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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Long Phi Do,

Petitioner,

vs.

David R. Rivas, Warden, San Luis Regional
Detention Center;

Gregory J. Archambeault, San Diego Field
Director, U.S. Immigration and Customs
Enforcement;

Kristi Noem, Secretary of Homeland
Security; and

Pamela J. Bondi, Attorney General of the
United States,

Respondents.

No.

**Petition for a Writ of Habeas Corpus
Under 28 U.S.C. § 2241**

Technical Data

1. Mr. Do is challenging the validity of his detention in immigration custody. His A number is 
2. Mr. Do is challenging the decision made by U.S. Immigration and Customs Enforcement (ICE) that a prior release order, issued in approximately 2008, be revoked and that he be detained again pending removal from the United States.
3. Mr. Do was taken into ICE custody on February 11, 2025, after being released from the Orange County (California) Jail. He was taken first to the Otay Mesa Detention Center in San Diego, California, and then transferred to the San Luis Detention Center in San Luis,

1 Arizona. Upon information and belief, he has not seen a judge and thus had no
2 opportunity to exhaust his administrative remedies.

3 **Parties, Jurisdiction, and Venue**

- 4 4. Petitioner Long Phi Do is a native of Vietnam. He is the subject of a removal order issued
5 in approximately 2007, and is being detained by the Respondents based on that removal
6 order.
- 7 5. Respondent David R. Rivas is the Warden of San Luis Regional Detention Center, where
8 Mr. Do is being detained. He is Mr. Do's immediate legal custodian and thus a proper
9 respondent in this matter. *See Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004).
- 10 6. Respondent Gregory J. Archambeault is the San Diego Field Office Director for U.S.
11 Immigration and Customs Enforcement. He is responsible for Mr. Do's detention, and
12 thus a legal custodian of Mr. Do.
- 13 7. Respondents Kristi Noem and Pamela J. Bondi are, respectively, the Secretary of
14 Homeland Security and the Attorney General of the United States. As such, they are
15 responsible for maintaining the immigration detention system. They are thus legal
16 custodians of Mr. Do.
- 17 8. This Court has jurisdiction under 28 U.S.C. §§ 2241 *et seq.*; the Declaratory Judgment
18 Act, 28 U.S.C. §§ 2201 *et seq.*; the All Writs Act, 28 U.S.C. § 1651; and the Fifth
19 Amendment to the United States Constitution.
- 20 9. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) and (e)(1)(B) because a
21 substantial part of the events or omissions giving rise to the claims set forth herein
22 occurred in this district.

23 **Background**

- 24 10. Mr. Do was born in Vietnam in 1967. His father was a U.S. citizen. His mother was a
25 Vietnamese citizen. In 1989, upon information and belief, he was granted lawful
26 permanent resident status in the United States through a family reunification program for
27 the immediate relatives of U.S. citizens.

- a. Two potential family reunification programs existed to provide immigrants like Mr. Do a path to lawful permanent residence in the United States. The first allowed persons born in Vietnam between 1950 and October 22, 1982, to a U.S. citizen father to be issued an immigration visa outside of the usual quota system. *See* Act of Oct. 22, 1982, Pub. L. No. 97-359 (presently codified at 8 U.S.C. § 1154(f)).
- b. The second was through the Orderly Departure Program. “The Orderly Departure Program (ODP) was established under a 1979 Memorandum of Understanding between the United Nations High Commissioner for Refugees and the government of Vietnam to provide a safe and legal means for people to leave Vietnam rather than clandestinely by boat.” U.S. General Accounting Office, B-238006, *Refugee Program: The Orderly Departure Program from Vietnam* at 2 (Apr. 11, 1990) [hereinafter *GAO ODP Report*]. “Vietnamese can travel to the United States under the ODP as immigrants, following normal U.S. visa issuance procedures, or as refugees.” *Id.* Under the Amerasian Homecoming Act, Pub. L. No. 100-202, § 584 (codified at a note following 8 U.S.C. § 1101), “Amerasians and their qualifying family members leaving Vietnam within a 2-year period after March 21, 1988, are entitled to enter the United States as immigrants, but are eligible for all benefits offered refugees, including resettlement and training benefits. To be eligible for admission under the act, Amerasians must have been residing in Vietnam on December 22, 1987, the date the legislation was enacted, and must be able to establish that they were born in Vietnam after January 1, 1962, and before January 1, 1976, and had American citizen fathers.” *GAO ODP Report* at 4; *see also* Pub. L. No. 100-202, § 584(a)(1)(B), (b)(1)(A). Many of the Vietnamese people who came to the United States under the ODP were admitted as refugees. *See GAO ODP Report* at 5. Refugee status allows for adjustment to

1 legal permanent resident status after one year of physical presence in the United
2 States. *See* 8 U.S.C. § 1159(b).

