

THE HONORABLE ROBERT S. LASNIK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

LIEN NGOC DO,
Petitioner,

v.

Bruce SCOTT, Warden, Northwest ICE
Processing Center; Cammilla WAMSLEY,
Enforcement and Removal Operations,
Seattle Field Office Director, U.S.
Immigration and Customs Enforcement;
Kristi NOEM, Secretary, U.S. Department
of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Respondents.

Civil Case No.: 25-cv-2187-RSL-GJL

**PETITIONER'S REPLY IN SUPPORT
OF HER HABEAS PETITION**

1 **I. INTRODUCTION**

2 Petitioner, Lien Ngoc Do, once again appears before this Court to challenge what she
3 contends is her unlawful and arbitrary detention. She respectfully requests that the Court grant her
4 habeas petition and order her release for a second time.

5 Petitioner asserts that Respondents have been unable to effectuate her removal for 26 years,
6 despite their claims that her removal is likely and foreseeable. Alleged cooperation from Vietnam
7 in the current fiscal year and under the 2020 Memorandum of Understanding (“2020 MOU”)
8 between the United States and Vietnam—regarding the acceptance and return of Vietnamese
9 nationals who arrived in the United States before July 2, 1995, and who have been ordered
10 removed—does not make her removal likely or foreseeable. ICE’s statements that it will
11 summarily deport Petitioner, despite her lack of documentation demonstrating Vietnamese
12 citizenship, are inconsistent with the reality of the indefinite detention she continues to face.

13 In accordance with federal statutes and decades of precedent, and one of the oldest legal
14 rights enshrined in our democracy, this Court must grant Petitioner’s Petition for Writ of Habeas
15 Corpus, order her immediate release, and prohibit her re-detention absent this Court’s approval
16 upon its receipt and examination of a valid travel document to Vietnam and confirmed departure
17 date.

18 **II. ARGUMENT**

19 **a. Respondents Fail to Address, and Thus Concede, Their Lack of**
20 **Compliance with the Revocation Procedures Outlined in 8 C.F.R. §**
21 **241.13(i)(3)**

22 Under 8 C.F.R. § 241.13(i)(3), Respondents must follow specified procedures when
23 revoking a noncitizen’s release and returning the individual to custody. Respondents’ return
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1 memorandum, notably makes no effort to address their compliance with these regulatory
2 requirements. By failing to address this argument, Respondents waive it.

3 The Respondents' violation of Petitioner's regulatory rights alone requires Petitioner's
4 release from custody, as other courts have found. *See Hoac v. Becerra*, 2025 WL 1993771 (E.D.
5 Cal. June 30, 2025) (ordering release because government did not comply with 8 C.F.R. §
6 241.13(i)(3)); *Phan v. Becerra*, 2025 WL 1993735, *4 (E.D. Cal. July 16, 2025) (same) ("Because
7 there is no indication that an informal interview was provided to Petitioner, the court finds
8 Petitioner is likely to succeed on his claim that his re-detainment was unlawful"); *Wing Nuen Liu*
9 *v. Carter*, 2025 WL 1696526, at *2 (D. Kan. Jun. 17, 2025) ("officials did not properly revoke
10 petitioner's release pursuant to [§] 241.13" because "most obviously. . . petitioner was not granted
11 the required interview upon the revocation of release"); *Roble v. Bondi*, 2025 WL 2443453 (D.
12 Minn. Aug. 25, 2025) (ordering release based on regulatory violation). *See also United States ex*
13 *rel Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (agencies are required to follow their
14 regulations); *Waldron v. I.N.S.*, 17 F.3d 511, 518 (2d Cir. 1993) ("[W]hen a regulation is
15 promulgated to protect a fundamental right derived from the Constitution or a federal statute, and
16 [the government] fails to adhere to it, the challenged deportation proceeding is invalid.").

