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

BOA NHAT DOAN THAI,

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; JOSH JOHNSON in his  
capacity as U.S. Immigration and Customs  
Enforcement, Dallas Field Office Director;  
THOMAS BERGAMI in his capacity as  
Warden of the Prairieland Detention Center,

RESPONDENTS.

Civil Case No.

**3-25CV2221-X**

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

**EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS**

1. Petitioner Boa Nhat Doan Thai files this motion seeking the Court's urgent intervention. On July 25, 2023, Respondents abruptly and without justification detained Mr. Thai when he went to the ICE Field Office located at 8101 N. Stemmons Fwy. in Dallas, Texas. His purpose for being there was the same as it has been for over two decades: annually report as required under the order of supervision ("OSUP") he was placed on in 2003. Despite attending his annual check-in, and no OSUP violations, ICE took Mr. Thai into custody without explanation other than generally claiming it was to remove him. But before he can be removed, Vietnam must issue Mr. Thai a travel document. Vietnam, however, has failed to issue Mr. Thai a travel document for the past 20+ years. Indeed, this is why ICE determined in 2003 that his removal was not reasonably foreseeable.

2. To be clear, Mr. Thai has never attempted to stop his removal to Vietnam. And he is not attempting to stop his removal to Vietnam now. Despite leaving when he was a young child, Mr. Thai is not afraid of removal to Vietnam. He is, however, afraid of being unnecessarily detained in overcrowded ICE detention facility. As of the filing of this petition, ICE has not (to the best of Mr. Thai's knowledge) even submitted a travel document request for Mr. Thai to Vietnam—much less received any indication that one will be issued by Vietnam anytime in the near future. Said differently, ICE put the proverbial cart before the horse when it detained Mr. Thai, who is neither a flight nor safety risk, at an annual check-in before an actual—rather than hopeful—change in the sole circumstance that matters: Vietnam issuing a travel to Mr. Thai. And it did so without informing of the reason (beyond “for removal”), much less an opportunity to meaningfully respond to the sudden re-detention. Simply put, ICE failed to follow the mandatory procedures and make the required findings as set forth at 8 C.F.R. § 241.13. If ICE had followed the § 241.13's required procedures and made the findings required under the regulations, the only conclusion that could have been reached is that there was not and is not a legal basis for this new re-detention.

3. Given the lack of any legitimate basis for Mr. Thai's continued detention, where there is neither a risk of flight nor any threat to public safety, it is difficult to discern a rationale for ICE's actions. The most plausible explanation is that ICE is maintaining his detention solely to inflate its statistical enforcement figures in service of meeting the Agency's arbitrarily elevated deportation targets. A basis that is as illegal as it is immoral.

4. Recently, there have been several U.S. District Court cases granting the exact relief sought by Mr. Thai under nearly identical facts/circumstances in this habeas petition and

the accompanying TRO. Specifically, each such case involved pre-1995 Vietnam immigrants who were suddenly re-detained after years of compliance with their OSUPs and no evidence of changed circumstances specific to them as required by 8 C.F.R. § 241.13. Among those cases were *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at \*4–6 (E.D. Cal. July 16, 2025), *Hoac v. Beccerra, et al.*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at \*3 (E.D. Cal. July 16, 2025), and *Nguyen v. Hyde*, No. 25-CV-11470-MJJ, 2025 WL 1725791, at \*3 (D. Mass. June 20, 2025). Mr. Thai respectfully asks this Court to follow the reasoning of these decisions and order ICE to immediately release him.

5. The legal reasons and principals articulated in *Zadvydas v. Davis*, 533 U.S. 678 (2001) guide the analysis in this case. This habeas petition and the Application for a TRO accompanying it, however, are not being brought under *Zadvydas* which governs continued detention from the start of the statutory 90-day removal period through its expiration and beyond. *Zadvydas* is what required ICE to release Mr. Thai at some point after the statutory removal period expired over two decades ago on August 18, 2003. Because Mr. Thai was in full compliance with his OSUP and the statutory removal period had expired, ICE could only subject Mr. Thai to “re-detention” in accordance with 8 C.F.R. § 241.13. Among other things (ICE failed to do), ICE failed to make the required finding of changed circumstances specific to Mr. Thai which made his removal to Vietnam reasonably likely in the immediate future. Mr. Thai has been on OSUP for over two decades because the government has failed to achieve its goal of obtaining travel documents for Mr. Thai. It still does not have travel documents for him.

6. This re-detention 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 claim that it's making a renewed attempt to remove Mr. Thai, 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 immediately enjoin ICE from continuing to detain Mr. Thai in violation of the constitution and laws of the United States.

#### **CUSTODY**

7. 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 Prairieland Detention Center in Alvarado, Texas.<sup>1</sup> ICE has contracted with LaSalle Corrections to house detainees such as Petitioner. Petitioner is under the direct control of Respondents and their agents.

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<sup>1</sup> (Pet'r's App. Ex. 7.)

### **JURISDICTION**

8. 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.<sup>2</sup>

### **VENUE**

9. Pursuant to 28 U.S.C. § 1391, venue is proper in the Northern District of Texas, Dallas Division, because Petitioner is currently detained in the territorial jurisdiction of this Court, at the Prairieland Detention Center in Alvarado, Texas.

### **PARTIES**

10. Petitioner, Mr. Thai, is a native and citizen of Vietnam where he was born   1977. Mr. Thai was ordered removed by an IJ on May 20, 2003.<sup>3</sup> Mr. Thai did not appeal the decision.<sup>4</sup> The IJ’s removal order became final on that date because no appeal was filed. Accordingly, pursuant to 8 U.S.C. § 1231(a)(1), the statutory 90-day removal

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<sup>2</sup> See *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) (“We conclude that §2241 habeas corpus proceedings remain available as a forum for statutory and constitutional challenges to post-removal-period detention.”); *INS v. St. Cyr*, 533 U.S. 289, 301 (2001) (“at its historical core, the writ of habeas corpus has served as a means of reviewing the legality of executive detention, and it is in that context that its protections have been strongest.”) *Clark v. Martinez*, 543 U.S. 371 (2005) (holding that *Zadvydas* applies to aliens found inadmissible as well as removable).

