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**United States District Court
Central District of California
Eastern Division**

Phu Van Ta
Petitioner,
v.

Kristi Noem, Secretary of
Homeland Security;

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

Thomas Giles, Los Angeles Field
Office Director, Bureau of
Immigration and Customs
Enforcement;

James Pilkington, Assistant Field
Office Director, Adelanto Detention
Facility,

Warden, Geo Group Inc, Adelanto
Detention Facility

Respondents.

No. 5:25-cv-02902

DHS No. A 

**Petition for a Writ Of Habeas
Corpus under 28 U.S.C. § 2241;
Declaration of Michael T. Drake**

Table of Contents

I. INTRODUCTION.....	4
II. PROCEDURAL AND JURISDICTIONAL ALLEGATIONS	5
III. FACTUAL ALLEGATIONS	6
A. Emigration from Vietnam.	6
B. Deep ties to U.S.	6
C. Caregiver to mother.....	7
D. 2011 removal proceedings, initial detention, and release upon failure to effect his removal.....	7
E. 2025 vacatur of underlying convictions.	<u>8</u>
<u>F. 2025</u> denial of Ta’s motion to reopen and terminate immigration proceedings.	9
G. Ta’s re-detention in September 2025.	9
IV. CLAIMS AND ARGUMENTS	10
Ta is entitled to release pending his removal and to an injunction of his removal to any third country.....	10
A. Ground One: Ta is entitled to release because there is no significant likelihood of his removal to Vietnam in the reasonably foreseeable future.	11
B. Ground Two: Ta is entitled to release because the Government violated both due process and INA regulations by re-detaining him without notice and an opportunity to be heard.	14
C. Ground Three: Ta’s removal to any third country violates due process because ICE has given him neither notice of the proposed third country nor an opportunity to request deferral or withholding of removal.....	16

1 D. Ground Four: Removal to third countries where Ta might
2 face imprisonment violates the constitutional prohibition on
3 “punitive” removal practices.18

4 V. CONCLUSION.....19

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I.

INTRODUCTION

Ta first came to the United States as a five-year-old refugee from Vietnam in 1984. Ta became a legal permanent resident that same year.

In 2011, Ta was detained in immigration custody and ordered removed to Vietnam based on convictions that are no longer a valid basis for removal. Ta was released after about seven months in custody, when the government proved unable to effect his removal within the legally required time.

Ever since, and in compliance with his supervision requirements, Ta regularly checked in as required at ICE (Immigration and Customs Enforcement) offices in Camarillo once a year and in Santa Maria every 6 months.

Despite Ta's compliance, and with no further showing of any likelihood of removal nor with any advance notice of his detention or any other government action, ICE re-detained him at his most recent check-in, on September 23, 2025.

Ta file this habeas petition to seek his release from custody because ICE's revocation of his supervised release is unlawful and because his removal is not reasonably foreseeable. Ta also seeks to enjoin the government from removing him to a third country without the notice and opportunity to be heard required by the Constitution and the immigration statute, and to enjoin the government from removing him to a third country for a punitive purpose and effect.

II.

PROCEDURAL AND JURISDICTIONAL ALLEGATIONS

Ta is detained by Immigration and Customs and Enforcement (ICE) at the Desert View Annex in Adelanto, California.

Respondents are government officials who have custody of Ta, and therefore properly before the court. 28 U.S.C. § 2243.

His removal order was imposed by the Los Angeles Immigration Court at 300 N. Los Angeles St., CA 90012, in immigration case number , on June 6, 2011. He did not appeal.

His grounds for relief are concisely stated in the point headings under “Claims and Arguments,” below.

This is his first habeas petition.

Ta has no other petition, appeal, or parole matter pending in any Article III court as to the removal order under attack. Ta intends to appeal (or by now have already appealed) to the BIA an immigration judge’s denial of his motion there to reopen and terminate his immigration proceedings.

Ta seeks to proceed in forma pauperis, as he is financially unable to retain counsel to represent him in this matter.

Ta’s case arises under the Constitution of the United States, the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101, *et seq.*, and the Administrative Procedures Act (“APA”), 5 U.S.C. §§ 500–96, 701–06.