17 Although the regulation requires ICE to notify Petitioner "[u]pon revocation" of the
18 reasons for revoking her Order of Supervision ("OSUP"), ICE never did so. *See* 8 C.F.R. §
19 241.13(i); *See* Dkt. 12 ¶ 18. On August 21, 2025, Petitioner went to ICE for what she believed
20 would be a routine check-in appointment but was arrested instead. *Id.* ICE officers then processed
21 Petitioner for arrest and had her sign a lot of paperwork, however because Petitioner cannot read
22 or write, she does not know what she signed. *Id.*

1 Though they make no effort to address their violation of the regulations, Respondents
2 submitted a sworn declaration and an I-213 Form, that claims that on August 21, 2025, ICE's
3 Enforcement and Removal Operations (ICE) "served Petitioner an OSUP revocation letter in
4 accordance with the regulations" and "conducted an informal interview" *See* Dkt. 14, ¶ 20; Dkt.
5 15-2. However, they offer no credible evidence that this is true. Plainly missing is any service
6 document or a copy of the Notice Respondents claim they provided to Petitioner on August 21,
7 2025. In fact, Petitioner was not served these documents until November 13, 2025. *See* Dkt. 17-1;
8 Dkt. 12 ¶¶ 19-24 .

10 Accordingly, this court should order Petitioner's release due to the Respondents' failure to
11 adhere to their own regulations.

12 **b. Petitioner's Re-Detention is Indefinite and Unconstitutionally Prolonged**

13 Respondents erroneously assert that Petitioner has not demonstrated that her detention has
14 become indefinite or unconstitutional. *See* Dkt. 13 at 2.

16 In support of this argument, Respondents misstate the Supreme Court's holding in
17 *Zadvydas v. Davis*, 533 U.S. 678 (2001), suggesting that the Court interpreted a period beyond six
18 months of post-removal-order detention as reasonably necessary to effectuate removal. *See* Dkt.
19 13 at 7. That is incorrect. Under *Zadvydas*, once the presumptively reasonable six-month detention
20 period has passed, a petitioner need only show "good reason to believe that there is no significant
21 likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701. If she
22 makes that showing, the burden shifts to the government to rebut it with evidence. *Nguyen v. Scott*,
23 2025 WL 2419288, at *13 (W.D. Wash. Aug. 21, 2025) (citing *Zadvydas*, 533 U.S. at 701).

1 Here, Petitioner has met her burden to demonstrate that removal is not significantly likely
2 in the reasonably foreseeable future. First, Petitioner has been detained for more than six months.
3 In fact, ICE has held Petitioner in custody for ninety-three days since re-detaining her in August
4 2025, and, cumulatively, for approximately one year and one month during its unsuccessful
5 attempts to remove her over the past twenty-six years.
6

7 Respondents miscalculate her prior post-order detention as running from the date of the
8 dismissal of the Ninth Circuit appeal. That is wrong. It runs from the date of the BIA decision. *See*
9 8 U.S.C. § 1101(a)(47); 8 C.F.R. § 1241.1. Petitioner was issued an order of removal by the
10 Immigration Judge on August 27, 1998, which became final on May 18, 1999, when the Board of
11 Immigration Appeals dismissed her appeal. *See* Dkt. 1 ¶ 24. Petitioner was then detained until
12 March 15, 2000, totaling nine months and twenty-seven days, when the Respondents released her
13 under an OSUP after failed attempts to obtain a passport or travel document to effectuate her
14 removal. *See* Dkt. 13 at 6. Petitioner was later detained on August 21, 2025, and remains detained
15 to this day, adding an additional three months and bringing her total period of detention to one
16 year and one month.
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18 Although Respondents incorrectly calculate Petitioner's detention period by excluding the
19 time Petitioner was detained during her appeal to the Ninth Circuit Court of Appeals, they
20 nonetheless concede that she has been detained for at least eight and a half months. Yet despite
21 this concession, Respondents argue that this Court should not adhere to the rule in *Zadvydas*
22 because Petitioner's detention has not been as long as the petitioner in *Nguyen v. Scott*, who was
23 held for a total of twenty months. *See* Dkt. 13 at 8.; No. 2:25-cv-01392, 2025 WL 2419288, at *13
24 (W.D. Wash. Aug. 21, 2025) (Cartwright, J). No rule of law support this.
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1 Secondly, Respondents have not provided any credible evidence that they have requested
2 a travel document has been requested or that Vietnam would accept Petitioner. It remains unclear
3 whether ICE has actually submitted a travel document request to Vietnam. The only evidence
4 Respondents offer is a sworn declaration from ICE Supervisory Detention and Deportation Officer
5 Booth, stating that an application for a travel document was submitted to ICE Headquarters on
6 November 4, 2025, seventy-five days after Petitioner's re-detention and only after she filed the
7 underlying habeas petition. Respondents assert that "there is no reason to believe that a travel
8 document will not be issued," despite lacking access to the documents that Vietnam requires before
9 issuing a travel document. *See* Dkt. 14 ¶ 15.

