

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

HUNG QUOC NGUYEN,

PETITIONER,

v.

U.S. DEPT. OF HOMELAND SECURITY,
KRISTI NOEM, in her capacity as Secretary
of Department of Homeland Security;
TODD LYONS in his capacity as the Acting
Director of ICE, BRET BRADFORD in his
capacity as U.S. Immigration and Customs
Enforcement, Houston Field Office
Director; RANDY TATE in his capacity as
warden of the Montgomery Processing
Center,

RESPONDENTS.

Civil Case No.

PETITION FOR A WRIT OF HABEAS
CORPUS PURSUANT TO 28 U.S.C. § 2241,
BY A PERSON SUBJECT TO INDEFINITE
IMMIGRATION DETENTION

PETITION FOR WRIT OF HABEAS CORPUS

1. Petitioner, Hung Quoc Nguyen, who has lived in the United States for more than 40 years after his family fled Vietnam and entered the United States as refugees when he was a young child, files this Habeas Petition seeking the Court's urgent intervention. On June 30, 202

in Sugarland, Texas. Despite there being no realistic chance of removing Mr. Nguyen to Vietnam, he continues to be detained by ICE at the Montgomery Processing Center.

2. This re-detention¹ is a flagrant and ongoing violation of the Due Process Clause of the Fifth Amendment, the Immigration and Nationality Act, 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and the required regulatory procedure for re-detention set forth in 8 C.F.R. § 241.13(f),(i). The government's renewed attempt to remove Mr. Nguyen, a pre-1995 arrival from Vietnam, is not merely unlikely; it is a legal fiction contradicted by the government's own prior failure. His confinement, therefore, is not administrative but punitive, indefinite, and unconstitutional. Every additional day of this lawless detention inflicts new and irreparable injury through the profound loss of liberty and the forced separation from his U.S. citizen family. For these reasons, good cause exists for this Court to grant this Petition for a Writ of Habeas Corpus and enjoin ICE from continuing to detain Mr. Nguyen in violation of the constitution and laws of the United States.

CUSTODY

3. Petitioner is currently being detained by and in the physical custody of the U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement (hereinafter "ICE") at the Montgomery Processing Center in Conroe, Texas.² ICE has

¹ The term "re-detention" is used in this briefing to refer to the detention of an individual who had been on an order of supervision (colloquially referred to as "OSUP") after

contracted with The GEO Group to house detainees such as Petitioner. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

4. This action arises under the Constitution of the United States, 28 U.S.C. §2241(c)(1), and the Immigration and Nationality Act (“INA”), 8 U.S.C. §1101 *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. §2241, Art. I §9, cl. 2 of the United States Constitution (“Suspension Clause”); and 28 U.S.C. §1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States.³

VENUE

5. Pursuant to 28 U.S.C. § 1391, venue is proper in the Southern District of Texas, Houston Division, because Petitioner is currently detained in the territorial jurisdiction of this Court, at the Montgomery Processing Center in Conroe, Texas.

PARTIES

6. Petitioner is a native and citizen of Vietnam. Petitioner was ordered removed by an IJ on February 22, 2007. The order became final on this date because no appeal was filed. Accordingly, pursuant to 8 U.S.C. § 1231(a)(1), the statutory 90-day removal period ended on

to remove him, he spent most of the eighteen years since the 90-day removal period expired on an OSUP order.⁴ On June 30, 2025, Mr. Nguyen was suddenly detained by ICE after they seized him at his residence in Sugarland, Texas. He had no violations of the OSUP, no changed circumstances, no chance of removal to Vietnam, and no explanation for this sudden seizure. After being shuffled through detention centers, Mr. Nguyen was moved to the Montgomery Processing Center in Conroe, Texas where he is currently detained.⁵

7. Respondent Kristi Noem is the Secretary of Department of Homeland Security. She is responsible for the administration of ICE and the implementation and enforcement of the INA. As such Ms. Noem is the legal custodian of Petitioner.