The Court has subject matter jurisdiction under 28 U.S.C. § 2241, *et seq.* (habeas corpus); U.S. Const. art. I, § 9, cl. 2 (suspension clause); *id.* amend. XIV, § 1 (due process clause); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1346(a)(2) (United States as respondent); and 28 U.S.C.

1 § 1651 (All Writs Act). Respondents have waived sovereign immunity for
2 purposes of this suit. 5 U.S.C. §§ 702, 706.

3 The Court may grant relief under the habeas corpus statutes, 28
4 U.S.C. § 2241, *et seq.*; the Declaratory Judgment Act, 28 U.S.C. § 2201, *et*
5 *seq.*; the All Writs Act, 28 U.S.C. § 1651; and the Court's inherent
6 equitable powers.

7 Venue is proper in this District under 28 U.S.C. § 1391(e)(1)
8 because the respondents are agencies or officers of agencies of the United
9 States, they and Ta resides in this district, Ta is detained in this district,
10 and a substantial part of the events or omissions giving rise to his claims
11 took place in this district. 28 U.S.C. § 2241(a); *Rumsfeld v. Padilla*, 542
12 U.S. 426, 443 (2004).

13 III.

14 FACTUAL ALLEGATIONS

15 A. Emigration from Vietnam.

16 Ta is a 50-year-old native and citizen of Vietnam. He was admitted
17 to the United States as an LPR on October 12, 1984, aged nine, as a
18 refugee from the Vietnam War. His parents, seven siblings, and himself
19 had escaped on a fishing boat, but his father was killed before they were
20 able emigrate to the U.S.

21 B. Deep ties to U.S.

22 Ta's family and he himself have deep ties to the U.S. His three
23 children are all U.S. Citizens. So is his mother. His wife and mother of
24 his children, Yvonne, is also a U.S. citizen. Of my seven siblings, six are
25 U.S. citizens and one is a lawful permanent resident. His youngest son is
26 a sergeant in the Marine Corps, slated for a three-year deployment

1 toward the end of this year. Ta has now lived in the United States for the
2 past 41 years. He has never left.

3 **C. Caregiver to mother.**

4 Outside working hours, Ta has continued to focus on raising his
5 family and taking care of his mother, who is now 85. Her health is fair for
6 her age, but she's having significant problems with her memory, and
7 sometimes finds it hard to recognize people. (She recently mistook Ta for
8 his late brother.) Ta also pays \$1500 every month toward her rent, and
9 has been making such contributions for some ten years or more.

10 But because of the expense, and because his mother lives so far
11 from their home—a three-hour drive each way—Yvonne and Ta have
12 been planning since May or June to have her move in with them once a
13 room we'd been renting out became free. Those plans were short-circuited
14 by his detention (about which more below). Ta's continued detention and
15 removal will therefore add to their already substantial financial burdens,
16 and frustrate our efforts to ensure his mother's care, as he is the only
17 family member able to provide housing and commit the time needed to
18 adequately look after her.

19 **D. 2011 removal proceedings, initial detention, and release**
20 **upon failure to effect his removal.**

21 In 2011, the Los Angeles Immigration Court found that two
22 convictions Ta suffered in 2010 for violations of California Health &
23 Safety Code § 11358 were offenses relating to a controlled substance
24 under INA § 237(a)(2)(B)(i), 8 U.S.C. § 1227(a)(2)(B)(i), and aggravated
25 felonies under INA § 237(a)(2)(A)(iii), 8 U.S.C. § 1227(a)(2)(A)(iii). The
26 immigration judge ordered that Ta be removed to Vietnam. He did not

1 appeal that decision because Vietnamese refugees were not being
2 deported at the time, and Ta understood that he would only have to
3 endure six months of detention.

4 And that's essentially what happened. After seven months in ICE
5 detention—four months pending the removal order, and 90 days following
6 it¹— Ta was released, informed that he was being released because the
7 government had been unable to remove me to Vietnam within the legally
8 required period. Nor, as far as Ta knows, have they taken any concrete
9 steps to remove him since.

