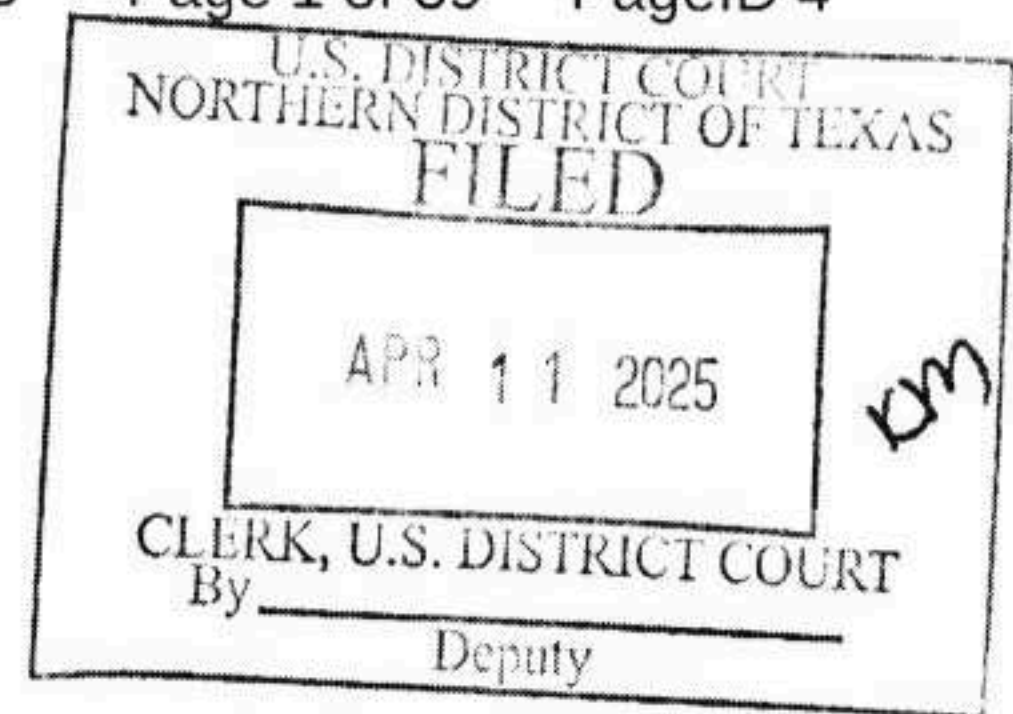


Name: Hao Tuan Diep
A Number: [REDACTED]
Address: Prairieland Detention Center
1209 Sunflower Lane,
Alvarado, TX 76009

PRO SE



**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

Hao Tuan Diep,
#A [REDACTED]

Petitioner,

v.

Warden of the Prairieland Detention Center;
Current or Acting Field Office Director, Dallas
Field Office, United States Immigration and
Customs Enforcement; Current Director,
United States Immigration and Customs
Enforcement; and Current Secretary, United
States Department of Homeland Security,

Respondents.

No. **3-25CV0900-K**

**PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C § 2241**

Petitioner, Hao Tuan Diep (also written "Petitioner"), hereby petitions this Honorable Court to issue a Writ of Habeas Corpus to remedy Petitioner's unlawful detention by Respondents and to order his immediate release from the Prairieland Detention Center.

INTRODUCTION

1. Petitioner is a native and citizen of Viet Nam who acquired status as a Lawful Permanent Resident of the United States on or about August 21, 1990 when he entered the

United States through Los Angeles, CA.

2. Petitioner was detained at the Prairieland Detention Center, 1209 Sunflower Lane, Alvarado, TX 76009, pending resolution of his Final Order of Removal issued by an Immigration Judge in Los Angeles, CA.

3. Petitioner is so detained as the Respondents has issued a Notice of Custody Determination that Petitioner is subject to “mandatory detention” as the term is defined at 8 U.S.C. § 1226(c) and that Petitioner may not request of review of this determination by an Immigration Judge because the Immigration and Nationality Act prohibits his release from custody.

4. Nevertheless, Petitioner requested that a bond hearing be set. Master calendar hearing was scheduled in this matter and Petitioner submitted documents in support of his release from custody, including a memorandum of law. However, the Immigration Judge did not rule on whether Petitioner would be released and based upon Petitioner’s pending Final Order of Removal. The bond hearing was withdrawn as it was likely that the Immigration Judge would deny Petitioner’s request for release. Petitioner has been in detention since August 19, 2024.

5. The Respondents assert that the Petitioner’s criminal history in the United States mandates his removal, specifically, the Respondents assert that the Petitioner is removable from the United States pursuant to 8 U.S.C. § 1227 (a)(2)(A)(i) as it is asserted that Petitioner was convicted for the offenses of larceny and burglary.

6. The detention is over 180 days even though no neutral decisionmaker—whether a Federal Judge or Immigration Judge (“IJ”) —has conducted a hearing to determine whether this lengthy incarceration is warranted based on danger or flight risk.

JURISDICTION AND VENUE

7. This action arises under the Constitution, the INA, 8 U.S.C. § 1101 et. seq., and the Administrative Procedure Act, (hereinafter “APA”), 5 U.S.C. § 701 et. seq.

8. This Court has jurisdiction to consider this petition pursuant to 28 U.S.C. § 2241 et. seq., 28 U.S.C. § 1331, 28 U.S.C. § 1361 (mandamus jurisdiction), and Article I, Section 9, Clause 2 of the Constitution of the United States, (suspension clause), as Petitioner is currently held in the custody of the Respondents in violation of the Constitution, laws or treaties of the United States. Real IP Act of 2005, Pub.L.No, 109-13, Div.B., 119 Stat.231 (codified as amended at 8 U.S.C. § 1252).

9. Venue lies in the United States Northern District Court of Texas in that Petitioner is detained by the Respondent, Warden of Prairieland Detention Center, whose office is located in the 1209 Sunflower Lane, Alvarado, TX 76009, Texas, a location that falls within the judicial district of Texas. Further, the DHS office that issued the Notice of Custody Determination is located in Dallas, Texas and is supervised and answer to the Respondent I.C.E. at the DHS Texas District, located at Dallas, Texas.

10. Petitioner has exhausted his administrative remedies to the extent required by law and his only remaining remedy is by way of this judicial action. The immigration judge has not issued a decision on Petitioner’s release, although it is likely, based upon precedent by the Board, that the immigration judge will deny Petitioner’s release and Petitioner continues in detention. Petitioner’s mandatory detention is not supported by the law as set forth below.

11. No prior petition for a Writ of Habeas Corpus has been filed by the Petitioner with respect to the detention or in regard to any other detention or restraint.

PARTIES

12. The Petitioner is Hao Tuan Diep, a Lawful Permanent Resident of the United States. Petitioner is a father of a U.S. citizen child, and has other significant ties to this community, namely, his U.S. citizen wife, U.S. citizen mother and U.S. citizen brothers and sisters. He has been working full-time, until his detention, as a mechanic at his brother's auto repair shop. Prior to his detention, Petitioner resided in Dallas, Texas.