<sup>3</sup> (Pet’r’s App. Ex. 8)

<sup>4</sup> (Pet’r’s App. Ex. 8.)

period ended on August 18, 2003. Because there has never been a reasonable likelihood of ICE being able to remove him, he was released after the 180-day reasonable presumption period expired on November 16, 2003. Following his release, Mr. Thai spent the last two decades on an OSUP order. On July 25, 2025, Mr. Thai was suddenly detained by ICE at a check in with no explanation, no violations of the OSUP, no changed circumstances, and no chance of removal to Vietnam. As of the time this petition is being filed, Mr. Thai remains re-detained in ICE custody at the Prairieland Detention Center.<sup>5</sup>

11. 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.

12. 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.

13. Josh Johnson is the ICE Field Office Director of the Dallas Field Office of ICE and is Petitioner's immediate custodian.<sup>6</sup>

14. Respondent Thomas Bergami in his capacity as Warden of the Prairieland Detention Center where Petitioner is currently detained under the authority of ICE, alternatively may be considered as Petitioner's immediate custodian.

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<sup>5</sup> (Pet'r's App. Ex. 7.)

<sup>6</sup> See *Vásquez v. Reno*, 233 F.3d 688, 690 (1<sup>st</sup> Cir. 2000), *cert. denied*, 122 S. Ct. 43 (2001).

### **EXHAUSTION OF REMEDIES**

15. 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**

16. Mr. Thai is a 47-year-old man. He is a hardworking and valued employee and, for over four decades, made significant contributions to his community. Mr. Thai's life in the United States began when he was very young when Mr. Thai and his family fled Vietnam and were granted refuge in this country.

17. In the early 2000s, Mr. Thai was taken into the ICE custody and placed in removal proceedings after receiving a conviction for an assault charge. On May 20, 2003, an Immigration Judge (IJ) ordered Mr. Thai removed.

18. The statutory removal period in Mr. Thai's case therefore began on May 20, 2003, and concluded on August 18, 2003. The presumptively reasonable six-month removal period for Mr. Thai thus would have ended on November 16, 2003.

19. Mr. Thai was detained for more than 90 days after his removal order. Mr. Thai's prolonged detention and his release after such detention were a direct result of the fact that, as a pre-1995 arrival from Vietnam, his removal was not, has not, and is not, a practical possibility. Recognizing this, ICE released Mr. Thai in late 2003 on an Order of Supervision (OSUP).

20. For the subsequent twenty-two years, Mr. Thai has diligently complied with the requirements of his OSUP. He has reported to ICE as directed, maintained gainful employment, and established himself as a valued member of his community.

21. On July 25, 2025, Mr. Thai presented himself at the ICE office for his scheduled annual check-in. Without warning or explanation from ICE, ICE detained him. ICE did so without any process whatsoever, much less the process required by its own regulations found at 8 C.F.R. § 241.13.

22. To be clear, though ICE provided no notice to Mr. Thai of its intentions to take him into custody when he reported on July 25, 2025, Mr. Thai was fully cognizant of the fact that there was nearly zero chance that he was going to leave after checking in. Indeed, Mr. Thai has known for at least a month that ICE was indiscriminately detaining nearly every pre-1995 Vietnam immigrant who reported to ICE as required and scheduled for their annual OSUP check-ins—most scheduled a year earlier when they last checked in. Said differently, Mr. Thai reported to the DFO knowing full well that ICE was likely to detain him without explanation or change in circumstances. He had not violated any provisions of the OSUP; again, he was detained when reporting as required. Likewise, ICE did not identify any changed circumstances which would make Mr. Thai's removal more likely on July 25, 2025, than it was every other day over the past twenty-two years.

23. Since his abrupt and unjustified detention, Mr. Thai has been held at the Prairieland Detention Center in Alvarado, Texas. ICE had 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.

24. As of the date of this filing, Mr. Thai remains unlawfully 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.

25. This abrupt and unforeseen detention occurred despite there being no material change in Mr. Thai's circumstances or in the long-standing policy and practice of Vietnam regarding the repatriation of pre-1995 arrivals.<sup>7</sup> 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 two years.<sup>8</sup>

26. 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

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<sup>7</sup> (Pet'r's App. Ex. 1-2, and 4.)

<sup>8</sup> *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 and it just says the United States has been successful in removing individuals to Vietnam.").

historical context of the Vietnam War and its aftermath, and the Vietnamese government's position on this matter has remained unchanged for decades.<sup>9</sup>

27. The Government's inability to effectuate Mr. Thai's removal is further evidenced by the fact that in the years leading up to his re-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.

28. There has only ever been one single impediment to ICE executing the removal order against Mr. Thai: 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 of the 8,000 to 10,000 estimated individuals who entered the U.S. prior to July 1995 from Vietnam who currently have final orders of removal. Indeed, it is precisely this impediment that has forced ICE to repeatedly concede

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<sup>9</sup> It is difficult to fault Vietnam for this policy. After all, the United States indiscriminately killed millions of its citizens, invaded and destroyed the country, gave its former citizens status in the United States, and now wants Vietnam to take individuals who seemingly sided with the U.S. during or immediately after the conflict back. That being said, rest assured that Mr. Thai and many similarly situated to him will gladly return to Vietnam if and when Vietnam actually agrees to allow them to return. Like many immigrants, including pre-95 Vietnam immigrants, Mr. Thai is *far more* afraid of the ICE, ICE custody, and being secreted away on a plane to a conflict embroiled African country like the South Sudan than he is about going to the Country he was born in decades ago.

there is no reasonable chance of removal orders against pre-1995 entrants from Vietnam ever being executed.<sup>10</sup>

29. Mr. Thai's detention, initiated on July 25, 2025—more than twenty-two years after ICE released him after detaining him for removal in 2003—is in direct violation of the principles set forth by the Supreme Court in *Zadvydas*. More importantly, for the purposes of this action, ICE failed to adhere to its own mandatory regulations when it re-detained Mr. Thai without the process required by the regulations or the existence of changed circumstances specific to Mr. Thai 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 July 25, 2025, when he reported as directed.

