IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

HUNG HUYNH, Petitioner, v. DEPARTMENT OF HOMELAND SECURITY; SAMUEL OLSON, Director, ICE Field Office, and PAMELA BONDI, Attorney General, Respondents.	)	Case No. 26-3042-JWL

RESPONSE TO § 2241 HABEAS PETITION AND ORDER TO SHOW CAUSE

This matter is before the Court on the petition of Hung Huynh ("Petitioner") for a writ of habeas corpus under 28 U.S.C. § 2241. Petitioner, a noncitizen, alleges that his detention is improper because his removal is not significantly likely in the reasonably foreseeable future. In compliance with the Court's Order to Show Cause, Doc. 3, Respondents respectfully submit this response. The § 2241 habeas petition should be denied because Petitioner has not been detained beyond the presumptively reasonable six-month period and because Petitioner's order of supervision was properly revoked on the basis of changed circumstances.

STATEMENT OF FACTS

The following facts are based on the declaration of Joseph L. Carroll, a Deportation Officer for Enforcement and Removal Operations ("ERO"), Immigration and Customs Enforcement ("ICE"), of the United States Department of Homeland Security ("DHS"). Exhibit A, Carroll Decl. ¶¶ 1-4. Petitioner is a native and citizen of Vietnam. *Id.* ¶ 5.

A. History of Petitioner's Case

Petitioner initially entered the United States as a Lawful Permanent Resident at or near Los Angeles, California, on or about May 30, 1990. *Id.* ¶ 6. On or about June 13, 1995, Petitioner was convicted in the Circuit Court of the City of St. Louis, Missouri, for the offense of Murder Second Degree in violation of RSMo 565.021, for three counts of the offense of Armed Criminal Action in violation of RSMo 571.015, and for the offense of Assault First Degree in violation of RSMo 565.050. *Id.* ¶¶ 7-9.

On or about September 29, 1995, Petitioner was placed in deportation proceedings through service of the Order to Show Cause and Notice of Hearing. *Id.* ¶ 10. Petitioner was subject to deportation from the United States pursuant to section 241(a)(2)(A)(i) of the Immigration and Nationality Act ("INA"), section 241(a)(2)(A)(iii) of the INA, and section 241(a)(2)(C) of the INA. *Id.* On or about March 19, 1997, the Immigration Judge ordered Petitioner deported to Vietnam. *Id.* ¶ 11. On or about April 3, 1997, Petitioner appealed the Immigration Judge's decision to the Board of Immigration Appeals ("BIA"). *Id.* ¶ 12. On or about August 25, 1997, the BIA dismissed Petitioner's appeal and upheld the Immigration Judge's decision. *Id.* ¶ 13.

On or about February 14, 2001, Petitioner was released from the Eastern Missouri Department of Corrections and transferred to ICE custody. *Id.* ¶ 16. On or about October 23, 2001, Petitioner was released from Immigration and Naturalization Service ("INS") custody because his removal did not appear reasonably foreseeable at that time. *Id.* ¶ 17. Petitioner was released on an Order of Supervision on the same date. *Id.*

B. Removals of Vietnamese Nationals

Following the change of administration, the Vietnamese Government has increased its level of cooperation on repatriations, regardless of the Vietnamese Nationals entry date into the

United States. *Id.* ¶ 29. In the fiscal year of 2024, ICE removed 58 Vietnamese Nationals. *Id.* In the fiscal year of 2025, ICE removed 699 Vietnamese Nationals, including 327 who entered the United States prior to 1995. *Id.* Since February 2025, all travel documents that were able to be processed have had a travel document issued. *Id.* ¶ 30. There are 15 requests that have not been processed because the subjects are not in custody and ICE has been unable to conduct the required nationality interviews, which stalled the travel document request process. *Id.* A nationality interview is a requirement to process the travel document request when the alien lacked foreign documents to establish Vietnamese nationality. *Id.* Two cases in which nationality was questioned did not result in a travel document being issued because it was discovered that they were not nationals of Vietnam. *Id.* Immigration and Customs Enforcement has frequent charter flights to Vietnam. *Id.* ¶ 31. The next ICE charter flight is tentatively scheduled for the end of April 2026. *Id.*

C. Revocation of Petitioner's Order of Supervision and Removal Efforts

On or about December 24, 2025, the Assistant Field Office Director ("AFOD") signed a Notice of Revocation of Release. *Id.* ¶ 18. Petitioner's Order of Supervision was revoked based on changed circumstances, as the Government of Vietnam has increased its level of cooperation on repatriations following the change in administration. *Id.* On or about February 2, 2026, revocation of the Order of Supervision was served on Petitioner, and he was taken into ICE custody. *Id.* ¶ 19. On or about March 12, 2026, Petitioner was transferred from the Federal Correctional Institution in Leavenworth, Kansas, to Midwest Regional Reception Center, Leavenworth, Kansas. *Id.* ¶ 25.