13. Respondent Warden of Prairieland Detention Center and is the custodian over the Petitioner at the facility pursuant where Petitioner is detained. *See Doe*, 108 F.4th at 1194-97. Dallas County and the DHS to house alien immigration detainees such as the Petitioner.

14. Respondent Secretary of the U.S. Department of Homeland Security ("DHS"), an agency of the United States, is responsible for the administration of the immigration laws under 8 U.S.C. § 1103(a) and legal custodian of Petitioner.

15. Respondent Current Director of ICE is responsible for ICE's policies, practices, and procedures, including those relating to the detention of immigrants and legal custodian of Petitioners.

16. Respondent Acting or Current Field Office Director is an Assistant Field Office District Director for the Dallas office of Immigration and Customs Enforcement (ICE), a part of the Department of Homeland Security. As the ICE official in charge of the Prairieland Detention Center, he has custody over Petitioner and is authorized to release the Petitioner. Respondent administers the immigration laws on behalf of the DHS, including responsibilities related to the detention and removal of aliens such as the Petitioner. It is in this capacity that this Respondent has ultimate legal control and custody of the Petitioner.

FACTUAL BACKGROUNDS

17. On August 19, 2024, Petitioner was detained by Respondents pending his Final

Order of Removal and not released due to “mandatory detention” in pursuant to 8 U.S.C. § 1226(c).

18. On October 30, 2024, Petitioner as not pled to the allegations and charges made by Respondents but he moved for release on bond as Petitioner asserted that he was not subject to mandatory detention because he was not released from criminal custody after October 8, 1998 for any offense listed as 8 USC §1226(c) as being one that subjects him to removal from the United States.

19. With respect to his request for release on bond, the Petitioner asserted that he was not subject to mandatory detention because any periods of incarceration from which he was released subsequent to his sentenced incarceration for up to five years due to the 1993 convictions, were not for removable offenses.

20. On November 6, 2024, Petitioner’s release on bond request was withdrawn as it was likely to be denied by the Immigration Judge solely based on Petitioner’s pending Final Order of Removal issued in 2007.

21. On February 5, 2025, the U.S. Immigration and Customs Enforcement (ICE) conducted an interview with the Petitioner for review of custody status to determine whether his removal would be a significant likelihood in the reasonably foreseeable future, and whether the Petitioner would pose a danger to community or a risk of flight.

22. On March 8, 2025, ICE issued a letter denying Petitioner’s release, stating that the removal would likely occur in the reasonably foreseeable future, and that Petitioner has not established that he was not a flight risk or would not pose any danger pursuant to 8 C.F.R. § 241.4(e). In the letter, the Respondents alleged that the Petitioner is a native and citizen of Viet Nam who is removable from the United States based upon Petitioner’s alleged convictions of larceny and burglary.

23. Petitioner has been detained by the Respondents since August 19, 2024, notwithstanding the hardship to himself and his family, especially his minor child.

24. Petitioner asserts that his unlawful detention by Respondents have served a hardship to Petitioner and his family in light of his detention while awaiting completion of his removal proceedings.

STATUTORY AND REGULATORY FRAMEWORK

25. Respondents assert that the Petitioner must be detained presumably pursuant to 8 U.S.C. §1226(c), regardless of whether he has been determined to pose no risk of flight or danger to the community following an individualized hearing conducted by an Immigration Judge. This detention provision outlines four circumstances under which an alien, charged as being inadmissible under INS 212(a)(2) or (3), or deportable under selected provisions of INS 237(a)(2)(A), is to be deemed to be subject to mandatory detention "... when the alien is released, without regard to whether the alien is released on parole, supervised released, or probation, and without regard to whether the alien may be arrested or imprisoned again for the same offense." 8 USC § 1226(c).

26. This statutory provision purports to authorize mandatory detention upon specific categories of criminal aliens without consideration or regard to the individual circumstances presented, or without providing release after an individualized assessment by an immigration judge, that the alien presents no risk of flight nor represents a danger to the community. This attempt to impose mandatory detention follows earlier attempts by Congress to impose mandatory detention. Those earlier attempts were abandoned after federal courts repeatedly found them violative of both substantive due process and procedural due process. See *St. John v.*

McElroy, 917 F. Supp. 243, 246-47 (SDNY 1996); *Alba v. McElroy*, No. 96 Civ. 8748, 1996 US cist. LEXIS 17796 at FN5 (SDNY Dec. 4, 1996); *Leader v. Blackman*, 744 F. Supp. 500, 508 (SDNY 1990); *Caballero v. Caplinger*, 914 F. Supp. 1374 (E.D.La. 1996); *Fernandez-Sanrander v. Thornburgh*, 751 F. Supp. 1007 (D.Me. 1990); *vacated and remanded without opinion*, 930 F.2d 906 (1st 1991); *Probert v. INS*, 750 F. Supp. 252, 256 (E.D.Mich.1990); *Agunobi v. Thornburgh*, 745 F. Supp. 533 (N.D. Ill. 1990); *Martinez v. Greene*, (D. Colo. 98-B-2257; Dec. 14, 1998); *Alwaday v. Beebe*, (D. Ore. No. 9801581, Jan 29, 1999); *Soto-Zamudio v. Smith*, (WD Washington No. C-98-1747WD), Dec. 24, 1998); *Dahn v. Denmore*, C99-1531, (DND Cal. May 28, 1999) .

27. Moreover, Habeas review is proper regarding pure questions of law that flow from the Respondents' removal efforts. *INS v. St. Cyr*, 121 S. Ct. 2271 (2001).

28. Further, notwithstanding the enactment of the Real ID Act of 2005, *supra*, the Petitioner remains eligible to seek Habeas relief regarding his custody status.

29. Following the enactment of 8 U.S.C. § 1226(c), the Attorney General adopted regulations that provide that the immigration judge has no jurisdiction to consider release from Respondents' detention made by aliens claimed by the Respondents to be "subject to," INA 236(c). The extent of the immigration judge's authority is the determination as to whether the alien is "properly included" within the provisions of § 236(c).

CONSTITUTIONAL CONSIDERATIONS

30. The Due Process Clause of the Fifth Amendment provides that "no person shall be . . . deprived of life, liberty or property without due process of law." *See* U.S. Constitution, Amendment V. An alien's liberty interests are clearly at stake when he is subject to detention by

the INS. *See Doherty v. Thornburgh*, 943 F.2d 204, 208 (2nd Cir.1991) (cert. dismissed, *Doherty v. Barr*, 503 U.S. 901 (1992) (finding that “. . .the private interest affected in St. John’s liberty interest, which is of the highest constitutional import.”) *Leader v. Blackman*, 744 F. Supp. 500, 509 (SDNY 1990).

31. “It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty “that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see also id.* at 718 (Kennedy, J., dissenting) (“Liberty under the Due Process Clause includes protection against unlawful or arbitrary personal restrain or detention.”) This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* At 721 (Kennedy, J., dissenting) (“[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that s arbitrary or capricious”).