30. The reward for years of reporting as required: ICE detained him at a routine check-in he scheduled a year earlier. His continued confinement is punitive, not administrative, and is therefore unconstitutional.

#### **Irreparable Harm of Continued ICE Detention**

31. Everyday Mr. Thai is detained in ICE custody in direct contravention of the statute and U.S. constitution he suffers irreparable harm. From the physical, emotional, and mental toll the complete sudden loss of one's freedom and liberty takes on anyone in the same circumstances, to the loss of income every day he remains in custody.

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<sup>10</sup> See *Trinh v. Homan*, 466 F. Supp. 3d 1077, 1083 (C.D. Cal. 2020) (providing a similar historical overview of removals to Vietnam and the issues surrounding repatriation from those who entered the U.S. prior to July 1995).

32. Irreparable harm (alarmingly) is also found in the very real possibility of Mr. Thai, a 49-year old former refugee, dying in ICE custody.<sup>11</sup> In late June, Mr. Phan, a 55-year old man from Vietnam, died in ICE custody.<sup>12</sup> According to reports on it, Mr. Phan was ordered removed more than 13-years ago and, it appears, was re-detained seven weeks prior to his death.<sup>13</sup> While Mr. Thai does not have access to the facts or circumstances of the re-detention in that case, it has all the same hallmarks of ICE's recent policy of detaining pre-95 Vietnam immigrants at their annual check-ins—despite removal not being anywhere close to reasonably likely in the near future.

33. On May 14, 2025, in an oversight hearing before the House Appropriations Committee, Todd Lyons, acting director of Immigration and Customs Enforcement, testified that nine people have died in ICE custody since January 20, 2025.<sup>14</sup> A month after this testimony, on June 23, 2025, a 49-year old Canadian citizen died in ICE custody.<sup>15</sup> Reports of overcrowding, individuals 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

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<sup>11</sup> (See Pet'r's App. Ex. 5 & 6.)

<sup>12</sup> (Pet'r's App. Ex. 5.)

<sup>13</sup> (*Id.*)

<sup>14</sup> This testimony can be found at the following link: <https://www.youtube.com/watch?v=QvoURiaxBmA>.

<sup>15</sup> The ICE press release on this death can be found at the following link: <https://www.ice.gov/news/releases/canadian-national-ice-custody-passes-away>

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.<sup>16</sup>

34. Mr. Thai is at risk of physical harm, emotional trauma, and lasting negative consequences if he remains in custody. Meanwhile, there will be ZERO harm to Respondents if Mr. Thai is immediately released from ICE custody. There is no reason to consider Mr. Thai a danger. He has been faithfully following the rules over the past two decades with a history of being an upstanding citizen. Meanwhile, he showed up to ICE fully expecting to be taken into custody (from the stories of others, not anything ICE conveyed) so there's no basis to claim he is a flight risk. Moreover, the Supreme Court already dismissed the notion that pre-1995 Vietnam immigrants constitute a flight risk, stating: "[B]y definition the first justification [for detention] preventing flight—is weak or nonexistent where removal seems a remote possibility."<sup>17</sup>

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

**The Importance of July 12, 1995, the 2008 MOU, and a Decade of Consistent Conduct**

35. Whether a noncitizen from Vietnam is likely to be removed to Vietnam has long come down to one simple question: did the noncitizen enter the United States before July 12, 1995? If the answer to that question is "yes", then the answer to the question of whether

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<sup>16</sup> (See Pet'r's App. Ex. 6 (documenting in detail the many stories of deplorable deteriorating conditions in ICE detention facilities as well as facilities not meant to detain individuals overnight being used to detain noncitizens for days at a time)).

<sup>17</sup> *Zadvydas*, 533 U.S. at

they are likely to be removed to Vietnam is "No."<sup>18</sup> This is evidenced by historical data and understandings between the two nations.

36. On January 22, 2008, following almost ten years of diplomatic negotiations, the United States and Vietnam signed an "Agreement on the Acceptance of the Return of Vietnamese Citizens".<sup>19</sup> This agreement, which officially entered into force on March 22, 2008, created the first formal, bilateral framework for the U.S. to repatriate Vietnamese nationals with final orders of removal. However, the scope of this agreement was explicitly and intentionally limited.<sup>20</sup> 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.<sup>21</sup> 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.<sup>22</sup>

37. The cornerstone of this divided framework is Article 2, Section 2 of the 2008 MOU. This provision states, in unambiguous terms: "Vietnamese citizens are not subject to return to Vietnam under this Agreement if they arrived in the United States before July 12, 1995".<sup>23</sup> The selection of this date was not arbitrary; it marks the day the U.S. and

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<sup>18</sup> See *Trinh v. Homan*, 466 F. Supp. 3d 1077, 1083 (C.D. Cal. 2020) (providing a similar historical overview of removals to Vietnam and the issues surrounding repatriation from those who entered the U.S. prior to July 1995).

<sup>19</sup> (Pet'r's App. Ex. 1.)

<sup>20</sup> (*Id.*)

<sup>21</sup> *Trinh*, 466 F. Supp. 3d at 1081-84.