8. Respondent Todd Lyons is the Acting ICE Director in this position he is responsible for the administration of ICE and the implementation and enforcement of the Immigration & Naturalization Act (INA). As such, Mr. Lyons has ultimate custodial authority over Petitioner in his capacity as Acting Director of ICE.

9. Respondent Bret Bradford is the ICE Field Office Director of the Houston Field Office of ICE and is Petitioner's immediate custodian.⁶

10. Respondent Randy Tate in his capacity as Warden of the Montgomery Processing Center where Petitioner is currently detained under the authority of ICE, alternatively may be considered to be Petitioner's immediate custodian.

EXHAUSTION OF REMEDIES

⁴ As Mr. Nguyen recalls, he was not detained during the statutory 90-day removal period.

11. Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action. Furthermore, no statutory exhaustion requirements apply to Petitioner's claim of unlawful detention.

STATEMENT OF THE FACTS

12. Petitioner, Hung Quoc Nguyen, a native of Vietnam, has been a lawful permanent resident of the United States for over four decades. He was born in Vietnam on [REDACTED] 1973, and fled the country at six years old with his family in the wake of the war. He has resided in the United States ever since.

13. Following the conclusion of his removal proceedings, the IJ ordered Mr. Nguyen removed to Vietnam on February 22, 2007.⁷ This date marked the finality of the administrative order of removal and, consequently, triggered the start of the 90-day removal period as defined by 8 U.S.C. § 1231(a)(1)(B). This initial 90-day period expired on May 23, 2007. The presumptively reasonable six-month removal period, as established by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), concluded on August 21, 2007. As of the filing of this petition, almost eighteen years have elapsed since the expiration of Mr. Nguyen's statutory removal period.

Mr. Nguyen is detained on June 30, 2025, despite his removal being no more likely on that day than it had been on any of the 6,630 days since the 90-day removal period expired.

14. For nearly eighteen years following the expiration of his removal period, Mr. Nguyen, like the vast majority of Vietnamese nationals ordered removed who arrived in the U.S. before July 12, 1995, has lived under a final order of removal and has been subject to an Order of Supervision (“OSUP”) by Immigration and Customs Enforcement (ICE). Under the OSUP, Mr. Nguyen reported to ICE as directed during this time, including periodic check-ins to obtain compliance letters necessary for the renewal of his work authorization application which must be filed with U.S. Citizenship and Immigration Services.

15. The arbitrary and unexpected nature of Petitioner’s detention underscores its unconstitutionality. Mr. Nguyen was in his home in Sugarland, Texas when ICE officers arrived to abruptly detain him. He had been in compliance with OSUP and had no prior notice or reason to expect ICE officials to come to his door. Mr. Nguyen was soon separated from his fiancé, searched, and taken from his house in handcuffs without a valid reason. This sudden seizure was followed by him first being detained at the Bluebonnet Detention Center in Anson, Texas, and then moved to his current confinement at the Montgomery Processing Center in Conroe, Texas, away from his home and family.

16. Since his abrupt and unjustified detention, Mr. Nguyen has been held at the Montgomery Processing Center in Conroe, Texas. ICE has made no effort to communicate with him regarding the reason for his detention, nor have they taken any discernible steps to secure travel documents for his removal to Vietnam—a process known to be exceedingly complex and historically futile for individuals in his circumstances.

17. As of the date of this filing, Mr. Nguyen remains indefinitely detained without any indication that his removal is reasonably foreseeable. His current detention is therefore in direct violation of the principles set forth by the Supreme Court in *Zadvydas v. Davis*, constituting an unlawful restraint on his liberty.

18. This abrupt and unforeseen detention occurred despite there being no material change in Mr. Nguyen's circumstances or in the long-standing policy and practice of Vietnam regarding the repatriation of pre-1995 arrivals.⁸ There is no indication that his removal in the reasonably foreseeable future is any more likely now than it has been at any point in the last eighteen years.⁹

19. The Government's inability to effectuate Petitioner's removal is not the result of a temporary bureaucratic impasse but is instead rooted in the long-standing policy of Vietnam. Vietnam has maintained a consistent and well-documented policy of refusing to issue travel documents for the repatriation of individuals who fled the country before the normalization of diplomatic relations on July 12, 1995. This policy stems from the historical context of the Vietnam War and its aftermath, and the Vietnamese government's position on this matter has remained unchanged for decades.