The ICE Field Office prepares the travel document request and submits it to the Removal Management Division ("RMD") for processing. *Id.* ¶ 20. The government of Vietnam has 30 days to issue a travel document from the day it receives the request from the ERO Attache. *Id.* On or

about February 4, 2026, ERO submitted a request to the Travel Document Request Unit ("TDR Unit") to obtain a travel document for Petitioner. *Id.* ¶ 21. On or about February 14, 2026, ERO requested an update from the TDR Unit on Petitioner's travel documents. *Id.* ¶ 22. On or about February 27, 2026, Petitioner's travel document request was submitted to ICE's RMD for processing. *Id.* ¶ 23. On or about March 17, 2026, ERO confirmed Petitioner's travel documents are still pending approval from ICE RMD. *Id.* ¶ 26. On or about March 26, 2026, the TDR Unit confirmed that ICE RMD is still waiting for Petitioner's travel documents to be issued. *Id.* ¶ 27.

As of today's date, a travel document has not been received. *Id.* ¶ 28. Immigration and Customs Enforcement will continue its efforts to obtain a travel document for Petitioner. *Id.*

ARGUMENT

"The federal district courts have habeas corpus jurisdiction to consider the statutory and constitutional grounds for immigration detention that are unrelated to a final order of removal." *Zhiriakov v. Barr*, No. 20-3141-JWL, 2020 WL 3960442, *6 (D. Kan. July 13, 2020) (citation omitted). To obtain habeas corpus relief, a petitioner must demonstrate that "[h]e is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3).

Upon the entry of a final removal order, "the Attorney General 'shall detain the alien' during the 90-day removal period established under 8 U.S.C. § 1231(a)(2)." *Zhiriakov*, 2020 WL 3960442, at *8 (citations omitted). "Generally, the government is required to remove the alien held in its custody within the 90-day removal period." *Garcia Uranga v. Barr*, No. 20-3162-JWL, 2020 WL 4334999, *4 (D. Kan. July 27, 2020) (citing 8 U.S.C. § 1231(a)(1)(A)-(B)). Nevertheless, "[i]f removal cannot be carried out within the removal period, inadmissible aliens may be detained beyond the removal period under certain circumstances." *Id.* (citing 8 U.S.C. § 1231(a)(6)).

Specifically, "the detention of an alien subject to a final order of removal for up to six months is presumptively reasonable in view of the time required to accomplish removal." *Zhiriakov*, 2020 WL 3960442, at *8 (citing *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001)). "Beyond that period, if the alien shows that there is 'no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing.'" *Garcia Uranga*, 2020 WL 4334999, at *4 (quoting *Zadvydas*, 533 U.S. at 701). "The six-month presumption" thus "does not mean that every alien must be released after that time, but rather an alien may be detained 'until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.'" *Zhiriakov*, 2020 WL 3960442, at *8 (quoting *Zadvydas*, 533 U.S. at 701).

Under 8 C.F.R. § 241.13(g)(1), when the Service's Headquarters Post-order Detention Unit determines that there is no significant likelihood that an alien will be removed in the reasonably foreseeable future, the Service shall release the alien under an appropriate order of supervision. *See also* 8 C.F.R. § 241.13(b)(2)(i), (h). But, under 8 C.F.R. § 241.13(i)(2), the Service may revoke an alien's release and "return the alien to custody if, on account of changed circumstances, the Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future."

Here, Petitioner's order of removal became final on or about August 25, 1997, when the BIA dismissed Petitioner's appeal and upheld the Immigration Judge's decision. Carroll Decl., ¶ 13. Petitioner was then transferred to ICE custody for removal on or about February 14, 2001, after he was released from the Eastern Missouri Department of Corrections. *Id.* ¶ 16. On or about October 23, 2001, Petitioner was released from INS custody because his removal did not appear reasonably foreseeable at that time. *Id.* ¶ 16.