10 All the while, and in compliance with his supervision requirements,
11 Ta has regularly checked in as required at ICE offices in Camarillo once a
12 year and in Santa Maria every 6 months, until more recently, when ICE
13 had him start coming once a week.

14 **E. 2025 vacatur of underlying convictions.**

15 In 2025, Ta learned that under intervening law in California, he
16 could challenge both 2010 convictions he had sustained—the sole basis
17 for his removal order—as legally invalid due to an error “damaging [his]
18 ability to meaningfully understand [or defend against the] adverse
19 immigration consequences of [my] plea[s]” in those cases. Cal. Penal Code
20 § 1473.7(a)(1). On his motion under that provision, a California superior
21 court vacated those convictions (along with a separate conviction that he
22 sustained in 2020 under California H&S § 11359(b)), on July 28, 2025.

25 ¹ Ta was detained on an ICE arrest warrant on February 15, 2011.
26 The removal order against him issued on June 6, 2011. Ta was ordered
released from ICE detention on September 6, 2011.

1 **F. 2025 denial of Ta's motion to reopen and terminate**
2 **immigration proceedings.**

3 Because vacatur under § 1473.7(a)(1) are due to a “procedural or
4 substantive defect,” they are “not a ‘conviction’ for immigration purposes.”
5 *Bent v. Garland*, 115 F.4th 934, 940 (9th Cir. 2024). Ta therefore moved
6 in immigration court to reopen proceedings based on the superior court’s
7 July 2025 order.

8 But that motion was denied, on October 8. Not on the merits—the
9 immigration judge did not deny that his vacated convictions could no
10 longer serve as the basis for removability. Instead, the IJ denied relief on
11 technical, procedural grounds, faulting Ta for failing to explain in the
12 declaration attached to his motion why he hadn’t sought relief under the
13 2016 California law sooner—even though Ta’s attorney had explained in
14 the motion itself that Ta had only learned about the new law in June
15 2025.

16 Ta is now assessing whether and how to challenge that denial.

17 **G. Ta's re-detention in September 2025.**

18 Shortly before the IJ denied relief, Ta had gone to his weekly check-
19 in at the ICE office in Santa Maria, on September 23, 2025. When he
20 arrived, he was informed that ICE was taking him back into custody,
21 which they immediately did.

22 ICE had given him no prior notice that they would do so.

23 They cited no new circumstances justifying his re-detention.

24 They provided no information suggesting that removal to Vietnam
25 was now more likely—no suggestion that Vietnam had issued any
26 passport or other travel document to facilitate his removal.

1 They gave Ta no notice that he was to be removed to any other
2 country.

3 IV.

4 CLAIMS AND ARGUMENTS

5 **Ta is entitled to release pending his removal and to an**
6 **injunction of his removal to any third country.**

7 ICE may only revoke release and re-detain a person who is
8 compliant with the terms of their supervision under governing
9 regulations and due process “if, on account of changed circumstances,
10 [ICE] determines that there is a significant likelihood that the
11 [noncitizen] may be removed in the reasonably foreseeable future.” 8
12 C.F.R. § 241.13(i)(2).

13 There are no changed circumstances. Ta’s removal to Vietnam is no
14 more likely than it was when ICE released him from custody more than a
15 decade ago. ICE has not obtained a travel document from Vietnam, nor
16 has Vietnam agreed to accept him. Vietnam has historically accepted few
17 pre-1995 arrivals for repatriation, and there is no evidence that that
18 policy has changed in any way affecting Ta’s case.

19 The only change is the U.S. government’s new policy and practice of
20 deporting individuals to third countries, including countries where
21 deportees are imprisoned upon arrival, often in abhorrent conditions.
22 Under this new regime, the government has carried out these third
23 country removals without following any of the statutory, regulatory, and
24 constitutional procedures required before deporting a person to a third
25 country.

1 Because the government's implementation of these policies in Ta's
2 case violates the constitution and laws of the United States, Ta alleges
3 the following grounds for relief, each of which incorporates all of the
4 factual allegations in Part III above.

