 1231(a)(6) does not permit indefinite detention. *Id.* Thus, "once removal is no longer
15 reasonably foreseeable, continued detention is no longer authorized by statute." *Id.* at 699.

16 The *Zadvydas* Court recognized that as the length of detention grows, a sliding scale of
17 burdens is applied to assess the continuing lawfulness of a noncitizen's post-order detention. *Id.*
18 (stating that "for detention to remain reasonable, as the period of post-removal confinement
19 grows, what counts as the 'reasonably foreseeable future' conversely would have to shrink").
20 However, the Supreme Court determined that it is "presumptively reasonable" for the
21 Government to detain a noncitizen for six months following entry of a final removal order, while
22 it worked to remove the noncitizen from the United States. *Id.* at 701. Thus, the Supreme Court
23 implicitly recognized that six months is the *earliest* point at which a noncitizen's detention could
24 raise constitutional issues. *Id.* Moreover, the Supreme Court noted the six-month presumption

1 “does not mean that every [noncitizen] not removed must be released after six months. To the
2 contrary, [a noncitizen] may be held in confinement until it has been determined that there is no
3 significant likelihood of removal in the reasonably foreseeable future.” *Id.*

4 While the Government does not concede that Petitioner’s detention should be measured
5 in the aggregate, even assuming arguendo that it is, Petitioner’s total post-order detention is
6 approximately eight and a half months following her removal order becoming administratively
7 final in September 1999. Booth Decl. ¶¶ 10-12. By contrast, another Court in this district recently
8 granted relief to a Vietnamese national who had spent approximately twenty months in ICE
9 custody over three periods of detention. *Nguyen v. Scott*, No. 2:25-cv-01398, 2025 WL 2419288,
10 at *13 (W.D. Wash. Aug. 21, 2025) (Cartwright, J.). Here, Petitioner’s brief detention (along with
11 many other factors)⁵ distinguishes her from the petitioner in the *Nguyen v. Scott* case. Petitioner
12 fails to demonstrate that there is good reason to believe that there is no significant likelihood of
13 removal in the reasonably foreseeable future. Although she is correct that Vietnam has not yet
14 issued her a travel document, ICE is actively working to obtain a travel document to remove her
15 to Vietnam. Booth Decl., ¶¶ 12-15.

16 Since Petitioner has been detained, after awaiting her cooperation, ICE has completed
17 travel document forms for Petitioner, submitted them for approval, and will submit the documents
18 to government contacts in Vietnam upon approval. Booth Decl. ¶ 14. ICE anticipates receiving
19 travel documents expeditiously because the government of Vietnam has agreed to issue travel
20 documents. *Id.* ¶ 15. Indeed, it has issued travel documents in hundreds of cases just this fiscal
21 year, including 154 Vietnamese citizens who entered the United States before July 12, 1995.

22 _____
23 ⁵ Aside from her long tenure in the United States, Petitioner cites none of the special factors relevant in *Nguyen*. See
24 *Nguyen*, 2025 WL 2419288, at *18 (noting the petitioner alleged he had no family ties in Vietnam, no place to live,
and no identification documents from Vietnam). Even if Petitioner were to add those allegations in a subsequent
brief, they do not undermine the likelihood that she will receive travel documents from Vietnam given the country’s
recent increased cooperation.

1 *Nguyen*, 2025 WL 2419288, at *17. Because of this increased cooperation with the government
2 of Vietnam, Petitioner's removal will likely occur in the reasonably foreseeable future. *See* Booth
3 Decl. ¶ 15.

4 Vietnam has clearly engaged in issuing travel documents, which demonstrates a good faith
5 intention to issue travel documents in this case. *Id.* The Court can take judicial notice of the many
6 cases in this district alone where Vietnamese citizens have been removed on a relatively short
7 timeframe once the travel document request has been submitted. *See e.g., Nguyen v. Bondi et al.*,
8 2:25-cv-01833-JNW, Dkt. 19 (removal approximately 36 days following travel document
9 submission to Vietnam); and *Van Le v. Bondi et al.*, 2:25-cv-02084-JNW-SKV, Dkt. 7. Further,
10 Vietnam is accepting individuals for removal from the United States and ICE believes there is a
11 significant likelihood of Petitioner's removal to Vietnam in the reasonably foreseeable future.
12 Booth Decl. ¶ 15.

13 The fact that Petitioner does not yet have a specific date of anticipated removal does not
14 make her detention indefinite. *Diouf v. Mukasey*, 542 F. 3d 1222, 1233 (9th Cir. 2008). Detention
15 becomes indefinite in situations where the country of removal refuses to accept the noncitizen or
16 if removal is legally barred. *Id.* There is no reason to believe that is the situation here.
17 Consequently, Petitioner has failed to demonstrate a good reason to believe that there is no
18 significant likelihood of her removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at
19 701.

20 **B. Increased cooperation with Vietnam supports the timing of Petitioner's arrest**

21 To the extent Petitioner challenges her detention because she believes ICE provided no
22 lawful rationale for the decision to rearrest her, the record shows Petitioner was detained to
23 effectuate removal given the recent increased cooperation with Vietnam. Booth Decl. ¶ 12. While
24 Petitioner may believe she should have been arrested sooner, there is no question that ICE was

1 within its authority to arrest her as a result of increased cooperation with Vietnam which
2 constitutes a change of circumstances in her removal proceedings pursuant to her signed Order of
3 Supervision. Morris Decl., Ex. 4.

4 Petitioner was released on her express assent to the conditions of her Order of Supervision,
5 and those provisions expressly state her release was conditioned on her agreement that she will:
6 “assist the Immigration Service in obtaining a travel document to return to your country ...” and
7 “immediately surrender to an officer of this Service for deportation upon being ordered to do
8 so.” *Id.*, pg. 2. Petitioner does not allege any temporal limitation to this authority. Moreover, the
9 timing of her rearrest is supported by the increased cooperation between the United States and
10 Vietnam in the repatriation of Vietnamese citizens, particularly those who entered the United
11 States before 1995. *See Nguyen*, 2025 WL 2419288, at *17 (“[T]here is no dispute that this is a
12 meaningful increase in the total number of removals compared to historical practice.”); Booth
13 Decl. ¶¶ 12, 15.

14 With her removal pending, the government has significant legitimate interests in
15 Petitioner’s continued detention to ensure she will appear for removal. Petitioner poses a risk of
16 flight because she alleges no avenue to seek relief from removal. Moreover, her detention has not
17 become “indefinite,” and her removal is significantly likely in the reasonably foreseeable future.
18 This Court should not order that she be released.

19 IV. CONCLUSION

20 For the foregoing reasons, Federal Respondents respectfully request that this Court deny
21 the Petition and dismiss this matter.

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1 Dated this 19th day of November, 2025.

2 Respectfully submitted,

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11 I certify that this memorandum contains 3,027
12 words, in compliance with the Local Civil Rules.