UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

HUNG THAI NGUYEN,

Petitioner,

v. Case No. 2:26-cv-01723-JES-NPM

MARKWAYNE MULLIN, et al.,

Respondents.
_____/

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

Petitioner Hung Thai Nguyen, through undersigned counsel, respectfully submits this Reply to Respondents' Opposition and states as follows:

I. INTRODUCTION

Respondents' Opposition fails to rebut Petitioner's showing that his continued detention violates the Due Process Clause and the limitations recognized by the Supreme Court in Zadvydas v. Davis, 533 U.S. 678 (2001).

Notably, Respondents concede that if this Court aggregates Petitioner's prior post-final-order detention with his current detention, Petitioner's detention exceeds the six-month presumptively reasonable period established in Zadvydas. Respondents further acknowledge that they presently possess no declaration from Immigration and Customs Enforcement establishing a significant likelihood of removal in the reasonably foreseeable future. Instead, Respondents ask this Court to deny relief based

solely upon the length of Petitioner's current detention while simultaneously admitting they cannot presently satisfy their burden under Zadvydas.

The Petition should therefore be granted.

II. RESPONDENTS FAIL TO DISTINGUISH THIS COURT'S PRIOR DECISIONS AGGREGATING PRIOR POST-ORDER DETENTION

Respondents argue that Petitioner's current detention should be viewed in isolation because his prior period of post-order detention occurred approximately twenty years ago.

However, Respondents cite no authority establishing that the passage of time automatically eliminates consideration of prior post-order detention. To the contrary, Respondents expressly acknowledge that this Court has aggregated prior periods of detention when evaluating detention under Zadvydas.

The constitutional concern identified in Zadvydas is not merely the number of days associated with a particular detention event. Rather, it is whether the Government may continue detaining a noncitizen indefinitely where removal is not reasonably foreseeable.

Petitioner previously spent approximately 110 days in post-final-order detention before being released under an Order of Supervision. Respondents now seek to detain him again under the same final order of removal despite the fact that more than twenty years have passed without execution of that removal order.

The extraordinary passage of time between the issuance of the removal order in 2003 and Petitioner's re-detention in 2026 demonstrates the precise concern identified

by the Supreme Court in Zadvydas: detention based upon a removal order that the Government has been unable to execute for decades.

Accordingly, the Court should aggregate Petitioner's prior post-order detention with his current detention. When aggregated, Petitioner's detention exceeds the six-month presumptively reasonable period established under Zadvydas.

III. RESPONDENTS HAVE FAILED TO REBUT PETITIONER'S SHOWING THAT REMOVAL IS NOT SIGNIFICANTLY LIKELY IN THE REASONABLY FORESEEABLE FUTURE

Even assuming the Court reaches the burden-shifting framework established in Zadvydas, Respondents have entirely failed to satisfy their burden.

Petitioner alleged that there is no evidence Vietnam will issue travel documents, no evidence Mexico has accepted Petitioner, and no evidence removal can be effectuated in the reasonably foreseeable future.

Rather than rebutting those allegations, Respondents acknowledge that they do not presently possess evidence supporting removal. Indeed, Respondents expressly state that they requested a declaration from ICE regarding removability but had not received one at the time they filed their Opposition.

Respondents further admit:

"The United States Attorney's Office anticipates that the Court will conclude that this response may lack sufficient detail to meet the government's burden in justifying continued prolonged detention."

This admission is significant.

Once Petitioner has provided good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future, the burden shifts to the Government to rebut that showing. Jennings v. Rodriguez, 583 U.S. 281, 299 (2018); Zadvydas, 533 U.S. at 701.

Respondents have not submitted evidence of:

a. an approved travel document;
b. a pending travel document likely to be approved;
c. acceptance by Vietnam;
d. acceptance by Mexico;
e. a scheduled removal date; or
f. any concrete plan demonstrating that removal will occur in the reasonably foreseeable future.

Instead, Respondents merely speculate that evidence may be produced at some future time. Speculation is insufficient under Zadvydas.

IV. THE FACT THAT PETITIONER REMAINED IN THE UNITED STATES FOR OVER TWENTY YEARS UNDERMINES ANY CLAIM THAT REMOVAL IS REASONABLY FORESEEABLE

The Government's own records demonstrate that Petitioner was released under an Order of Supervision in December 2003 and remained in the United States for more than two decades thereafter.

During that period, the Government was unable to execute the removal order.

The existence of a twenty-year period during which removal was not accomplished strongly supports Petitioner's contention that removal is not significantly likely in the reasonably foreseeable future.

If removal could not be accomplished over the course of twenty years, Respondents must provide more than conjecture to justify renewed detention in 2026.

No such evidence has been presented.

V. CONTINUED DETENTION SERVES NO LEGITIMATE REGULATORY PURPOSE

Civil immigration detention is constitutional only insofar as it bears a reasonable relationship to its regulatory purpose. Where removal is not reasonably foreseeable, detention no longer serves the purpose of effectuating removal and instead becomes punitive.

Petitioner was previously managed through an Order of Supervision for approximately two decades. Respondents have offered no evidence that Petitioner failed to comply with that supervision or that less restrictive alternatives are inadequate. The availability of supervision further demonstrates that continued incarceration is unnecessary and constitutionally excessive.

VI. CONCLUSION

Respondents have failed to rebut Petitioner's showing that his continued detention is unlawful.

Respondents concede that aggregation of Petitioner's prior post-order detention results in detention exceeding the six-month presumptively reasonable period recognized in Zadvydas. Respondents further concede that they presently lack evidence sufficient to establish a significant likelihood of removal in the reasonably foreseeable future.

Because removal remains speculative and unsupported by concrete evidence, continued detention violates the Fifth Amendment and exceeds the authority recognized in Zadvydas.

WHEREFORE, Petitioner respectfully requests that this Court:

A. Grant the Petition for Writ of Habeas Corpus;

B. Order Petitioner's immediate release under reasonable conditions of supervision;

C. Alternatively, order Respondents to immediately reinstate Petitioner's prior Order of Supervision;

D. Prohibit transfer of Petitioner while this matter remains pending; and

E. Grant such other and further relief as the Court deems just and proper.

Dated June 19, 2026

Respectfully submitted,

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