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UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

Lam Dat Quan

Petitioner,
v.

**PETITION FOR WRIT OF
HABEAS CORPUS**

Warden, Desert View Facility,
Adelanto, CA ,

A No. 040-272-276

Thomas P. Giles, Director of Los Angeles

Field Office,

Todd Lyons, Acting Director,
U.S. Immigration and Customs Enforcement,

Kristi Noem, Secretary of the U.S. Department of

Homeland Security; and

Pamela Bondi,
Attorney General of the United States,

in their official capacities ,

Respondents.

INTRODUCTION

Petitioner Lam Dat Quan, is a native and citizen of Vietnam  who has been under U.S. Immigration and Customs Enforcement (ICE) custody, first under an Order of Supervision, and now in physical detention at the Adelanto Detention Facility. Petitioner has been detained since August 29, 2025 but his liberty has been restrained since his removal order and Order of Supervision was issued on July 25, 2001. Subsequent to his order of removal, he was released under an Order of Supervision (OSUP). The OSUP limited his movement, required regular check-ins and operated like a term of probation or parole. Since his removal order, the U.S. government failed to effectuate his removal. He complied with annual ICE check-ins and reporting requirements.

His removal order became final on July 25, 2001, when an Immigration Judge ordered him removed to Vietnam. *See* Exhibit A: Final Order of Removal dated July 25, 2001

Mr. Quan has been subjected to an OSUP and complied with its terms, including regular ICE check-ins. These conditions placed significant restraints on his liberty and constituted custody for habeas purposes under *Jones v. Cunningham*, 371 U.S. 236 (1963), and *Rumsfeld v. Padilla*, 542 U.S. 426 (2004). On August 29,

1 2025, ICE detained him and is currently in physical detention at the Adelanto
2 Detention Facility in Adelanto, California.
3

4 Despite having had over 24 years to effectuate his removal since his final
5 order in 2001, the government has failed to do so. No third country has agreed to
6 accept him, and there is no indication that his removal to Vietnam or any other
7 country will be possible in the reasonably foreseeable future. Mr. Quan's continued
8 detention, both constructive and now physical, has exceeded the 90-day statutory
9 removal period authorized by 8 U.S.C. § 1231(a) and is unlawful under *Zadvydas v.*
10 *Davis*, 533 U.S. 678 (2001). Under *Zadvydas*, detention becomes presumptively
11 unreasonable after six months unless the government can show a significant
12 likelihood of removal in the reasonably foreseeable future. It cannot do so here.
13 Accordingly, Mr. Quan respectfully petitions this Court for a writ of habeas corpus
14 ordering his immediate release under appropriate conditions of supervision.

15 Thus, to vindicate Petitioner's statutory and constitutional rights, this Court
16 should grant the instant petition for a writ of habeas corpus. Absent an order from
17 this Court, Petitioner will continue to suffer indefinite detention in violation of the
18 Constitution and federal immigration law while facing no viable prospect of
19 removal elsewhere.
20
21

Petitioner asks this Court to find that his continued detention beyond the statutory removal period, in the absence of a realistic prospect of removal, violates the Fifth Amendment and 8 U.S.C. § 1231(a), and to order his immediate release under appropriate conditions of supervision.

JURISDICTION

This action arises under the Constitution of the United States 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 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause). Jurisdiction is proper because Petitioner challenges the legality of his continued civil immigration detention under 8 U.S.C. § 1231(a) and the Constitution, and no statute strips this Court of jurisdiction to review such claims.

This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 16

VENUE

Venue is proper in the United States District Court for the Central District of California pursuant to 28 U.S.C. § 1391(e) and 28 U.S.C. § 2241 because Petitioner is currently detained at

the Adelanto Detention Facility, located in Adelanto, California, which lies within the jurisdiction of this District.

In addition, venue is proper because a substantial part of the events and omissions giving rise to the claims occurred in this District, including Petitioner's current and ongoing detention. *See Doe v. Garland*, 109 F.4th 1188, 1197-99 (9th Cir. 2024). Respondents are officers and agencies of the United States, and no real property is involved in this action.

REQUIREMENTS OF 28 U.S.C. § 2243

The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England,

1 affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
2 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). Given that
3 Mr. Quan is currently physically detained, an expedited timeline for briefing and
4 adjudication is appropriate under the statute.

5
6 **PARTIES**

7 Petitioner Lam Dat Quan is a noncitizen from Vietnam who is currently
8 detained at Adelanto Detention Facility in Adelanto, California. He is in custody
9 and under the direct control of Respondents and their agents.