<sup>22</sup> (Pet'r's App. Ex. 1)

<sup>23</sup> (*Id.*)

Vietnam formally re-established diplomatic relations after decades of hostility following the Vietnam War.<sup>24</sup>

38. This clause represented a significant diplomatic understanding. It was not merely an administrative guideline or an informal policy; it was a formal "carve-out" memorialized in a bilateral agreement between two sovereign nations.<sup>25</sup> This transformed the status of pre-1995 arrivals from individuals who were merely "difficult to remove" to a class of people who were, by mutual agreement, not subject to the repatriation process at all.

39. 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.<sup>26</sup>

40. 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. Immigration and Customs Enforcement (ICE) maintained a consistent, nationwide policy of releasing pre-1995 Vietnamese nationals from custody.<sup>27</sup>

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<sup>24</sup> *Trinh*, 466 F. Supp. 3d at 1081-84.

<sup>25</sup> (See Pet'r's App. Ex. 1-2, & 4.)

<sup>26</sup> *Trinh*, 466 F. Supp. 3d at 1081-84.

<sup>27</sup> *Trinh*, 466 F. Supp. 3d at 1083.

Typically, after a final order of removal was entered, these individuals would be released within the 90-day statutory removal period and placed on OSUP.<sup>28</sup> This practice acknowledged the legal constraints on detention authority established by *Zadvydas*. Because removal was not reasonably foreseeable, prolonged detention was not legally permissible.

**2017: A decade of stability comes to an end and arbitrary unconstitutional detention of pre-1995 Vietnamese citizens starts**

41. A decade of stability and protection established by the 2008 MOU came to an abrupt end in 2017. A dramatic shift in U.S. government policy shattered the long-held 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.<sup>29</sup>

42. 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 2 and the consistent practice of the two prior administrations, the Trump administration began to assert that the agreement did not shield individuals with criminal convictions from deportation.<sup>30</sup>

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<sup>28</sup> *Id.*

<sup>29</sup> (Pet'r's App. Ex. 2 & 4 (discussing impact of changes during the first Trump administration)).

<sup>30</sup> *Trinh*, 466 F. Supp. 3d at 1081-84.

43. ICE abruptly abandoned its longstanding practice of releasing pre-1995 individuals within 90 days.<sup>31</sup> Instead, it began subjecting this population to prolonged and often indefinite detention, with some individuals being held for many months and, in some cases, over a year.<sup>32</sup> Furthermore, ICE began to re-detain individuals who had been living peacefully in the community for years, or even decades, under orders of supervision, creating immense turmoil and uncertainty for thousands of families.

**The Trinh v. Homan Class Action Lawsuit**

44. *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.<sup>33</sup>

45. The plaintiffs' contended that the prolonged detention of pre-1995 Vietnamese immigrants violated both the immigration statute (8 U.S.C. § 1231) and the Due Process Clause of the Constitution.<sup>34</sup> The core of their claim was that, despite the administration's new "reinterpretation," the removal of this class of individuals was not reasonably foreseeable.<sup>35</sup> This was due to the explicit protective language of the 2008 MOU and

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<sup>31</sup> *Id.* at 1084.

<sup>32</sup> *Id.* at 1081 -84.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> See generally, *id.* (discussing the litigation, parties' positions, historical context of agreements between Vietnam and United States, and other directly relevant issues).

Vietnam's continued and consistent policy of refusing to issue the necessary travel documents for their return.

46. The litigation produced several critical developments:

a. **Government Concession (2018):** In September 2018, after the District Court rejected the government's motion to dismiss the lawsuit, ICE made a pivotal concession. It admitted in court that it was "generally unable to deport pre-1995 immigrants" and agreed to revert to its prior policy of releasing them from custody within 90 days of their removal orders becoming final.<sup>36</sup> This admission from the government itself is powerful evidence of the non-removability of pre-95 immigrants.

b. **Shift in Court's Position (2020):** The legal landscape shifted again by 2020. The government presented new evidence to the court indicating that Vietnam had begun issuing a "small number" or "small percentage" of travel documents for pre-1995 individuals.<sup>37</sup> Based on this new, albeit limited, evidence of cooperation from Vietnam, the District Court denied the plaintiffs' motion for a class-wide injunction in June 2020.<sup>38</sup> The court reasoned that because some removals were now occurring, a blanket ruling

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<sup>36</sup> *Trinh*, 466 F. Supp. 3d at 1088.

<sup>37</sup> The numbers presented by ICE of removals to Vietnam involving pre-1995 immigrants prior to 2020 (which were not subject to judicial oversight) claimed higher numbers of removals for such individuals than the total of 4 that were removed during the 2-year reporting period required as a result of *Trinh*.

<sup>38</sup> *Id.* at 1081 – 1095.

that the entire class was non-removable was no longer appropriate. Crucially, the court ruled that pre-1995 immigrants would now need to seek release from detention by filing individual petitions.<sup>39</sup>

47. Following the June 2020 ruling, the parties reached a resolution which imposed several significant obligations on ICE, creating a new accountability framework. As part of this agreement, ICE committed to:

- a. **Quarterly Reporting:** Provide quarterly reports for a two-year period, from late 2021 through late 2023, containing data on all pre-1995 Vietnamese immigrants who had been detained for more than 90 days and, most importantly, a list of all pre-1995 individuals for whom Vietnam had issued travel documents during that quarter.<sup>40</sup>
- b. **Bond Hearings:** Provide bond hearings after 180 days of detention for pre-1995 individuals detained within the geographical boundaries of the U.S. Courts of Appeals for the Third and Ninth Circuits.<sup>41</sup>
- c. **Notice of Policy Change:** Provide prompt notice to the plaintiffs' counsel if, within the next five years, ICE changes its official position that pre-1995 immigrants are "generally unlikely to be deported".<sup>42</sup>

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<sup>39</sup> *Cf. Trump v. CASA, Inc.*, No. 24A884, 2025 WL 1773631, at \*15 (U.S. June 27, 2025).

<sup>40</sup> (Pet'r's App. Ex. 4.)