5 **A. Ground One: Ta is entitled to release because there is**
6 **no significant likelihood of his removal to Vietnam in the**
7 **reasonably foreseeable future.**

8 The Due Process Clause limits a "[noncitizen's] post-removal-period
9 detention to a period reasonably necessary to bring about that
10 [noncitizen's] removal from the United States." *Zadvydas v. Davis*, 533
11 U.S. 678, 689 (2001). Because of this constitutional limitation, the
12 immigration detention statute "does not permit indefinite detention." *Id.*;
13 see 8 U.S.C. § 1231. Recognizing that "an argument can be made for
14 confining any presumption to 90 days," the Court resolved doubts in favor
15 of a longer presumptively reasonable removal period of six months. *Id.* at
16 701. The six months are measured cumulatively. See, e.g., *Sied v. Nielson*,
17 2018 WL 1876907, at *6 (N.D. Cal. Apr. 19, 2018) ("Several courts have
18 held that the six-month period does not reset [upon] re-det[ention]").

19 If "[a]fter this 6-month period" the noncitizen "provides good reason
20 to believe that there is no significant likelihood of removal in the
21 reasonably foreseeable future, the Government must respond with
22 evidence sufficient to rebut that showing." *Zadvydas*, 533 U.S. at 701; cf.
23 8 U.S.C. § 1231(a)(1)(B)(ii). If it can't, then absent other cause for the
24 detention, the government must release him. *Id.*

25 Yet relief for unduly prolonged detention need not wait six months,
26 for *Zadvydas*'s presumption of reasonableness "is just that—a

1 presumption.” *Clark v. Martinez*, 543 U.S. 371, 387 (2005) (O'Connor, J.,
2 concurring). What *Zadvydas* provides is a “guide” for lower court
3 determinations, *Zadvydas*, 533 U.S. at 701, “not a prohibition on claims
4 challenging detention less than six months.” *Hoang Trinh v. Homan*, 333
5 F. Supp. 3d 984, 994 (C.D. Cal. 2018); *accord Zavvar v. Scott*, ___ F. Supp.
6 3d ___, No. CV 25-2104-TDC, 2025 WL 2592543, at *5 (D. Md. Sept. 8,
7 2025). “[M]ultiple courts have reached the same conclusion.” *Zavvar*,
8 2025 WL 2592543, at *5 (citing cases).

9 Here, ICE has detained Ta all told some eight months. Though
10 about four were pending the removal order, *see supra* p. 8 n.1 (relevant
11 dates), Ta spent the entire 90-day removal period in ICE custody before
12 his release, and since his re-detention, more than another 30. The
13 government’s reason for Ta’s initial release—at the end of the removal
14 period—was that the government had been unable to effect Ta’s removal
15 within that time. It follows that the government itself must have
16 determined that further detention was not authorized under 8 U.S.C.
17 § 1231(a)(6). Yet no new grounds were provided for Ta’s re-detention.
18 There is thus no valid reason for his current detention.

19 Meanwhile, at least three facts give good reason to believe that
20 there is no significant likelihood of Ta’s removal to Vietnam in the
21 foreseeable future.

22 First, though Ta was ordered removed in 2011, the government has
23 never effected his removal.

24 Second, as alleged, Ta has been given no notice of any facts that
25 suggest his removal is likely imminent, or that his re-detention is at all
26 justified. For instance, before a Vietnamese immigrant without a

1 passport or other travel document can be repatriated, Vietnam must
2 issue a passport or other travel document in response to a request from
3 ICE. *See Hoang Trinh*, 466 F. Supp. 3d at 1083. Ta neither has any such
4 documents, nor has he received notice that any such documents have
5 been issued in his case.