In 2025, following the change of administration, the Vietnamese Government increased its level of cooperation on repatriations, regardless of the Vietnamese Nationals entry date into the United States. *Id.* ¶ 29. In the fiscal year of 2024, ICE removed 58 Vietnamese Nationals. *Id.* In the fiscal year of 2025, ICE removed 699 Vietnamese Nationals, including 327 who, like Petitioner, entered the United States prior to 1995. *Id.* As such, on or about December 24, 2025, the Assistant Field Office Director ("AFOD") signed a Notice of Revocation of Release and Petitioner's Order of Supervision was revoked based on changed circumstances. *Id.* ¶ 18. On or about February 2, 2026, revocation of the Order of Supervision was served on Petitioner and he was taken into ICE custody. *Id.* ¶ 19.

Petitioner's Order of Supervision was therefore properly revoked on the basis of changed circumstances. 8 C.F.R. § 241.13(i)(2); *see also Qui v. Carter*, No. 25-3131-JWL, 2025 WL 2770502, at *1 (D. Kan. Sept. 26, 2025) ("It would be illogical to suggest that an alien who was previously released under an OSUP may never be detained again for the purpose of removal.") (citing *Tanha v. Warden*, 2025 WL 2062181, at *7-8 (D. Md. July 22, 2025)).

Moreover, Petitioner's two-month detention falls well within the presumptively reasonable six-month period to accomplish removal discussed in *Zadvydas*. *See Zhiriakov*, 2020 WL 3960442, at *8 (citing *Zadvydas*, 533 U.S. at 701); *see also Liu v. Carter*, No. 25-3036-JWL, 2025 WL 1207089, at *2 (D. Kan. Apr. 25, 2025) ("courts have agreed that in such circumstance the removal-period clock restarts when an alien subject to a removal order is again detained by ICE") (citing *Leybinski v. United States Immigration and Customs Enforcement*, 2013 WL 132544, at *9 (S.D.N.Y. Jan. 8, 2013), *vacated as moot*, 553 F. App'x 108 (2d Cir. 2014)); *Qui*, 2025 WL 2770502, at *1 ("Moreover, the Court has previously rejected the argument that the Supreme Court's six-month presumptively-reasonable period of detention under *Zadvydas* does not restart

upon detention of an alien previously released on an OSUP."). Because Petitioner's Order of Supervision was properly revoked on the basis of changed circumstances, and because Petitioner has been detained for only slightly over two months with ICE working to obtain a travel document during that time, the Court should reject Petitioner's argument that he is subject to indefinite detention.

The Court should also reject Petitioner's argument that due process requires the government to not only meet the *Zadvydas* standard, but also to demonstrate "by clear and convincing evidence that Petitioner is a flight risk or danger to the community." Doc. 1, ¶¶ 69, 79. Given the opportunity to review 8 U.S.C. § 1231(a)(6), the Supreme Court in *Zadvydas* determined that it was "practically necessary to recognize some presumptively reasonable period of detention" and set that timeframe at six months. *Zadvydas*, 533 U.S. at 701. As such, the Court should decline Petitioner's invitation to impose a higher burden on the government than that imposed by the Supreme Court in *Zadvydas*.

CONCLUSION

For the foregoing reasons, the Court should enter judgment against Petitioner on his § 2241 habeas petition.

Respectfully submitted,

RYAN A. KRIEGSHAUSER
United States Attorney
District of Kansas

/s/ *Audrey D. Koehler*
Audrey D. Koehler, KS #28271
Assistant United States Attorney
United States Attorney's Office
District of Kansas
1200 Epic Center
301 N. Main | Wichita, Kansas 67202
Office: 316.269.6481
Fax: 316.269.6484
audrey.koehler@usdoj.gov
Attorney for Respondents

CERTIFICATE OF SERVICE

I certify that on April 6, 2026, the foregoing was electronically filed with the Clerk of the Court by using the CM/ECF system, which will provide notice to the following registered parties:

Jason R. Mudd
SHOOK, HARDY & BACON L.L.P.
2555 Grand Boulevard
Kansas City, MO 64108
T: 816.474.6550
F: 816.421.5547
jmudd@shb.com

Louise Carhart, *pro hac vice*
KEMPSTER, CORCORAN, QUICENO &
LENZ-CALVO, LTD
332 S. Michigan Ave., Ste. 1428
Chicago, IL 60604
T: 312.341.9730
louisec@klc-ltd.com

/s/ *Audrey D. Koehler*
Audrey D. Koehler