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11. Mr. Do has suffered a number of criminal convictions that ultimately led to the termination of his legal permanent resident status. The following is a partial list of Mr. Do's criminal record based on publicly available court data.
- a. On January 25, 2005, Mr. Do pleaded guilty in Orange County (California) Superior Court to two counts of shoplifting items with a value less than \$950, in violation of Cal. Penal Code § 459.5(a), and sentenced to 180 days in jail followed by 3 years' probation. His probation was later revoked, and he was sanctioned with a 16-month suspended prison sentence.
 - b. Also on January 25, 2005, Mr. Do pleaded guilty in Orange County Superior Court to one count of petty theft with a prior, in violation of Cal. Penal Code § 666, and one count of child endangerment, in violation of Cal. Penal Code § 273a(b). He was sentenced to 180 days in jail followed by 3 years' probation. His probation was later revoked, and he was sanctioned with a 16-month suspended prison sentence.
 - c. On March 22, 2006, Mr. Do pleaded guilty in Orange County Superior Court to one count of possession of a controlled substance, in violation of Cal. Health & Safety Code § 11377(a), and one count of possession of controlled substance paraphernalia, in violation of Cal. Health & Safety Code § 11364. He was sanctioned with a 16-month suspended prison sentence. Upon information and belief, this conviction led to the revocation of probation in both 2005 cases.
 - d. On June 18, 2008, Mr. Do pleaded guilty in Orange County Superior Court to one count of petty theft with a prior, in violation of Cal. Penal Code § 666, and was sentenced to two years in state prison.
 - e. On February 10, 2025, Mr. Do pleaded guilty to one count of possession of a controlled substance with intent to sell, in violation of Cal. Health & Safety Code

§ 11378. He was sentenced to 90 days in jail followed by 2 years' probation. This crime occurred on December 29, 2024; upon information and belief, Mr. Do was released the day after sentencing from county jail and delivered to ICE officials for detention pending removal pursuant to a detainer lodged with the Orange County Sheriff.

12. Upon information and belief, in approximately 2007 Mr. Do was ordered deported based on his 2006 conviction for possession of a controlled substance. *See Ruiz-Vidal v. Gonzales*, 671 F.3d 872 (9th Cir. 2011) (explaining that some convictions under Cal. Health & Safety Code § 11377 are removable offenses under 8 U.S.C. § 1227(a)(2)(B)(i)). Alternatively, Mr. Do was ordered deported based on his two convictions for petty theft with a prior, in violation of Cal. Penal Code § 666. *See* 8 U.S.C. § 1227(a)(2)(A)(ii) (convictions for two crimes of moral turpitude render an alien deportable); *United States v. Esparza-Ponce*, 193 F.3d 1133 (9th Cir. 1999) (holding that petty theft under California law is a crime involving moral turpitude).
13. Upon information and belief, Mr. Do was released from immigration detention following the 2007 removal order because the Vietnamese Embassy refused to issue a passport or other travel documents to Mr. Do.
14. According to the Embassy of the Socialist Republic of Vietnam in the United States, any Vietnamese-born person who was living abroad on July 1, 2009, and did not have a valid Vietnamese passport, was required to register with the Vietnamese Embassy on or before July 1, 2014. Those Vietnamese-born persons who did not so register by July 1, 2014, had their Vietnamese citizenship revoked. Upon information and belief, Mr. Do did not so register by July 1, 2014, and thus had his Vietnamese citizenship cancelled.
15. Mr. Do has been in ICE custody since February 11, 2025, when he was released from the Orange County Jail in his possession-of-a-controlled-substance-with-intent-to-sell case. Upon information and belief, on May 21, 2025, ICE officials contacted the Vietnamese

Embassy to obtain travel documents for Mr. Do. Officials at the Embassy refused to issue Mr. Do a passport or other travel documents.

Ground for Relief

Mr. Do's detention in immigration custody violates the Due Process Clause of the Fifth Amendment because he is effectively stateless and cannot be removed to the country of his birth.

16. Mr. Do is effectively stateless. The Republic of Vietnam, the country of his birth, has cancelled his citizenship. Travel documents are not available and his immediate removal is not practical. *See* 8 U.S.C. § 241.4(e)(1).
17. Mr. Do was ordered removed from the United States in approximately 2007. That order triggered a statutory 90-day period (the “removal period”) within which the government had to remove him from the United States. *See* 8 U.S.C. § 1231(a)(1)(A), (B)(i). He was not removed during that time; rather, he was later released from immigration detention. He remained at liberty under ICE supervision until his arrest by ICE officials on February 11, 2025.
18. The Due Process Clause of the Fifth Amendment limits “an alien’s post-removal-period detention to a period reasonably necessary to bring about that alien’s removal from the United States.” *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). Because of this constitutional limitation, § 1231 “does not permit indefinite detention.” *Id.*
19. Detention following the removal period is presumptively limited to six months. “After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing.” *Id.* at 701.
20. Even though Mr. Do has not yet been in ICE custody for six months, this petition is not premature. Mr. Do cannot be returned to his country of origin, because Vietnam does not recognize him as a citizen. Upon information and belief, the Vietnamese Embassy will continue to refuse to issue him a passport or other travel documents. His continued

1 detention in immigration custody thus violates the Due Process Clause of the Fifth
2 Amendment.

3 **Prayer for Relief**

4 21. Mr. Do is being illegally detained, in violation of the Due Process Clause of the Fifth
5 Amendment. He respectfully asks the Court to:

- 6 a. order the government to answer this petition;
7 b. permit him to file a reply in support;
8 c. allow him to conduct discovery in order to support his claim for relief;
9 d. convene an evidentiary hearing, if needed to resolve disputed facts;
10 e. order Respondents to release him from their custody under supervision; and
11 f. grant any other relief that is just and practicable.

12 Respectfully submitted:

May 31, 2025.

13 JON M. SANDS
14 Federal Public Defender

15 s/Keith J. Hilzendeger
16 KEITH J. HILZENDEGER
17 Assistant Federal Public Defender
18 Attorney for Petitioner Do
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