32. Due process requires that the government provide bond hearing to noncitizens facing prolonged detention. “The Due Process Clause foresees eligibility for bail as part of due process because “[b]ail is basic to our system of law.” *Jennings*, 138 S. Ct. at 862 (Breyer, J., dissenting) (internal quotation marks omitted.) While the Supreme Court upheld the mandatory detention of a noncitizen under § 1226(c) in *Demore*, it did so based on the petitioner’s concession of deportability and the Court’s understanding at the time that such detention are typical “brief.” *Demore*, 538 U.S. at 552 n.6, 528. Where a noncitizen has been detained for a prolonged period or is pursuing a substantial defense to removal or claim to relief, due process requires an individualized determination that such a significant deprivation of liberty is warranted. *Id.* at 532 (Kennedy., J., concurring) ([I]ndividualized determination as to his risk of

flight and dangerousness” may be warranted “if the continued detention became unreasonable or unjustified”); *see also Jackson v. Indianna*, 406 U.S. 715, 733 (1972) (holding that detention beyond the “initial commitment” requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249-50 (1972) (holding that “lesser safeguards may be appropriate” for “short-term confinement”); *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978) (holding that, in the Eighth Amendment context, “the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards”); *Reid v. Donelan*, 17 F.4th 1, 7 (1st Cir. 2021) (holding that “the Due Process Clause imposes some form of reasonableness limitation upon the duration of detention” under § 1226(c)) (internal quotation marks omitted.)

33. The provisions of the Fifth Amendment also encompass the procedural right to present one’s claims at a meaningful time and in a meaningful manner, prior to the deprivation of liberty. *Matthews v. Eldrige*, 424 U.S.319 (1976). The process that is due depends on the private interest affected by the official action, the risk of erroneous deprivation of the interest, the value of additional or substitute procedural safeguards, and the government’s interests, including fiscal and procedural requirements would impose. *Id.*

34. Prior to the decision of the Supreme Court of the United States in *Demore v. Kim*, 538 U.S. 510 (2008, our Court of Appeals decided in *Patel v. Zemski*, 275 F.3d 299 (3d. Cir 2001) that mandatory detention statutes, including 236(c) was unconstitutionally “excessive” and violated an alien’s substantive and procedural due process rights.

35. Petitioner, as a person who resides in the United States and as a person who has attained status as a Lawful Permanent Resident, is clearly entitled to seek redress for violation of his constitutional rights, including his right to due process, *Plyer v. Doe*, 457 U.S. 202 (1987); *Landon v. Plascencia*, 459 U.S. 21 (1982).

7. While federal courts have generally upheld, under specified circumstances, the

Respondents' right to detain aliens awaiting deportation, *see Demore v. Kim* 538 U.S. 510 (2008), it must be remembered that detention is not to serve a punitive purpose and should not be "excessive in relation to the regulatory goal Congress sought to achieve." *U.S. v. Salerno*, 481 U.S. 739, 747 (1987).

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

(Prolonged and Potentially Indefinite Detention Without Justification) Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution Against all Respondents

8. The foregoing allegations are repeated and re-alleged as though fully set forth herein.

9. The government is violating Petitioner's rights because the Constitution does not permit prolonged or indefinite immigration detention without sufficient justification.

10. The Due Process Clause of the Fifth Amendment to the United States Constitution prohibits prolonged pre-removal detention of an immigrant unless it is based on a sufficiently legitimate government interest, namely flight risk or danger, or special justifications. *Zadvydas v. Davis*, 533 U.S. at 678, 689 (2001); *Demore*, 538 U.S. at 531-33 (Kennedy, J., concurring).

11. The Due Process Clause prohibits civil immigration detention that deprives an individual of liberty for lengthy or prolonged periods, generally periods longer than six months, in the absence of an individualized determination that a substantial flight risk or danger exists. *See Demore*, 538 U.S. at 532 (Kennedy, J., concurring); *Lora v. Shanahan*, 804 F.3d 601, 606 (2d Cir. 2015); *Sopo v. US. Atty General*, 825 F.3d 1199, 1214 (11th Cir. 2016); *Maldonado v. Macias*, 150 F.Supp.3d 788, 805 (W.D. Tex. 2015); *Angel v. Duke*, No. 17-cv-03172 (S.D. Tex. Dec. 18, 2017).

12. The government has subjected Petitioner to prolonged and potentially indefinite post-removal order detention. He has been detained for more than six months, continued detention while awaiting removal was unlawful under *Zadvydas*, because there was no reason to believe that the government could obtain travel documents in order to deport him to Vietnam in the foreseeable future.

13. The 2008 United States-Vietnam diplomatic agreement “expressly excludes pre-1995 Vietnamese immigrants from repatriation.” The agreement provides that “Vietnamese citizens are not subject to return to Vietnam under this agreement if they arrived in the United States before July 12, 1995.” (Exhibit A, Art. 2, ¶ 2.) The government has had a longstanding practice of releasing pre-1995 Vietnamese immigrants under removal orders on the basis of this agreement. Therefore, Petitioner’s removal is not reasonably foreseeable because the 2008 repatriation agreement is still effect, and Vietnam’s past practice of refusing those pre-1995 immigrants demonstrates that Vietnam will continue to refuse repatriation of the hundreds of pre-1995 Vietnamese immigrants whom ICE is currently detaining or will likely detain under its current detention campaign.

14. The government does not have any legitimate reason for his detention, since evidence he presented shows that he does not pose any flight risk or danger to the community. In addition, Petitioner has not received any individualized review of his detention by the Immigration Court, or any neutral arbiter, of DHS’s decision to hold him in detention throughout his proceedings. This violates the Due Process Clause.

15. Section 236 of the INA, 8 U.S.C. § 1226(c), on its face and as erroneously applied to the Petitioner by Respondents, violates both substantive and procedural due process by mandating Petitioner’s detention and prohibiting any individualized determination regarding danger or risk of flight in violation of the Constitution of the United States, Amendment V,

notwithstanding the fact that he has not been incarcerated for a removable offense after October 8, 1998.

SECOND CLAIM FOR RELIEF

(Prolonged and Potentially Indefinite Detention Without Procedural Safeguards) Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution Against all Respondents

16. The foregoing allegations are repeated and re-alleged as though fully set forth herein.

17. Civil detainees are entitled to an evidentiary review hearing, with procedural protections, in front of a neutral arbiter, to ensure that a detention decision comports with the strict constitutional standards limiting deprivations of liberty in the absence of a criminal conviction. *See US. v. Salerno*, 481 U.S. 739, 751-52 (1987); *Foucha v. Louisiana*, 504 U.S. 71, 81 (1992) (overturning a civil commitment order where an individual was not "entitled to an adversary hearing" at which the State would bear the burden of proving dangerousness); *Vitek v. Jones*, 445 U.S. 480, 494-96 (1980) (holding that prisoner facing involuntary transfer to a mental hospital was entitled to notice and an adversarial hearing before an independent decision maker). Independent review is constitutionally required especially when detention is prolonged. *Demore*, 538 U.S. at 532 (Kennedy, J., concurring); *see also Maldonado v. Macias*, 150 F. Supp. 3d at 799- 800 (holding that all aliens "are entitled to some constitutional protections").