10 Respondent Warden of Adelanto Detention Facility in Adelanto, CA, has
11 immediate physical custody of Petitioner pursuant to the facility’s contract with
12 U.S. Immigration and Customs Enforcement to detain noncitizens. Respondent,
13 Warden of Adelanto Detention Facility, is a legal custodian of Petitioner.

14 Respondent Thomas P. Giles is sued in his official capacity as the Director of
15 the Los Angeles Field Office of U.S. Immigration and Customs Enforcement.
16 Respondent Giles is a legal custodian of Petitioner and has the authority to release
17 him.

18 Respondent Kristi Noem is sued in her official capacity as the Secretary of
19 the U.S. Department of Homeland Security (DHS). In this capacity, Respondent
20 Noem is responsible for the implementation and enforcement of the Immigration
21 and Nationality Act and oversees U.S. Immigration and Customs Enforcement, the

1 component agency responsible for Petitioner's detention. Respondent Noem is a
2 legal custodian of Petitioner.

3 Respondent Pamela Bondi is sued in her official capacity as the Attorney
4 General of the United States and the senior official of the U.S. Department of
5 Justice (DOJ). In that capacity, Respondent Bondi has the authority to adjudicate
6 removal cases and to oversee the Executive Office for Immigration Review
7 (EOIR), which administers the immigration courts and the Board of Immigration
8 Appeals. Respondent Bondi is a legal custodian of Petitioner.

9
10 **STATEMENT OF FACTS**

11 Petitioner is a Vietnamese national who entered the U.S. in 1987 via the
12 Orderly Departure Program at age 11. He obtained lawful permanent resident status
13 on April 27, 1987. At 16, he was convicted of second-degree murder and was tried
14 as an adult.

15 Based on these convictions, the government-initiated removal proceedings,
16 and a final order of removal was issued by an Immigration Judge on July 25, 2001.
17 The order directed his removal to Vietnam. *See* Exhibit A: Final Order of Removal
18 dated July 25, 2001

19 Mr. Quan was released and placed under an Order of Supervision (OSUP).
20 He was under this supervision for many years, as evidenced by multiple reports and
21

1 check-in records, with the latest documented check-in occurring on February 9,
2 2023. *See* Exhibit B: Orders of Supervision and Personal Report Records
3

4 Throughout this prolonged period of supervision, he complied with all
5 reporting requirements and conditions imposed by ICE.

6 On August 29, 2025, Mr. Quan was detained by ICE. He is currently held in
7 physical detention at the Adelanto Detention Facility in Adelanto, California. *See*
8 Exhibit C: Printout from ICE Online Detainee Locator Website
9

10 The government has now had over 24 years to carry out Mr. Quan's removal
11 since the final order was issued in 2001. Despite this extended period, ICE has been
12 unable to obtain travel documents from Vietnam or identify a third country willing
13 to accept him. Vietnam has historically not accepted deportees from the United
14 States who arrived in the US prior to July 12, 1995. Mr. Quan has no viable path
15 for removal in the foreseeable future, and the government has offered no evidence
16 that removal is likely to occur. Therefore, deportation to Vietnam is not
17 foreseeable. *See* Exhibit D: Agreement Between the UNITED STATES OF
18 AMERICA and VIETNAM, January 22, 2008.

19 Despite these facts, the government continues to detain him, even though his
20 legal custody has now extended well beyond the 90-day statutory removal period
21

1 authorized by 8 U.S.C. § 1231(a). His current detention, in light of the
2 government's failure to effectuate removal and the absence of any foreseeable
3 prospect of removal, is unlawful under *Zadvydas v. Davis*, 533 U.S. 678 (2001),
4 and violates the Due Process Clause of the Fifth Amendment.
5

6 **LEGAL FRAMEWORK**

7 Under the Immigration and Nationality Act (INA), a noncitizen subject to a
8 final order of removal is generally detained during a 90-day "removal period." See
9 8 U.S.C. § 1231(a)(1)(A). Detention during this period is typically mandatory. See
10 § 1231(a)(2). However, if removal is not effectuated during the removal period,
11 continued detention is permissible only while removal remains reasonably
12 foreseeable. See § 1231(a)(6).
13

14 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held that §
15 1231(a)(6) does not authorize indefinite detention. Instead, the Court interpreted the
16 statute in light of constitutional due process and established a presumptive six-
17 month limit on post-order detention. After that period, if the noncitizen shows
18 "good reason to believe that there is no significant likelihood of removal in the
19 reasonably foreseeable future," the burden shifts to the government to rebut that
20 showing. *Id.* at 701.
21

1 The Court later affirmed in *Clark v. Martinez*, 543 U.S. 371 (2005), that this
2 limitation applies universally, regardless of the underlying reasons for the
3 government's inability to remove the noncitizen. Where removal is not reasonably
4 foreseeable—whether due to diplomatic barriers, lack of travel documents, or other
5 practical impossibilities—continued detention violates both the statute and the
6 Constitution.