11 Section 4 of the 2020 Memorandum of Understanding ("2020 MOU") between the United
12 States and Vietnam regarding the acceptance and return of Vietnamese nationals who arrived in
13 the United States before July 2, 1995, and who have been ordered removed sets out four criteria
14 for removal. *See* Dkt. 10-1. One of those criteria requires proof that the individual to be removed
15 is a Vietnamese citizen. Petitioner however, has no documentation that could establish Vietnamese
16 citizenship. She does not possess a birth certificate, there is no official record of her birth, and does
17 not have a Vietnamese passport. *See* Dkt. 12 ¶ 3.

19 Petitioner submitted a sworn affidavit from Thin Thanh Nguyen, an attorney with nearly
20 twenty years of experience representing Vietnamese nationals in deportation proceedings. *See* Dkt.
21 10-6. During his tenure, Mr. Nguyen has gained extensive experience liaising with the Government
22 of Vietnam to facilitate the issuance of travel documents. He attests that generally this process is
23 not completed within 30 days. *Id.* (in almost a hundred cases of pre-95 individuals, Vietnam did
24 not complete within 30 days. *Id.* (in almost a hundred cases of pre-95 individuals, Vietnam did
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1 not issue a travel document within 30 days or less). In fact, because the procedure involves at least
2 two Vietnamese government agencies, it typically takes several months. *Id.*

3 More importantly, a crucial step in the issuance of a Vietnamese travel document is the
4 referral of the case to local police for site visits and interviews with a deportee's relatives in
5 Vietnam. In this case, Petitioner has testified that she does not have any living relatives in Vietnam.
6 *See* Dkt. 12 ¶ 3. Accordingly, Petitioner's removal is not likely to occur even under the 2020 MOU.
7

8 Respondents also claim, without evidence that, there are many cases in this District alone
9 where Vietnamese citizens have been removed on a relatively short timeframe once the travel
10 document request has been submitted. *See* Dkt. 13 at 9. However, Respondents submit no evidence
11 to support this claim and cite documents in two cases inaccessible-on-PACER as support for this
12 claim. *Id.*
13

14 For all these reasons, Petitioner has demonstrated, and the government has not rebutted,
15 her showing that removal is not reasonably foreseeable.

16 **c. Petitioner's Re-Detention Violated her Procedural Due Process Rights**

17 The government has no response to Petitioner's procedural due process argument. It does
18 not and cannot explain how its surprise revocation of Petitioner's supervision order of more than
19 two decades does not violate procedural due process.
20

21 In 1972, the Supreme Court held that the government could not take away a parolee's
22 release on parole without notice and a hearing. *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972)
23 (holding that a parolee has a substantial interest in remaining out of custody on conditions of
24 parole). *See also Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (holding same in context of
25 revocation of probation); *Young v. Harper*, 117 S.Ct. 1148, 1154 (1997) (same in context of
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1 revocation of parole). Applying *Morrissey* to the immigration context, district courts
 2 throughout the Ninth Circuit have held that procedural due process similarly requires pre-
 3 deprivation notice and a hearing before the government may re-detain an individual it previously
 4 released. See *E.A. T.-B. v. Wamsley*, No. C25-1192-KKE, 2025 WL 2402130, at *3 n.4 (W.D.
 5 Wash. Aug. 19, 2025) (collecting cases); *Zakzouk v. Becerra*, No. 25-cv-06254, 2025 WL
 6 2097470, at *3 (N.D. Cal. July 26, 2025) (collecting cases) (“Courts have previously found that
 7 individuals released from immigration custody ... have a protectable liberty interest in remaining
 8 out of custody.”). Indeed, courts in the Ninth Circuit “have found that the government’s subsequent
 9 release of [an] individual from detention creates an implicit promise that the individual’s liberty
 10 will be revoked only if they fail to abide by the conditions of their release.” *Ramirez Tesara v.*
 11 *Wamsley*, 2025 WL 2637663, *3 (W.D. Wash. Sept. 12, 2025) (quoting *Calderon v. Kaiser*, 2025
 12 WL 2430609, at *2 (N.D. Cal. Aug. 22, 2025)) (cleaned up). This rule protects the substantial
 13 liberty interest of an individual released on supervision conditions and their reliance on the
 14 representations of the government that liberty will not be taken away so long as they remain
 15 compliant with the terms of their supervision. See *Morrissey*, 408 U.S. at 482 (“The parolee has
 16 relied on at least an implicit promise that parole will be revoked only if he fails to live up to the
 17 parole conditions.”).