<sup>41</sup> (*Id.*)

<sup>42</sup> (*Id.*)

48. Simply put, the government's aggressive detention policy ultimately led to a legal challenge that forced it to first concede the general non-removability of the class and then, as part of a settlement, to produce the very data that now forms the evidentiary backbone of any argument that removal remains unforeseeable.<sup>43</sup> Current habeas petitions, like this one however, are not filed in a vacuum; they are the individualized proceedings that the *Trinh* court envisioned, and with the dispositive data that the *Trinh* settlement produced.

**The Current Diplomatic Framework: November 2020 Memorandum of Understanding**

49. In the midst of the *Trinh v. Homan* litigation, the diplomatic relationship between the U.S. and Vietnam regarding repatriation underwent its most significant formal change since 2008. In November 2020, the Trump administration succeeded in securing a new Memorandum of Understanding with Vietnam that, for the first time, created a specific process for the removal of pre-1995 arrivals.<sup>44</sup>

50. In 2020, the U.S. and Vietnam signed a new MOU whose stated purpose was to "establish a process of review and issuance of travel documents for Vietnamese citizens ordered removed from the United States . . . who arrived in the United States before July 12, 1995."<sup>45</sup> The existence and text of this agreement were not initially made public by the

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<sup>43</sup> *Trinh*, 466 F. Supp. 3d at 1081 – 1093.

<sup>44</sup> (Pet'r's App. Ex. 2.)

<sup>45</sup> (*Id.*)

government but were later obtained by immigrant rights advocates through a Freedom of Information Act (FOIA) lawsuit.<sup>46</sup>

51. This new MOU purports to supersede the absolute protection that Article 2, Section 2 of the 2008 MOU had provided. The 2020 agreement explicitly states that its scope applies to pre-1995 arrivals, while post-1995 individuals remain covered by the terms of the 2008 agreement.<sup>47</sup> In effect, the U.S. government achieved its long-sought goal of creating a formal channel to request the removal of this previously protected population. The data shows, however, that the creation of such a process did not result in significantly changing the likelihood of Vietnam actually repatriating more than 99% of the estimated 8,000 to 10,000 pre-95 immigrants living in the United States with final removal orders.

52. A careful reading of the 2020 MOU reveals that its language is aspirational and discretionary.<sup>48</sup> The following key provisions demonstrate that Vietnam retains the right to refuse repatriation requests, (which it exercises nearly 100% of the time):

- a. **No Binding Commitment:** The central operational clause states that Vietnam's Ministry of Public Security (MPS) "intends to issue travel documents where needed" for eligible individuals. The phrase "intends to issue" is a statement of diplomatic intent, not a legally binding obligation to

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<sup>46</sup> (*Id.*)

<sup>47</sup> (*Id.*)

<sup>48</sup> *Nguyen v. Hyde*, 2025 WL 1725791, at \*4.

approve every request. This language preserves Vietnam's sovereign prerogative to make a final determination on each case.<sup>49</sup>

- b. **Humanitarian Considerations:** The MOU explicitly states that both parties "intend to carry out the removal and acceptance... with consideration of humanitarian and family unity aspects of repatriation." This clause provides Vietnam with a clear, text-based justification for denying a travel document request for an individual who, for example, arrived as a child refugee, has lived in the U.S. for over forty years, has a U.S. citizen spouse and children, and has no remaining family or social ties to Vietnam.<sup>50</sup>
- c. **Non-Automatic Process:** The MOU confirms that the repatriation process is not automatic. For any removal to occur, DHS must first compile and submit a documentation package, and the Vietnamese government must then affirmatively decide to issue a travel document.<sup>51</sup> The agreement allows Vietnam up to thirty days to respond to a request and even allows for requests for additional information. This multi-step, discretionary process is far from the kind of streamlined system that would make removal a foreseeable certainty.<sup>52</sup>

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<sup>49</sup> (*Id.*)

<sup>50</sup> (*Id.*)

<sup>51</sup> (*Id.*)

<sup>52</sup> (*Id.*)

53. The existence of a new “process” is far from sufficient to justify re-detention under § 241.13(i)(2). More importantly, the existence of such a “process” does negate the requirement for ICE to comply with the process for re-detention set forth in § 241.13(f), (i)(2). The applicable regulations to be followed before re-detention occurs, like *Zadvydas*, requires an inquiry into the practical *likelihood* of removal, not the mere existence of a diplomatic *process* for requesting it. The 2020 MOU created a door where there was once a wall, but the evidence overwhelmingly shows that Vietnam has kept the door firmly closed to most.

54. Indeed, empirical data provides the most powerful evidence that the 2020 MOU created a process but changed nothing about the practical reality that pre-1995 individuals are not reasonably likely to be removed to Vietnam.<sup>53</sup> Indeed, the quarterly reports produced by ICE as a result of the *Trinh v. Homan* settlement provide a clear, government-sourced, and unimpeachable record of the practical reality: the 2020 MOU, while creating a process on paper, has had a statistically negligible effect on the actual removal of pre-1995 Vietnamese nationals.<sup>54</sup>

55. Across the two-year period of ICE providing quarterly reports, the reports revealed that the government of Vietnam issued travel documents for, and ICE subsequently

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<sup>53</sup> (Pet’r’s App. Ex. 2 & 4.)

<sup>54</sup> (*Id.*)

deported, a total of only four (4) individuals who had arrived in the United States before 1995.<sup>55</sup>

56. This number must be contextualized against the estimated size of the population at risk. At the time the *Trinh* lawsuit was filed, advocates estimated that between 8,000 and 10,000 Vietnamese Americans with pre-1995 arrival dates had final orders of removal.<sup>56</sup> Removing just four individuals from a pool of thousands over a two-year period represents a removal rate that is functionally zero. It does not meet any reasonable definition of the "significant likelihood" of removal required by *Zadvydas*. This is not a matter of slow processing; it is a demonstration of systemic non-removal.