18. 8 C.F.R. § 3.19(i)(2) violates procedural and substantive due process on both its face and as invoked, in that it authorizes the Respondents to continue the detention of the Petitioner despite the inapplicability of INA § 236(c)(1) to this removal proceedings, in violation of the Constitution of the United States, Amendment V.

19. Petitioner's detention has gone un-reviewed by a neutral arbiter since he was detained over seven months ago. Respondents have denied his requests for parole without any

explanation, and no Immigration Court has determined whether he poses a flight risk and danger. Respondents take the position that he is not entitled to custody review by an immigration judge. Petitioner is entitled to independent review of the basis for his prolonged and potentially indefinite detention. Since he poses no flight risk or danger, such review will help determine whether Respondents have any justification for his continued detention.

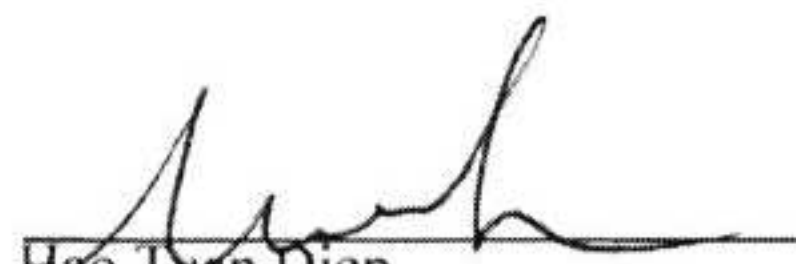
20. Respondents' actions and omissions have violated the Due Process Clause and subjected Petitioner to physical and emotional harm that is continuing. Release is warranted.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Issue a writ of habeas corpus ordering Respondents to release Petitioner immediately on his own recognizance or upon the setting of a reasonable bond;
3. Award Petitioner costs and reasonable attorneys' fees; and
4. Award any other relief as the Court deems just and appropriate.

RESPECTFULLY submitted on April 8, 2025


Hao Tuan Diep

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

HAO TUAN DIEP

#A-

Petitioner,

v.

Warden of the Prairieland Detention Center;
Current or Acting Field Office Director, Dallas
Field Office, United States Immigration and
Customs Enforcement; Current Director,
United States Immigration and Customs
Enforcement; and Current Secretary, United
States Department of Homeland Security,

Respondents

No.

3 - 25 CV 0900 - K

WRIT OF HABEAS CORPUS

TO: Warden of the Prairieland Detention Center; Current or Acting Field Office
Director, Dallas Field Office, United States Immigration and Customs
Enforcement; Current Director, United States Immigration and Customs
Enforcement; and Current Secretary, United States Department of Homeland
Security.

YOU ARE HEREBY COMMANDED that the body of Hao Tuan Diep,
restrained of his liberty, be brought by you together with a return stating the time and
cause of his detention, before a Judge of the United States District Court for the Northern
District of Texas Dallas Division on the _____ day of _____, 2025 at ____ o'clock
A.M./P.M. to do and receive all further directions which the Judge shall then
and there consider and make in that behalf.

Witness, the Honorable _____, Judge of this Court at this
day of _____, 2025

Clerk

Writ Allowed:

EXHIBIT A

TREATIES AND OTHER INTERNATIONAL ACTS SERIES 08-322

REPATRIATION

**Agreement Between
the UNITED STATES OF AMERICA
and VIETNAM**

Signed at Hanoi January 22, 2008

with

Annexes



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“...the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

VIETNAM

Repatriation

*Agreement signed at Hanoi January 22, 2008;
Entered into force March 22, 2008.
With annexes.*

AGREEMENT
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM
ON
THE ACCEPTANCE OF THE RETURN OF VIETNAMESE CITIZENS

The Government of the United States of America (hereinafter called "the U.S. Government") and the Government of the Socialist Republic of Vietnam (hereinafter called "the Vietnamese Government"),

With a wish of developing friendly relations between the two countries, and to establish procedures for competent authorities of both countries on the prompt and orderly acceptance of Vietnamese citizens who have been ordered removed by the U.S. Government,

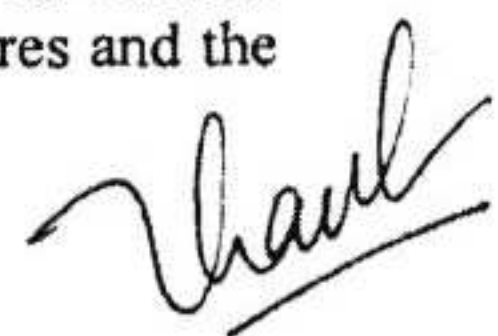
In order to establish common procedures for the relevant authorities based on the legal principles of each country and the international responsibility to accept the return of repatriated citizens; and to follow recognized principles of international law, to allow for a case-by-case determination of repatriation, and to recognize the right of the receiving country to determine nationality,

Have agreed to the following:

Article 1
General Provisions

1. The U.S. Government will carry out the repatriation of Vietnamese citizens who violated U.S. law in accordance with U.S. and international law and the provisions of this Agreement. The repatriation should take into account the humanitarian aspect, family unity and circumstances of each person in each individual case.

2. The Vietnamese Government may consider the return of its citizens who violated U.S. law based on the consideration of legal procedures and the



status and circumstances of each individual case. The subject individuals and the acceptance procedure will be based on the terms of this Agreement.

3. Repatriation will be carried out in an orderly and safe way, and with respect for the individual human dignity of the person repatriated. The U.S. Government will allow Vietnamese citizens who have been ordered removed a reasonable time to arrange their personal affairs before returning them to Vietnam.

4. Persons repatriated under this Agreement have the right to transfer their legal money and personal property to Vietnam.

5. The U.S. Government will pay for the cost of returning to Vietnam persons repatriated under this Agreement, as provided in Article 5 and Annex 1. The U.S. Government will also pay for the cost of returning to the United States any person who was mistakenly repatriated, in accordance with Article 3 of this Agreement.

Article 2

Removable Persons and Conditions of Acceptance

1. The Vietnamese Government will accept the return of Vietnamese citizens in accordance with Article 1 and item 2 of Article 2 of this Agreement, if upon investigation the individual meets the following requirements:

(a) The individual is a citizen of Vietnam and is not a citizen of the United States or of any other country;

(b) The individual previously resided in Vietnam and has no current residence in a third country;

(c) The individual has violated U.S. laws and has been ordered by competent authority removed from the United States; and

(d) If the individual has been convicted of a criminal offense (including immigration violation), the person will have completed any imprisonment before removal, and any reduction in sentence will have been ordered by competent authority.

2. Vietnamese citizens are not subject to return to Vietnam under this Agreement if they arrived in the United States before July 12, 1995, the date on which diplomatic relations were re-established between the U.S.

Government and the Vietnamese Government. The U.S. Government and the Vietnamese Government maintain their respective legal positions relative to Vietnamese citizens who departed Vietnam for the United States prior to that date.

3. In the case of a citizen of Vietnam who immigrated to the United States from a third country where that person had a permanent residence and who has been ordered removed from the United States, the U.S. Government will seek to return that person to the third country or consider allowing that person to stay in the United States, before requesting removal to Vietnam.