7
8 In addition, the implementing regulations under 8 C.F.R. §§ 241.4 and
9 241.13 require DHS to conduct regular post-order custody reviews and to release
10 individuals when removal cannot be effectuated in the reasonably foreseeable
11 future.

12 Although Petitioner was not physically detained for most of the period
13 between 2001 and August 2025, he remained under an active Order of Supervision
14 (OSUP) following his release from ICE custody. That supervision included regular
15 check-ins, movement restrictions, and ongoing compliance obligations that
16 significantly restrained his liberty. As such, he was in “custody” for purposes of
17 habeas jurisdiction and constitutional review. The Supreme Court has long
18 recognized that habeas “custody” includes legal restraints short of incarceration. In
19 *Jones v. Cunningham*, 371 U.S. 236, 240 (1963), the Court held that a person on
20 parole was “in custody” for purposes of § 2241 because he remained subject to
21

1 “restraints not shared by the public generally.” Similarly, in *Rumsfeld v. Padilla*,
2 542 U.S. 426, 437 (2004), the Court reiterated that “[o]ur understanding of custody
3 has broadened to include restraints short of physical confinement.”
4

5 Multiple federal courts have found that individuals released under an ICE
6 Order of Supervision (OSUP) remain “in custody” for habeas purposes where ICE
7 retains the authority to re-detain them at any time and imposes ongoing restraints
8 on their liberty. See *Ali v. DHS*, 571 F. Supp. 2d 1246, 1249 (N.D. Cal. 2008). The
9 Ninth Circuit has likewise held that significant restrictions on liberty—such as
10 monitoring, travel limitations, and mandatory check-ins—implicate constitutional
11 protections. See *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011).

12 Accordingly, Petitioner’s time under OSUP from 2001 until his current
13 detention must be understood as a period of continuous civil custody. The
14 government’s sustained legal authority
15 over his movement and freedom placed him firmly within the scope of “custody” as
16 defined in habeas jurisprudence. His transition from constructive custody to
17 physical detention does not reset or sever that custody—it represents a
18 continuation, and indeed an intensification, of ICE’s unbroken control. As such,
19 Petitioner remains entitled to the constitutional protections articulated in *Zadvydas*
20 *v. Davis*, 533 U.S. 678 (2001), and its progeny.
21

1 In this case, the government has had over 24 years to effectuate his removal.
2 Despite that time, it has failed to obtain travel documents, identify a receiving
3 country, or present any evidence that removal is likely. This failure, especially in
4 light of the government's continued exercise of civil custody, constitutes not
5 merely a practical obstacle but a violation of the constitutional limits set forth in
6 *Zadvydas*. See *Bah v. Cangemi*, 489 F. Supp. 2d 905, 922 (D. Minn. 2007) ("The
7 government cannot benefit from its own inaction and simultaneously detain the
8 petitioner indefinitely.").

9
10 Petitioner's prolonged detention with no end in sight and no flight risk,
11 represents an excessive use of civil confinement. Courts have recognized that civil
12 immigration detention that lacks a removal-related purpose, and is not accompanied
13 by robust procedural safeguards, constitutes a deprivation of liberty without due
14 process. See *Rodriguez v. Robbins*, 715 F.3d 1127, 1136 (9th Cir. 2013). The
15 continued exercise of detention authority in such circumstances ceases to be
16 regulatory and becomes punitive and unconstitutional.

17 Thus, Petitioner has shown good reason to believe that removal is not
18 significantly likely in the reasonably foreseeable future. The burden now shifts to
19 the government to justify his continued detention under *Zadvydas*. It cannot meet
20 that burden.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

The allegations in the above paragraphs are re-alleged and incorporated herein by reference.