57. In *Nguyen v. Hyde*, a recent case with facts strikingly similar to Mr. Thai's, the district court explicitly found that ICE's re-detention of a Vietnamese national without the identification of a changed circumstance specific to the petitioner (only reference to the 2020 MOU) was insufficient to demonstrate the type of specific changed circumstance required by § 241.13(i)(2).<sup>57</sup>

#### **LEGAL BASIS FOR RELIEF SOUGHT**

58. The Immigration & Nationality Act provides that a noncitizen who is "ordered removed" "shall" be removed "from the United States within a period of 90-days."<sup>58</sup> The

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<sup>55</sup> (*Id.*)

<sup>56</sup> See generally, *Trinh*, 466 F. Supp. 3d at 1081-84.

<sup>57</sup> *Nguyen v. Hyde*, 2025 WL 1725791, at \*4

<sup>58</sup> 8 U.S.C. § 1231(a)(1)(A).

same subparagraph goes on to state that this 90-day period is “referred to as the ‘removal period’” in § 1231.<sup>59</sup> The 90-day “removal period begins on the latest of the following: **(i)** The date the order of removal becomes administratively final; **(ii)** If the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court's final order; **(iii)** If the alien is detained or confined (except under an immigration process); the date the alien is released from detention or confinement.”<sup>60</sup>

59. As interpreted by *Zadvydas*, § 1231 allows for detention beyond the 90-day removal period in limited circumstances, the government should—and previously has—released those non-citizens for whom there is “no reasonable likelihood of . . . removal in the foreseeable future.”<sup>61</sup> That being said, when the statute is “read in light of the Constitution’s demands, [it] limits an alien’s post-removal-period detention to a period reasonably necessary to bring about that alien’s removal from the United States.”

60. This is not a *Zadvydas* case. This case is not about the initial authority to detain a noncitizen following a final order of removal. Rather, it concerns the authority of Immigration and Customs Enforcement (ICE) to re-arrest and indefinitely<sup>62</sup> detain a man who, after a prior period of detention, was released on an Order of Supervision (OSUP) for

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<sup>59</sup> *Id.*

<sup>60</sup> § 1231(a)(1)(B).

<sup>61</sup> *Zadvydas v. Davis*, 533 U.S. 678, 690, (2001)

<sup>62</sup> The words “indefinite” or “indefinitely” when used in this brief to refer to Mr. Nguyen’s detention, are meant to describe the length of his detention as “unknown” or an “unspecified period of time.” When given their ordinary meaning Respondents cannot truly claim that Mr. Nguyen’s detention is anything but indefinite as they have provided no time frame whatsoever for even making the request for travel documents, much less when it believes it will get them.

years precisely because his removal was not significantly likely in the reasonably foreseeable future.

61. Respondents' authority to detain Mr. Thai is not boundless. The controlling authority for this scenario is not *Zadvydas*, but the specific federal regulation governing the revocation of release: 8 C.F.R. § 241.13(i).<sup>63</sup>

62. While 8 U.S.C. § 1231(a) provides the general statutory framework for post-removal-order detention and supervised release, "[t]he revocation of that release is governed by 8 C.F.R. § 241.13(i), which authorizes ICE to revoke a noncitizen's release for purposes of removal. Specifically, a noncitizen's release may be revoked 'if, on account of changed circumstances,' it is determined that 'there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future.'"<sup>64</sup> Furthermore, the regulations go on to proscribe the process for revocation based on a determination of changed circumstances as follows:

[T]he alien will be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification. The alien may submit any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future, or that he

<sup>63</sup> *Nguyen v. Hyde*, No. 25-CV-11470-MJJ, 2025 WL 1725791, at \*3 (D. Mass. June 20, 2025) ("This case is not about ICE's authority to detain in the first place... This case is about ICE's authority to re-detain Mr. Nguyen after he was issued a final order of removal, detained, and subsequently released on an OSUP. The DHS regulation, 8 C.F.R. § 241.13(i), applies to non-citizens in Petitioner's situation."); *See also Escalante v. Noem, et. al.*, No. 9:25-CV-00182-MJT, 2025 WL 2206113, at \*3 (E.D. Tex. Aug. 2, 2025) ("[T]his is not your typical first round detainment of an alien awaiting removal. Petitioner was previously detained, then released on supervised release for several years, and his 90-day removal period expired. *Zadvydas*, relied upon by Respondents, dealt with the initial detainment of an alien awaiting removal.").

<sup>64</sup> *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at \*3 (E.D. Cal. July 16, 2025) (quoting 8 C.F.R. § 241.13(i)(2)).

or she has not violated the order of supervision. The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.<sup>65</sup>

63. These regulations, not *Zadvydas* or 8 U.S.C. § 1231, govern ICE's re-detention of individuals who have been released after a determination was made that they could not be removed. The first step in this process is necessarily a determination of changed circumstances. Then, once that determination is made, ICE is required to follow the interview and notice requirements of § 241.13(i)(3).

64. ICE's failure to do either of these things properly provides two independent bases for granting this Petition and request for an injunction. Assuming *arguendo* (but not in no way conceding) that the regulations allow ICE to re-detain noncitizens for whom there has previously been a determination that removal is not reasonably foreseeable, ICE must follow its own regulations setting forth the process to be followed before re-detention.<sup>66</sup> Specifically, "ICE's decision to re-detain a noncitizen like [Mr. Thai] who has been granted supervised release is governed by ICE's own regulation requiring (1) an individualized determination (2) by ICE that, (3) based on changed circumstances, (4) removal has become significantly likely in the reasonably foreseeable future."<sup>67</sup>

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<sup>65</sup> 8 C.F.R. § 241.13(i)(3).