4. In any case where the Vietnamese Government obtains information relevant to the repatriation of an individual that was not previously considered by the U.S. Government, the Vietnamese Government may request a humanitarian reconsideration based on the specific circumstances of the repatriated person in accordance with United States law.

Article 3

Return of Persons Repatriated in Error

Upon notice by the Vietnamese Government that a person returned to Vietnam by the U.S. Government does not meet all criteria mentioned in Article 2 of this Agreement, the U.S. Government should promptly receive the return of that person to the United States without any special procedure.

Article 4

Acceptance Procedures

1. When the U.S. Government believes that a removable person is a citizen of Vietnam and meets all criteria within Article 2 of this Agreement, the U.S. Department of Homeland Security, on behalf of the U.S. Government, will request appropriate travel documents from the Vietnamese Government and will forward the appropriate files to that Government. Such files will include three sets of documents, the original and two copies. The original and one copy shall be forwarded to the Vietnamese Ministry of Public Security (Immigration Department) by the U.S. Embassy in Vietnam, and the other copy will be sent to the Vietnamese Ministry of Foreign Affairs (Consular Department).

Each file will contain a diplomatic note which requests that the Vietnamese Government accept the returnee, the name of the person the U.S. Government believes should be repatriated to Vietnam, the appropriate forms completed by such person (an example of which is provided in Annex 2 of

this Agreement), a copy of the order of removal, and other documents regarding the person's biography, citizenship, criminal history, sentence imposed, and decision of amnesty or reduction of criminal sentence. The order of removal will be translated into Vietnamese on the standard form, and the criminal history will include a National Crime Information Center (NCIC) record in English accompanied by a code key translated into Vietnamese. All documents and translations will be certified by the competent U.S. authorities.

2. Upon request by the Vietnamese Government, the U.S. Government will arrange and facilitate the interview of persons who fall within Article 2(1) of this Agreement by Vietnamese immigration officials to determine information regarding the Vietnamese citizenship, biographical data, and last place of residence of such persons. The U.S. Department of Homeland Security will arrange a venue for those interviews. The U.S. Government also will facilitate interviews by U.S.-based consular officers of the Vietnamese Government of deportable persons whom the U.S. believes to be Vietnamese citizens.

3. The Vietnamese Government will provide a prompt response to the U.S. Government on cases referred under this Article after the Vietnamese verification is made. If it is determined that a person whose name and file has been provided to the Vietnamese Government in accordance with this Article meets the requirements of Article 2, the Ministry of Public Security of the Vietnamese Government will issue a travel document authorizing that person's return to Vietnam, and will provide written notification to the U.S. Embassy in Vietnam.

4. When the Vietnamese Government has issued a travel document under this Agreement, the U.S. Government will provide at least fifteen (15) days notice of the flight and travel arrangements by which the person will be returned to Vietnam. The U.S. Embassy in Vietnam will inform the Ministry of Public Security (Immigration Department) and the Ministry of Foreign Affairs (Consular Department) of the date and number of the flight, the time of arrival, the port of entry (Noi Bai Airport in Hanoi or Tan Son Nhat Airport in Ho Chi Minh City), and the details regarding any U.S. officers escorting the person to be returned (such as names, dates of birth, passport numbers, estimated times of stay in Vietnam, etc), and allow the Vietnamese side to confirm receipt of the returnees.

When a person under medical treatment is returned to Vietnam under this Agreement, the escorting U.S. officers will provide a copy of the person's health record to the receiving Vietnamese officials at the port of entry. The

escorting and receiving officers will sign a joint report verifying the person's repatriation.

Article 5 Expenses

1. The U.S. Government will pay for the cost of transporting Vietnamese citizens to Vietnam under this Agreement.

2. The U.S. Government will pay for the costs of receiving repatriated persons including: verifying fee, the receipt at the airport and transportation of the persons from airport to the place of residences in accordance with the enclosed Annex 1.

3. The U.S. Government will pay for the cost of arranging interviews by relevant Vietnamese officials of persons whom the U.S. Government believes to be Vietnamese citizens and subject to repatriation under this Agreement.

4. The U.S. Government will pay for the cost of returning to the United States persons who were repatriated in error, as provided in Article 3 of this Agreement.

Article 6 Entry into Force and Duration

1. This Agreement will enter into force sixty (60) days from the date of signature by both Governments.

2. Upon entry into force, this Agreement will be valid for five years. The Agreement will be extended automatically for terms of three years thereafter unless written notice not to extend is given by one Government to the other at least six months prior to the expiration date of the Agreement.

Article 7 Amendment and Supplementation

This Agreement may be amended or supplemented by written agreement of the Vietnamese Government and the U.S. Government through appropriate diplomatic channels.

**Article 8
Resolution of Disputes**

Any disputes regarding the interpretation and implementation of this Agreement will be resolved through appropriate diplomatic channels.

**Article 9
Suspension or Termination**

This Agreement may be suspended or terminated by either Government. Such suspension or termination of this Agreement will come into effect after thirty days (30) from the date one Government receives the written notification from the other Government of its intention to suspend or terminate.

Done at Hanoi, on 22 January 2008 in duplicate in the English and Vietnamese languages, both texts being equally authentic.

**FOR THE GOVERNMENT OF
THE UNITED STATES OF
AMERICA**

Julie Myers

**FOR THE GOVERNMENT OF
THE SOCIALIST REPUBLIC OF
VIETNAM**

[Signature]

AB

[Signature]

Annex 1

EXPENSES FOR REPATRIATION

Content	Expenses for Repatriation
1/ Expenses for verification (including verification through the Vietnamese Embassy in the U.S.) and receipt at airports in Vietnam	\$140/person
2/ Transportation fee for the repatriated person from airport to the place of residence	\$10/person
Total:	\$150/person

FILE

Chaul

HIỆP ĐỊNH
GIỮA
CHÍNH PHỦ HỢP CHUNG QUỐC HOA KỲ
VÀ
CHÍNH PHỦ NƯỚC CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM
VỀ
NHẬN TRỞ LẠI CÔNG DÂN VIỆT NAM

Chính phủ Hợp chủng quốc Hoa Kỳ (sau đây gọi tắt là “Chính phủ Hoa Kỳ”) và Chính phủ nước Cộng hòa xã hội chủ nghĩa Việt Nam (sau đây gọi tắt là “Chính phủ Việt Nam”),

Với lòng mong muốn phát triển quan hệ hữu nghị giữa hai nước, quy định những thủ tục cho các cơ quan có thẩm quyền của hai nước về việc nhận trở lại nhanh chóng và có trật tự những công dân Việt Nam được Chính phủ Hoa Kỳ ra lệnh trục xuất khỏi Hoa Kỳ,

Nhằm mục đích quy định những thủ tục chung cho các cơ quan có thẩm quyền dựa trên những nguyên tắc pháp lý của mỗi nước và trách nhiệm quốc tế về việc nhận trở lại công dân hồi hương và thể theo những nguyên tắc chung đã được công nhận của luật pháp quốc tế, cho phép việc hồi hương được xác định trên cơ sở từng trường hợp cụ thể và công nhận quyền của nước nhận trong việc xác định quốc tịch,

Đã thỏa thuận như sau:

Điều 1
Những quy định chung

1. Chính phủ Hoa Kỳ thực hiện việc hồi hương công dân Việt Nam vi phạm pháp luật Hoa Kỳ trên cơ sở phù hợp với pháp luật Hoa Kỳ, luật pháp quốc tế và các điều khoản của Hiệp định này. Việc hồi hương cần tính đến khía cạnh nhân đạo, tính thống nhất gia đình và hoàn cảnh của từng người trong từng trường hợp cụ thể.