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 21 Here, as in the parole context, where the government has released an individual from
 22 immigration custody on an order of supervision, the government cannot revoke that release without
 23 notice and a hearing before any new arrest. Courts have applied this rule in the post-order
 24 revocation of release context. See *Chhoeun*, 442 F.Supp.3d at 1251 (holding due process requires
 25 advance notice before the government may re-detain a person subject to a final order of removal
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1 who has lived for decades on an order of supervision that has not been violated); *Zakzouk v.*
2 *Becerra*, 2025 WL 2097470, at *3 (N.D. Cal. July 26, 2025) (holding procedural due process
3 required an order against re-detention absent pre-deprivation notice and an opportunity to be
4 heard); *Ortega v. Kaiser*, 2025 WL 2243616 (N.D. Cal. Aug. 6, 2025) (same).

5
6 This case demonstrates why the procedural due process clause must guard against the
7 arbitrary abuse of power by the government to revoke a person's release on supervision without
8 cause. Had the government given Petitioner advance notice that it believed circumstances had
9 changed and been required to demonstrate that it had authority to re-detain, her now three months
10 of needless detention could have been averted. The government would have been required to obtain
11 a travel document before attempting to re-detain her. Instead, in violation of several overlapping
12 constitutional, statutory and regulatory laws, it unlawfully re-detained her and has kept her in
13 prolonged, punitive detention for more than three months.

14
15 **d. Petitioner's Third Country Removal Claims are Ripe If this Court Denies**
16 **Petitioner Release from Custody.**

17 Respondents expend considerable energy arguing that Petitioner's claims against removal
18 to a third country are premature. Respondents forget that by stipulation of the parties, Respondents
19 have agreed not to remove Petitioner to a third country so long as this habeas petition remains
20 pending. Given that protection, these claims need not be addressed at this time. If this Court denies
21 relief to Petitioner, her claims against third country removal will become ripe because she would
22 be subject to the federal government's current third country removal policy. That policy subjects
23 individuals to third removal without any or very little advance notice. There would be no way for
24 Petitioner to know in advance, until she is literally being removed, that she is being sent to a third
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1 country. As a result, Petitioner requests an opportunity to address this claim, should this Court
2 deny the requested relief of release.

3 **III. CONCLUSION**

4 For the foregoing reasons, this Court should order Petitioner's immediate release from
5 custody. This Court should order that she may not be re-detained without approval from this Court
6 to ensure that there is a permissible reason to detain her. For example, if the government obtains a
7 travel document, detention should not be permitted until this Court verifies the existence of the
8 travel document, that travel arrangements have already been made for a date certain, and that
9 detention is necessary to secure her removal on that date and, if necessary, narrowly limited to
10 only what is necessary to effect removal. Given the arbitrary use of detention in Petitioner's case
11 up to this point, an order with respect to re-detention is necessary to secure her rights.
12

13 Dated: November 21, 2025.

14 Respectfully Submitted,

15 /s/ Jennifer Pasquarella

16 Jennifer Pasquarella (WA Bar No. 62205)
17 Seattle Clemency Project
18 20415 72nd Ave South, Suite 1-415
19 Kent, WA 98032
jennie@seattleclemencyproject.org

20 /s/ Georgina Olazcon Mozo

21 Georgina Olazcon Mozo (WA Bar No.
22 60581)
23 UW Law Immigration Clinic,
24 William H. Gates Hall, Suite 265
25 P.O. Box 8510
Seattle, WA 98145
Tel: 206.221.8791
golazcon@uw.edu