1. Petitioner has been subject to a final order of removal since June 25, 2001. He has remained under ICE's legal custody and control for over 24 years, first under an Order of Supervision and now in physical detention at the Adelanto Detention Facility. The government has had ample time to effectuate removal but has failed to do so.
2. ICE has failed to identify a third country willing to accept Petitioner, and there is no significant likelihood of removal in the reasonably foreseeable future.
3. Petitioner's continued detention, both constructive and physical, beyond the presumptively reasonable six-month period, and particularly beyond the 90-day removal period authorized by 8 U.S.C. § 1231(a), violates the Due Process Clause of the Fifth Amendment. The government's failure to justify continued detention with concrete evidence of likely removal renders this ongoing deprivation of liberty unconstitutional under *Zadvydas v. Davis*, 533 U.S. 678 (2001).

- 1
- 2 4. Accordingly, Petitioner's continued detention violates his substantive due
- 3 process rights under the Fifth Amendment to the United States Constitution.

4 **COUNT TWO**

5 **Violation of 8 U.S.C. § 1231(a) and Implementing Regulations**

6

7 The allegations in the above paragraphs are re-alleged and incorporated herein by

8 reference.

- 9 1. Under 8 U.S.C. § 1231(a), the government may detain a noncitizen with a
- 10 final order of removal for up to 90 days—the “removal period.” Continued
- 11 detention beyond that period is permissible only where removal remains
- 12 reasonably foreseeable. The regulations implementing this provision, 8
- 13 C.F.R. §§ 241.4 and 241.13, require the Department of Homeland Security
- 14 (DHS) to conduct regular post-order custody reviews and to release
- 15 individuals when removal cannot be effectuated in the reasonably
- 16 foreseeable future.
- 17 2. DHS has violated its obligations under the statute. It has failed to secure
- 18 travel documents from Vietnam, failed to identify any third country willing
- 19 to accept Petitioner, and has provided no evidence that removal is likely.
- 20
- 21

1 Despite this, DHS has not released Petitioner nor demonstrated that his
2 continued detention serves a legitimate removal-related purpose.

3 3. DHS has violated the implementing regulations by failing to conduct regular
4 post custody reviews and to release the Petitioner since for years it has been
5 unable to remove him.

6 4. Sections 241.4 and 241.13 were promulgated to operationalize the
7 constitutional limits articulated in *Zadvydas v. Davis*, 533 U.S. 678 (2001),
8 and to ensure that ICE does not detain individuals indefinitely when removal
9 is not reasonably foreseeable. Petitioner's continued detention, without a
10 removal plan, without diplomatic assurances, and without procedural
11 justification, falls squarely within the kind of prolonged confinement these
12 safeguards were designed to prevent.

13 5. Accordingly, Petitioner's detention violates 8 U.S.C. § 1231(a), 8 C.F.R. §§
14 241.4 and 241.13, and the Due Process Clause to the extent that DHS has
15 failed to comply with its regulatory obligations and constitutional duties.
16

17 **COUNT THREE**

18 **Unlawful Redetention in Violation of 8 C.F.R. § 241.4**

19 The allegations in the above paragraphs are re-alleged and incorporated herein by
20 reference.
21

1. Petitioner was previously released under an Order of Supervision and remained compliant with its terms for years.
2. On August 29, 2025, ICE detained Petitioner without providing advance notice or a written explanation for the detention, as required under 8 C.F.R. § 241.4.
3. Section 241.4 outlines specific procedures and criteria for continued detention, including notice, the right to present evidence, and periodic custody reviews.
4. ICE failed to comply with these regulatory requirements when it detained Petitioner, violating procedural due process and federal law.
5. The detention was arbitrary, lacked procedural safeguards, and failed to provide Petitioner with an opportunity to challenge his confinement as required by law.
6. As such, Petitioner's detention is unlawful and in violation of 8 C.F.R. § 241.4 and the Fifth Amendment to the U.S. Constitution.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

1. Assume jurisdiction over this matter;
2. Prevent the transfer of the Petitioner outside this district;

3. Issue an Order to Show Cause ordering Respondents to show cause why this
Petition should not be granted within three days;
4. Declare that Petitioner's continued detention violates the Due Process Clause
of the Fifth Amendment, 8 U.S.C. § 1231(a), and 8 C.F.R. §§ 241.4 and
241.13;
5. Declare that Petitioner's detention without notice or explanation violates 8
C.F.R. § 241.4 and the Fifth Amendment;
6. Issue a Writ of Habeas Corpus ordering Respondents **to** release Petitioner
immediately under appropriate conditions of supervision;
7. Award Petitioner attorney's fees and costs under the Equal Access to Justice
Act, and on any other basis justified under law; and
8. Grant any further relief this Court deems just and proper.

Respectfully submitted,

Dated: **September 25, 2025**


Ashkan Yekrangi, Esq.
Counsel for Petitioner