2. Chính phủ Việt Nam có thể xem xét nhận trở lại những công dân Việt Nam vi phạm pháp luật Hoa Kỳ, trên cơ sở xem xét các thủ tục pháp lý, quy

FR

Thanh

chế và hoàn cảnh của từng trường hợp cụ thể. Đối tượng và thủ tục nhận trở lại được xác định theo những quy định của Hiệp định này.

3. Việc hồi hương được thực hiện trong trật tự, an toàn và tôn trọng nhân phẩm của người hồi hương. Chính phủ Hoa Kỳ cho phép công dân Việt Nam bị trục xuất thu xếp các công việc cá nhân của họ ở Hoa Kỳ trước khi đưa họ trở về Việt Nam trong một khoảng thời gian hợp lý.

4. Người hồi hương theo Hiệp định này có quyền chuyển về Việt Nam tiền và tài sản cá nhân hợp pháp của mình.

5. Chính phủ Hoa Kỳ chịu các chi phí liên quan đến việc đưa trở về Việt Nam những người hồi hương phù hợp với quy định tại Điều 5 và Phụ lục 1 của Hiệp định này. Chính phủ Hoa Kỳ cũng chịu mọi chi phí cho việc nhận trở lại Hoa Kỳ bất cứ người nào bị hồi hương do nhầm lẫn phù hợp với quy định tại Điều 3 của Hiệp định này.

Điều 2

Những người có thể bị trục xuất và các điều kiện nhận trở lại

1. Chính phủ Việt Nam nhận trở lại những công dân Việt Nam phù hợp với Điều 1 và khoản 2 Điều 2 Hiệp định này, nếu sau khi điều tra những người này đáp ứng những điều kiện sau:

(a) Là công dân Việt Nam và đồng thời không phải là công dân Hoa Kỳ hoặc công dân của bất kỳ nước nào khác;

(b) Trước đây đã cư trú tại Việt Nam và hiện không có nơi cư trú ở nước thứ ba;

(c) Đã vi phạm pháp luật Hoa Kỳ và bị cơ quan có thẩm quyền ra lệnh trục xuất; và

(d) Nếu người này đã bị kết án do phạm tội hình sự (kể cả các vi phạm pháp luật nhập cư) thì trước khi bị trục xuất người này phải thi hành xong án phạt tù hoặc được giảm án phạt tù theo quyết định của cơ quan có thẩm quyền.

2. Những công dân Việt Nam đã đến Hoa Kỳ trước ngày 12/7/1995, ngày mà hai nước thiết lập quan hệ ngoại giao, không thuộc đối tượng nhận trở lại về Việt Nam theo Hiệp định này. Chính phủ Hoa Kỳ và Chính phủ Việt Nam vẫn giữ lập trường pháp lý của mình liên quan đến những công dân Việt Nam rời Việt Nam đến Hoa Kỳ trước thời điểm nói trên.



3. Trong trường hợp công dân Việt Nam di cư sang Hoa Kỳ từ một nước thứ ba là nơi người này đã thường trú và nếu người này được lệnh trục xuất khỏi Hoa Kỳ thì Chính phủ Hoa Kỳ sẽ tìm cách đưa người này quay lại nước thứ ba đó hoặc xem xét cho người này ở lại Hoa Kỳ, trước khi yêu cầu đưa người này về Việt Nam.

4. Trong bất kỳ trường hợp nào nếu Chính phủ Việt Nam có được những thông tin liên quan đến việc hồi hương của một người mà trước đây thông tin này chưa được Chính phủ Hoa Kỳ xem xét, thì Chính phủ Việt Nam có thể yêu cầu xem xét lại mặt nhân đạo dựa trên những hoàn cảnh cụ thể của người bị hồi hương phù hợp với pháp luật Hoa Kỳ.

Điều 3

Nhận trở lại trong trường hợp hồi hương nhằm lẫn

Khi nhận được thông báo của Chính phủ Việt Nam là một người đã bị Chính phủ Hoa Kỳ trao trả về Việt Nam nhưng không đáp ứng tất cả các điều kiện quy định tại Điều 2 Hiệp định này, Chính phủ Hoa Kỳ nhanh chóng nhận lại người đó trở lại Hoa Kỳ mà không cần qua bất kỳ thủ tục đặc biệt nào.

Điều 4

Thủ tục nhận trở lại

1. Khi Chính phủ Hoa Kỳ cho rằng một người có thể được lệnh trục xuất khỏi Hoa Kỳ là công dân Việt Nam và đáp ứng tất cả các điều kiện quy định tại Điều 2 Hiệp định này, Bộ An ninh nội địa Hoa Kỳ, thay mặt Chính phủ Hoa Kỳ, yêu cầu Chính phủ Việt Nam cấp giấy tờ đi lại phù hợp và sẽ chuyển các hồ sơ cần thiết của người đó cho Chính phủ Việt Nam. Các hồ sơ này bao gồm ba bộ, một bản gốc và hai bản sao. Bản gốc và một bản sao sẽ được Đại sứ quán Hoa Kỳ tại Việt Nam gửi cho Bộ Công an Việt Nam (Cục Quản lý xuất nhập cảnh), bản sao còn lại được gửi cho Bộ Ngoại giao Việt Nam (Cục Lãnh sự).

Mỗi bộ hồ sơ bao gồm công hàm ngoại giao đề nghị Chính phủ Việt Nam tiếp nhận người hồi hương, họ tên của người mà Chính phủ Hoa Kỳ dự định hồi hương về Việt Nam, các tờ khai thích hợp do đương sự điền đầy đủ (mẫu trong Phụ lục 2 kèm theo Hiệp định này), bản sao lệnh trục xuất và các tài liệu khác liên quan đến lý lịch, quốc tịch, quá trình phạm tội, hình phạt đã áp dụng, quyết định ân xá hoặc giảm hình phạt tù. Lệnh trục xuất sẽ được dịch ra tiếng Việt theo mẫu quy định, và giấy tờ liên quan đến quá trình phạm tội, bao gồm cả hồ sơ tiếng Anh của Trung tâm Quốc gia về Thông tin hình sự, kèm theo mã đọc phải được dịch ra tiếng Việt. Tất cả các giấy tờ, tài liệu và bản dịch phải được cơ quan có thẩm quyền của Hoa Kỳ chứng thực.