<sup>66</sup> See *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at \*4–6 (E.D. Cal. July 16, 2025)(discussing the regulatory requirements for re-detention in the context of a habeas petition and request for a TRO seeking the immediate release of a "re-detained" immigrant); see also *Hoac v. Beccerra, et al.*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at \*3 (E.D. Cal. July 16, 2025)(same); *Nguyen v. Hyde*, No. 25-CV-11470-MJJ, 2025 WL 1725791, at \*3 (D. Mass. June 20, 2025)(same).

<sup>67</sup> *Id.*; see also *Kong v. United States*, 62 F.4th 608, 619–20 (1st Cir. 2023) (citing 8 C.F.R. § 241.13(i)(2)).

65. There is no evidence ICE followed its own regulations in this case. Mr. Thai was not interviewed by ICE before being detained. There is no evidence ICE has even started the process for requesting travel documents for Mr. Thai from Vietnams—much less that it has obtained such documents.

66. Simply put, ICE did not follow its own regulations for re-detention set forth in § 241.13(f),(i) and, even if it claims it did, there is no evidence of changed circumstances specific to Mr. Thai that would make his removal reasonably foreseeable—which is necessary for re-detention under § 241.13(i)(2).<sup>68</sup> Accordingly, the instant petition is being filed seeking the Court to Order Mr. Thai's immediate release from ICE custody.

67. While *Zadvydas* does not control, its core reasoning illuminates the central question here: what constitutes a *reasonable* period of detention? The answer to that question, and the constitutional permissibility of the detention itself, depends entirely on the circumstances. Common sense dictates a profound difference between the six-month period immediately following a removal order and the re-detention of an individual decades later, after years of perfect compliance with supervision, who voluntarily appears for a check-in knowing full well he is almost certain to be taken into custody. In other words, the analysis for individuals like Mr. Thai who report to ICE expecting to be detained after years of compliance on OSUP is much different than for noncitizens who have just been ordered removed are still within the statutory removal period.

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<sup>68</sup> See *Phan*, 2025 WL 1993735, at \*4–6; *Hoac*, 2025 WL 1993771, at \*3; *Nguyen*, 2025 WL 1725791, at \*3.

68. The “historic purpose of the writ,” as *Zadvydas* reminds us, is “to relieve detention by executive authorities without judicial trial.”<sup>69</sup> To that end, this Court must ask whether Mr. Thai’s detention “exceeds a period reasonably necessary to secure removal,” measuring reasonableness “primarily in terms of the statute’s basic purpose, namely, *assuring the alien’s presence at the moment of removal.*”<sup>70</sup>

69. To achieve its sole legitimate purpose—assuring his presence at the moment of removal—ICE should not need to have Mr. Thai’s detained for any more than 72 hours before a scheduled departure. He does not need to be detained for months on end while ICE may or may not begin the process of seeking travel document.

70. Simply put, ICE did not follow its own regulations for re-detention set forth in § 241.13(f),(i) and, even if it claims it did, there is no evidence of changed circumstances specific to Mr. Thai that would make his removal reasonably foreseeable—which is necessary for re-detention under § 241.13(i)(2).<sup>71</sup> Accordingly, the instant petition is being filed seeking the Court to Order Mr. Thai’s immediate release from ICE custody.

**PETITIONER’S FIRST CLAIM FOR RELIEF: ICE’S VIOLATION OF ITS OWN REGULATIONS & STATUTORY VIOLATION**

71. Petitioner re-alleges and incorporates by reference all the foregoing paragraphs above.

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<sup>69</sup> 533 U.S. at 699.

<sup>70</sup> *Id.* (emphasis added).

<sup>71</sup> See *Phan*, 2025 WL 1993735, at \*4–6; *Hoac*, 2025 WL 1993771, at \*3; *Nguyen*, 2025 WL 1725791, at \*3.

72. Petitioner's continued re-detention by Respondents without following the process set forth by its own regulations at 8 C.F.R. § 241.13(f),(i) is unlawful as ICE failed to adhere to the revocation procedures set forth at 8 C.F.R. § 241.13(i).<sup>72</sup> As here, ““where an immigration regulation is promulgated to protect a fundamental right derived from the Constitution or a federal statute . . . and [ICE] fails to adhere to it, the challenged [action] is invalid.””<sup>73</sup> Based on ICE's violations of its own regulations, Mr. Thai's detention is unlawful and his immediate release is appropriate, particularly given that his removal is not reasonably foreseeable.<sup>74</sup>

**PETITIONER'S SECOND CLAIM FOR RELIEF: SUBSTANTIVE DUE  
PROCESS VIOLATION**

73. Petitioner re-alleges and incorporates by reference all the foregoing paragraphs above.

74. Petitioner's continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.<sup>75</sup>

75. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. While

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<sup>72</sup> *Id.*

<sup>73</sup> *Nguyen v. Hyde*, 2025 WL 1725791, at \*5 (quoting *Rombot v. Souza*, 296 F. Supp. 3d 383, 388 (D. Mass. 2017)); *see also Zadvydas*, 533 U.S. at 690 (“The Fifth Amendment's Due Process Clause forbids the Government to ‘depriv[e]’ any ‘person ... of ... liberty ... without due process of law.’ Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.”).

<sup>74</sup> *See Rombot v. Souza*, 296 F. Supp. 3d 383, 389 (D. Mass. 2017) (allowing petitioner's motion for release upon a finding that ICE violated its regulations that implicated a fundamental constitutional right).

<sup>75</sup> *See e.g., Tam v. INS*, 14 F.Supp.2d 1184 (E.D. Cal 1998) (aliens retain substantive due process rights).

Respondents would have an interest in detaining Petitioner in order to effectuate removal, that interest does not justify the indefinite re-detention of Petitioner, who is not significantly likely to be removed in the reasonably foreseeable future. The U.S. Supreme Court in *Zadvydas* thus interpreted 8 U.S.C. §1231(a) to allow continued detention only for a period reasonably necessary to secure the alien's removal, because any other reading would go beyond the government's articulated interest – to effect the alien's removal.<sup>76</sup> Re-detention under the regulations requires removal to be reasonably foreseeable under the same standard, and therefore, ICE's re-detention of Mr. Thai over two decades after release because removal was not reasonably foreseeable is unlawful absent a changed circumstances specific to him significant enough to make his removal reasonably foreseeable in the immediate future.