⁸ (Pet'r's App. Ex. 1-2, and 4.)

⁹ *Cf. Nguyen v. Hyde*, No. 25-CV-11470-MJJ, 2025 WL 1725791, at *3 (D. Mass. June 20, 2025)(when pressed on evidence specific to changed circumstances of the pre-95 immigrant petitioner in that case, the government only came up with a declaration which the government itself acknowledged was not specific to the petitioner, stating "No doubt the declaration is general

20. The Government's inability to effectuate Mr. Nguyen's removal is further evidenced by the fact that in the years leading up to his detention, ICE never requested that he complete or sign any documentation to facilitate a request for travel documents from Vietnam. Since his current detention began, ICE has made no effort to secure the necessary travel documents.

21. There has only ever been one single impediment to ICE executing the removal order against Mr. Nguyen: Vietnam's longstanding consistent policy of refusing to repatriate individuals who entered the United States prior to July 1995. This, of course, is not a minor impediment. Rather, it has been and continues to be an impossibly insurmountable impediment for nearly every single one

to Mr. Nguyen of such significance that his removal has suddenly become reasonably foreseeable. This re-detention has been unconstitutional and unlawful since the moment it began on June 30, 2025, when he was seized from his house after being in compliance with his OSUP for years.

23. Mr. Nguyen's decades-long compliance reaped quite the reward: He was forcibly and unexpectedly seized and taken away from his home. His continued confinement is punitive, not administrative, and is therefore unconstitutional.

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being detained at facilities that are meant for processing and not set up for detention beyond a few hours are increasing, and other inhumane detention practices continue to rise. Moreover, if ever there was an agency who had demonstrated it could not be trusted to abide by the law and treat individuals humanely, it has been ICE over the past few months.¹⁴

OVERVIEW OF POLICY/RELATIONS BETWEEN THE UNITED STATES AND VIETNAM IN THE CONTEXT OF PRE-1995 CITIZENS REPATRIATION

nationals with final orders of removal. However, the scope of this agreement was explicitly and intentionally limited.¹⁷ It established a process for the repatriation of only those Vietnamese nationals who had arrived in the United States on *or after* July 12, 1995.¹⁸ This created a clear dividing line between two distinct populations: "post-95" arrivals, who were now subject to a formal removal process, and "pre-95" arrivals, who were not.¹⁹

28. The cornerstone of this divided framework is Article 2, Section 2 of

30. The written terms of the 2008 MOU were matched by a consistent course of conduct by both governments for nearly a decade. The administrations of both President George W. Bush, who signed the agreement, and President Barack Obama recognized and honored the protection for pre-1995 refugees. In line with the agreement, the government of Vietnam consistently refused to issue the necessary travel documents for any pre-1995 individual whom the U.S. sought to remove.²³

31. This diplomatic reality had direct and predictable consequences for U.S. immigration enforcement. Recognizing the legal and practical impossibility of effectuating these removals, U.S.

understanding regarding pre-1995 Vietnamese refugees, leading to widespread fear in the community, a new wave of prolonged detentions, and ultimately, landmark litigation that reshaped the legal landscape and produced the very evidence now central to habeas petitions.²⁶

33. Beginning in 2017, the Trump administration initiated a concerted effort to pressure the government of Vietnam to begin accepting the repatriation of pre-1995 arrivals. This effort was predicated on a new, unilateral reinterpretation of the 2008 MOU by the U.S. government. Contrary to the plain text of Article 2, Section

35. *Hoang Trinh, et al. v. Thomas D. Homan, et al.* was a nationwide class-action lawsuit filed on February 22, 2018, in the U.S. District Court for the Central District of California. The case, directly challenged the legality of ICE's detention of noncitizens from Vietnam who entered the U.S. prior to 1995.³⁰

36. The plaintiffs' contended that the prolonged detention of pre-1995 Vietnamese immigrants violated both the immigration statute (8 U.S.C. § 1231) and the