2. Theo yêu cầu của Chính phủ Việt Nam, Chính phủ Hoa Kỳ thu xếp và tạo điều kiện để viên chức xuất nhập cảnh của Việt Nam phỏng vấn những người thuộc diện quy định tại Điều 2(1) của Hiệp định này để xác minh các thông tin liên quan đến quốc tịch Việt Nam, dữ liệu nhân thân và nơi cư trú cuối cùng của người đó. Bộ An ninh nội địa Hoa Kỳ sắp xếp địa điểm thực hiện các cuộc phỏng vấn đó. Chính phủ Hoa Kỳ cũng sẽ tạo điều kiện để các viên chức lãnh sự của Việt Nam đang công tác nhiệm kỳ tại Hoa Kỳ phỏng vấn những người có thể bị trục xuất mà Hoa Kỳ tin rằng người đó là công dân Việt Nam.

3. Chính phủ Việt Nam sẽ nhanh chóng trả lời cho Chính phủ Hoa Kỳ về các trường hợp nói đến tại Điều này sau khi đã hoàn tất việc xác minh về phía Việt Nam. Nếu khẳng định đương sự, mà tên và hồ sơ của người này đã được chuyển giao cho Chính phủ Việt Nam theo đúng những quy định tại Điều này, đáp ứng các điều kiện quy định tại Điều 2, Bộ Công an Việt Nam cấp giấy thông hành cho phép người đó trở về Việt Nam, đồng thời thông báo bằng văn bản cho Đại sứ quán Hoa Kỳ tại Việt Nam biết.

4. Sau khi Chính phủ Việt Nam đã cấp giấy thông hành theo Hiệp định này, Chính phủ Hoa Kỳ thông báo trước ít nhất mười lăm (15) ngày về chuyến bay và việc chuẩn bị hồi hương người được nhận trở lại Việt Nam. Đại sứ quán Hoa Kỳ tại Việt Nam thông báo cho Bộ Công an (Cục Quản lý xuất nhập cảnh) và Bộ Ngoại giao (Cục Lãnh sự) về ngày tháng và số hiệu chuyến bay, thời gian hạ cánh, cửa khẩu (sân bay Nội Bài ở Hà Nội hay sân bay Tân Sơn Nhất ở Thành phố Hồ Chí Minh), các chi tiết liên quan đến viên chức Hoa Kỳ áp giải người hồi hương (như họ tên, ngày sinh, số hộ chiếu, thời gian dự kiến lưu lại Việt Nam...) để phía Việt Nam khẳng định lại việc tiếp nhận người hồi hương.

Khi một người đang được điều trị y tế được trao trả về Việt Nam theo Hiệp định này, các viên chức áp giải Hoa Kỳ sẽ chuyển cho các viên chức tiếp nhận của Việt Nam bản sao hồ sơ y tế của người hồi hương tại sân bay. Viên chức áp giải và tiếp nhận của hai bên sẽ ký biên bản xác nhận việc bàn giao người hồi hương.

Điều 5 **Chi phí**

1. Chính phủ Hoa Kỳ chịu chi phí vận chuyển những công dân Việt Nam hồi hương về Việt Nam theo Hiệp định này.

2. Chính phủ Hoa Kỳ chịu chi phí cho việc tiếp nhận người hồi hương bao gồm: chi phí cho việc xác minh, việc tiếp nhận họ tại sân bay và chuyên chở những người này từ sân bay về nơi cư trú phù hợp với Phụ lục I kèm theo.

3. Chính phủ Hoa Kỳ chịu chi phí thu xếp các cuộc phỏng vấn do các viên chức Việt Nam có thẩm quyền thực hiện đối với những người mà Chính phủ Hoa Kỳ cho rằng họ là công dân Việt Nam và thuộc đối tượng hồi hương theo Hiệp định này.

4. Chính phủ Hoa Kỳ chịu chi phí đưa trở về Hoa Kỳ những người hồi hương do nhằm lẫn quy định tại Điều 3 Hiệp định này.

Điều 6 **Hiệu lực và thời hạn**

1. Hiệp định này bắt đầu có hiệu lực sau sáu mươi (60) ngày kể từ ngày được hai Chính phủ ký.

2. Sau khi có hiệu lực, Hiệp định này có giá trị trong thời hạn năm (5) năm. Sau đó, Hiệp định sẽ được tự động gia hạn thêm từng ba (3) năm một trừ khi Chính phủ này thông báo bằng văn bản cho Chính phủ kia về việc không gia hạn Hiệp định này ít nhất sáu (6) tháng trước ngày Hiệp định hết hạn.

Điều 7 **Sửa đổi và bổ sung**

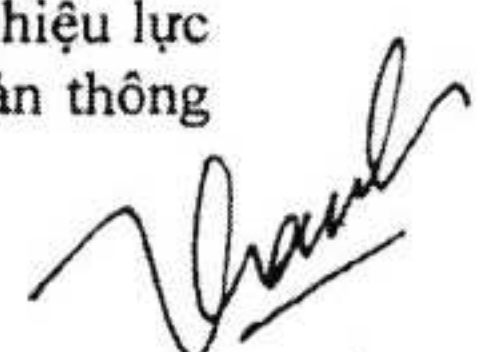
Hiệp định này có thể được sửa đổi hoặc bổ sung theo thỏa thuận bằng văn bản giữa Chính phủ Việt Nam và Chính phủ Hoa Kỳ qua kênh ngoại giao thích hợp.

Điều 8 **Giải quyết tranh chấp**

Mọi tranh chấp phát sinh liên quan đến việc giải thích và thực hiện Hiệp định này được giải quyết qua kênh ngoại giao thích hợp.

Điều 9 **Đình chỉ và chấm dứt hiệu lực**

Hiệp định này có thể được một trong hai Chính phủ đình chỉ hoặc chấm dứt hiệu lực. Việc đình chỉ hoặc chấm dứt hiệu lực Hiệp định này có hiệu lực sau ba mươi (30) ngày kể từ ngày Chính phủ này nhận được văn bản thông



báo của Chính phủ kia về ý định đình chỉ hoặc chấm dứt hiệu lực Hiệp định này.

Làm tại Hà Nội, ngày 22 tháng 01 năm 2008 thành hai bản chính, mỗi bản bằng tiếng Anh và tiếng Việt; cả hai văn bản có giá trị như nhau.

**THAY MẶT CHÍNH PHỦ
HỢP CHỨNG QUỐC HOA KỲ**

Julie Nguyen

**THAY MẶT CHÍNH PHỦ NƯỚC
CỘNG HÒA XÃ HỘI CHỦ NGHĨA
VIỆT NAM**

V. Ph

RE

Chau

Phu lục 1

CHI PHÍ CHO VIỆC NHẬN TRỞ LẠI

Nội dung	Chi phí cho việc nhận trở lại
1/ Chi phí cho việc xác minh (kể cả việc xác minh qua Đại sứ quán Việt Nam tại Hoa Kỳ ...) và tiếp nhận ở sân bay ở Việt Nam.	140 USD/ người
2/ Chi phí chuyên chở người hồi hương từ sân bay về nơi cư trú	10 USD/người
Tổng cộng	150 USD/người

1/3



Phụ lục 2
Annex 2

BẢN TỰ KHAI
SELF-DECLARATION FORM

(Dùng cho công dân Việt Nam được lệnh trục xuất khỏi Hoa Kỳ)
(For Vietnamese citizens who have been ordered removed from the United States)