[Nothing further on this page.]

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<sup>76</sup> See *Kay v. Reno*, 94 F.Supp.2d 546, 551 (M.D. Pa. 2000) (granting writ of habeas corpus, because petitioner's substantive due process rights were violated, and noting that "If deportation can never occur, the government's primary legitimate purpose in detention – executing removal – is nonsensical.").

**REQUEST FOR RELIEF**

WHEREFORE, Petitioner Mr. Thai respectfully requests that this Court grant the following relief:

- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a writ of habeas corpus and direct the Respondents to immediately release Petitioner from custody under reasonable conditions of supervision;
- 3) Immediately Order Respondents not to transfer the Petitioner out of the jurisdiction of this Court while the Petitioner remains in Respondent's custody during the pendency of these proceedings;
- 4) Order Respondents not to remove Petitioner to any country other than Vietnam as it was the only country previously designated by the IJ during removal proceedings held under 8 U.S.C. § 1229a;
- 5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and
- 6) Grant any other and further relief that this Court deems just and proper.

RESPECTFULLY SUBMITTED,

/s/ Dan Gividen

Dan Gividen

Texas State Bar No. 24075434

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Dallas, TX 75252

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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings 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. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

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| <b>I. (a) PLAINTIFFS</b><br>Boa Nhat Doan Thai<br><br><b>(b) County of Residence of First Listed Plaintiff</b><br>(EXCEPT IN U.S. PLAINTIFF CASES)<br><br><b>(c) Attorneys (Firm Name, Address, and Telephone Number)</b><br>Dan Gividen, Gividen Law, PLLC, 18208 Preston Rd.<br>D9-284, Dallas, TX 75252 | <b>DEFENDANTS</b><br>Kristi Noem, DHS Sec., Todd Lyons, ICE Director, Josh Johnson ICE Field Office Director, Thomas Bergami<br>County of Residence of First Listed Defendant<br>(IN U.S. PLAINTIFF CASES ONLY)<br>INLAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED<br>Attorneys (If Known)<br>U.S. Attorney for the Northern District of Texas, 1100 Commerce Street, Third Floor, Dallas, TX 75242 |
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| <b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)<br><input type="checkbox"/> 1 U.S. Government Plaintiff<br><input checked="" type="checkbox"/> 2 U.S. Government Defendant<br><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)<br><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) | <b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)<br><table style="width: 100%;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table> |                            | PTF                                                           | DEF                        |                            | PTF | DEF | Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 | Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
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| IV. NATURE OF SUIT (Place an "X" in One Box Only)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Click here for: Nature of Suit Code Descriptions.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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| <b>CONTRACT</b><br><input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>TORTS</b><br><b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <b>FORFEITURE/PENALTY</b><br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 690 Other<br><b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor-Management Relations<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 751 Family and Medical Leave Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Employee Retirement Income Security Act<br><b>IMMIGRATION</b><br><input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 465 Other Immigration Actions | <b>BANKRUPTCY</b><br><input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>INTELLECTUAL PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 835 Patent - Abbreviated New Drug Application<br><input type="checkbox"/> 840 Trademark<br><input type="checkbox"/> 880 Defend Trade Secrets Act of 2016<br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS - Third Party 26 USC 7609 | <b>OTHER STATUTES</b><br><input type="checkbox"/> 375 False Claims Act<br><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))<br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)<br><input type="checkbox"/> 485 Telephone Consumer Protection Act<br><input type="checkbox"/> 490 Cable Sat TV<br><input type="checkbox"/> 850 Securities/Commodities Exchange<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 896 Arbitration<br><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision<br><input type="checkbox"/> 950 Constitutionality of State Statutes |
| <b>REAL PROPERTY</b><br><input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property                                                                                                                                                                                                                                                                                                                                                                         | <b>CIVIL RIGHTS</b><br><input type="checkbox"/> 440 Other Civil Rights<br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 448 Education                                                                                                                                                                                                                   | <b>PRISONER PETITIONS</b><br><b>Habeas Corpus:</b><br><input checked="" type="checkbox"/> 463 Alien Detainee<br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><b>Other:</b><br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition<br><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

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

|                                                           |                                                     |                                                          |                                                   |                                                                        |                                                                |                                                                   |
|-----------------------------------------------------------|-----------------------------------------------------|----------------------------------------------------------|---------------------------------------------------|------------------------------------------------------------------------|----------------------------------------------------------------|-------------------------------------------------------------------|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) | <input type="checkbox"/> 6 Multidistrict Litigation - Transfer | <input type="checkbox"/> 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):  
 28 U.S.C. § 2241

Brief description of cause:  
 Habeas Petition seeking immediate release of noncitizen from Vietnam who entered prior to 1995 and whose removal period ended in 2007

**VII. REQUESTED IN COMPLAINT:**

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

**DEMAND \$** \_\_\_\_\_

**JURY DEMAND:** ☐ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY** (See instructions)

**JUDGE:** Lindsay & Hendrix **DOCKET NUMBER:** 3:25-cv-1913/1943L 6:25-cv-055/h

**DATE:** 8/18/2025 **SIGNATURE OF ATTORNEY OF RECORD:** s/Dan Gividen

**FOR OFFICE USE ONLY**

|                 |              |                    |             |                 |
|-----------------|--------------|--------------------|-------------|-----------------|
| RECEIPT # _____ | AMOUNT _____ | APPLYING IFP _____ | JUDGE _____ | MAG JUDGE _____ |
|-----------------|--------------|--------------------|-------------|-----------------|