1. Họ tên khai sinh (viết chữ in hoa):

Full name (In capital letter)

- Các tên khác (nếu có)

Other name (If any)

- Giới tính: Nam, nữ

Sex Male, female

- Ngày sinh:

Date of birth

- Nơi sinh:

Place of birth

- Quốc tịch gốc:

Nationality at birth

- Quốc tịch hiện nay:

Nationality at present

Ảnh
(Cỡ 4cm x 6cm
mặt nhìn thẳng,
đầu để trần)
Photograph with
size 4cm x 6 cm
without hat

2. Địa chỉ thường trú trước khi rời Việt Nam (ghi rõ thôn, xã, huyện, tỉnh, hoặc số nhà, đường phố, phường, quận, thành phố):

Previous permanent address before leaving Vietnam (state specifically the village, commune, district, province or house number, street, precinct, district, city)

3. Rời Việt Nam ngày tháng năm

Date leaving Vietnam:

- Bằng hình thức:

Mode of departure

- Mang hộ chiếu hoặc giấy thông hành số: cấp ngày tháng năm

Cơ quan cấp:

Holding passport or laissez-passer number:

Issued on:

By:

4. Trước khi đến Hoa Kỳ đã ở những nước nào, làm gì (ghi rõ từng thời gian):

Before arriving in the United States, in which countries have you lived, what did you do there (state the time)

5. Đến Hoa Kỳ ngày tháng năm

Date arriving in the United States:

- Bằng hình thức:

Mode of entry

- Mang hộ chiếu hoặc giấy thông hành số: cấp ngày tháng năm

212

Handwritten signature

Cơ quan cấp:

Holding passport or laissez-passer number:

Issued on:

By:

6. Thân nhân ruột thịt ở Việt Nam (cha, mẹ, vợ, chồng, con):*Relatives in Vietnam (parents, spouses, offspring)*

Số TT No.	Họ và tên Full name	Ngày sinh DOB	Quốc tịch Nationality	Quan hệ Relationship	Địa chỉ thường trú ở Việt Nam Permanent address in Vietnam

7. Thân nhân ruột thịt ở nước ngoài (cha, mẹ, vợ, chồng, con):*Relatives abroad (parents, spouses, offspring)*

Số TT No.	Họ và tên Full name	Ngày sinh DOB	Quốc tịch Nationality	Quan hệ Relationship	Địa chỉ thường trú ở nước ngoài Permanent address abroad

8. Khi về Việt Nam cư trú với ai (họ tên, quan hệ với bản thân) tại địa chỉ nào (thôn, xã, huyện, tỉnh, hoặc số nhà, đường phố, phường, quận, thành phố):*On returning to Vietnam, whom you will live with (give full name, relationship) and proposed address (village, commune, district, province or house number, street, precinct, district, city).*

Tôi cam đoan những điều khai trên là đúng sự thật và xin chịu trách nhiệm trước pháp luật của Nhà nước Việt Nam.

I swear that the above statements are true and for which I am fully responsible to the Vietnamese laws.

Khai tại
Done at

ngày tháng năm
On

Người khai
(ký và ghi rõ họ tên)
(signature and full name)

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

HAO TUAN DIEP,
#A-017436055

Petitioner,

v.

Warden of the Prairieland Detention Center;
Current or Acting Field Office Director, Dallas
Field Office, United States Immigration and
Customs Enforcement; Current Director,
United States Immigration and Customs
Enforcement; and Current Secretary, United
States Department of Homeland Security,

Respondents

No.

3 - 25 CV 0900 - K

ORDER TO SHOW CAUSE

Upon the petition for Writ of Habeas Corpus filed herein, it is ORDERED,
this _____ day of _____, 2025, by the United States District Court for the Northern
District of Texas Dallas Division, that the Respondents if any they may have, on or before the
day of _____, 2025, why a Writ of Habeas Corpus should not be issued as prayed;

IT IS FURTHER ORDERED AND DECREED that the Respondents serve
upon Petitioner, a copy of their respective answer to this ruling.

IT IS FURTHER ORDERED AND DECREED that the Petitioner shall serve upon the
Respondents a true and correct copy of this Order. The clerk is directed to furnish Petitioner with
a copy of this Order and of the Petition for the purpose of making such service.

SO ORDERED this _____ day of _____, 2025.

Honorable _____
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

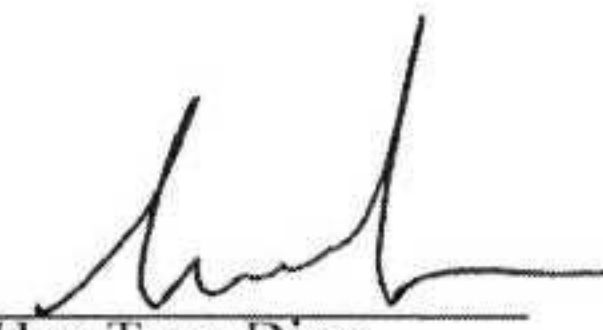
I hereby certify that I, Hao Tuan Diep, have on this day, April 8, 2025, serve a copy of the foregoing

“PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C § 2241”

to the

- 1) Warden of the Prairieland Detention Center at 1209 Sunflower Lane, Alvarado, TX 76009 in person.
- 2) Office of Chief Counsel at 125 E. John Carpenter Fwy., Suite 500, Irving, TX 75247 by mail.

RESPECTFULLY submitted on April 8, 2025


Hao Tuan Diep

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Hao Tuan Diep

(b) County of Residence of First Listed Plaintiff Dallas
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

3-25 CV 0900-K

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business in This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business in Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice	☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 835 Patent - Abbreviated New Drug Application ☐ 840 Trademark ☐ 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit (15 USC 1681 or 1692) ☐ 485 Telephone Consumer Protection Act ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education	PRISONER PETITIONS Habeas Corpus: ☒ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:
Violation of Due Process Clause - Fifth Amendment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket. **PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related cases, if any. If a related case exists, whether pending or closed, insert the docket numbers and the corresponding judge names for such cases. A case is related to this filing if the case: 1) involves some or all of the same parties and is based on the same or similar claim; 2) involves the same property, transaction, or event; 3) involves substantially similar issues of law and fact; and/or 4) involves the same estate in a bankruptcy appeal.

Date and Attorney Signature. Date and sign the civil cover sheet.

FR: HAO TUN DIED

04/11/25

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PageID 42

1209 SUNFLOWER LN.
ALVARADO, TX 76009

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P	US POSTAGE & FEES PAID PRIORITY MAIL ZONE 2 FLAT RATE ENVELOPE Commercial	04/11/25 1209 FROM 76009	☐ Signature 04/08/2025
	USPS PRIORITY MAIL®		
SHIP TO: 1209 Sunflower Ln Alvarado TX 76009-2810			
United States Distin Court Northern 1100 Commerce St Ste 1452 Dallas TX 75242-1310			
USPS TRACKING #		9405 5112 0620 8800 3546 83	

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FOR THE
OF TEXAS

1100 COMMERCE ST. ROOM 14
DALLAS, TX 75242