6 And third, Ta's removal to Vietnam is unlikely given the historical
7 record. "Until 2008, Vietnam refused to repatriate Vietnamese
8 immigrants whom the United States had ordered removed." *Tran v. Scott*,
9 ___ F. Supp. 3d ___, No. 2:25-CV-01886-TMC-BAT, 2025 WL 2898638, at
10 *2 (W.D. Wash. Oct. 12, 2025) (citing *Hoang Trinh*, *supra*. Though
11 Vietnam agreed in 2008 to consider certain repatriation requests, the
12 agreement excluded Vietnamese immigrants who, like Ta, had arrived in
13 the United State before 1995. *Id.*

14 All the while, save for a brief period of renegotiations during 2017,
15 during which Vietnam "verbally committed" to considering to consider
16 travel document requests for pre-1995 immigrants, ICE continued to
17 "concede[] that ... in general, the removal of these individuals was still
18 not significantly likely." *Id.*

19 It's true that in 2020, there was a substantial change in stated
20 policy, when the United States and Vietnam signed a Memorandum of
21 Understanding ("MOU") to create a process for deporting pre-1995
22 Vietnamese immigrants. *Id.* Vietnam affirmed in the MOU that it
23 "intends to issue travel documents where needed, and otherwise to accept
24 the removal of an individual subject to a final order of removal from the
25 United States" if the person met certain conditions. *Id.*

1 But that nominal change does not seem to have made any practical
2 difference. Though Ta does not have access to statistical evidence of
3 deportations under the MOU, the October 2025 *Tran* order granting
4 habeas relief notes that the petitioner there alleged that from September
5 2021 to September 2023, the total number of repatriations of pre-1995
6 immigrants was four. *Id.* Also noted there was a declaration from a
7 paralegal working with detained Vietnamese nationals at NWIPC who
8 averred that of 30 Vietnamese detainees she is aware of who'd been
9 detained since March 2025, the number removed to Vietnam was zero. *Id.*
10 at *2. The government's only evidence in response was a contested
11 declaration that it had secured a travel document for a different
12 immigrant, *id.* at *3—an allegation the court declined to credit. *Id.* at *4.

13 For all these reasons, Ta has already been held beyond any length
14 fairly presumed reasonable, and there is good reason to doubt that there
15 is any significant likelihood of removal to Vietnam in the reasonably
16 foreseeable future. Under the constitution and laws of the United States,
17 Ta should therefore be released.

18 **B. Ground Two: Ta is entitled to release because the**
19 **Government violated both due process and INA regulations**
20 **by re-detaining him without notice and an opportunity to**
21 **be heard.**

22 Due process rights extend to noncitizens present in the United
23 States, including noncitizens subject to final removal orders. *Zadvydas*,
24 533 U.S. at 693–94, 121 S. Ct. 2491; *Trump v. J.G.G.*, 604 U.S. 670, 673
25 (2025). The fundamental requirements of procedural due process are that
26 a person be afforded notice and opportunity to be heard “at a meaningful

1 time and in a meaningful manner.” *Mathews v. Eldridge*, 424 U.S. 319,
2 333, (1976).

3 If a noncitizen has been previously released, regulations require
4 that, before any re-detention, he “be notified of the reasons for revocation
5 of his or her release,” and be given “an initial informal interview
6 promptly after his or her return to Service custody to afford the alien an
7 opportunity to respond to the reasons for revocation stated in the
8 notification.” 8 C.F.R. § 241.4(l)(1) and § 241.13(i)(3).

9 Courts have consistently interpreted these provisions to require
10 findings before re-detention, as well as an opportunity to contest re-
11 detention. *See, e.g., Delkash v. Noem*, ___ F. Supp. 3d ___, No. 5:25-CV-
12 01675-HDV-AGR, 2025 WL 2683988, at *4 (C.D. Cal. Aug. 28, 2025);
13 *Constantinovici v. Bondi*, ___ F. Supp. 3d ___, 2025 WL 2898985, No. 25-cv-
14 2405-RBM (S.D. Cal. Oct. 10, 2025); *Rokhfirooz v. Larose*, No. 25-cv-2053-
15 RSH, 2025 WL 2646165 (S.D. Cal. Sept. 15, 2025); *Phan v. Noem*, 2025
16 WL 2898977, No. 25-cv-2422-RBM-MSB, *3–*5 (S.D. Cal. Oct. 10, 2025);
17 *Sun v. Noem*, 2025 WL 2800037, No. 25-cv-2433-CAB (S.D. Cal. Sept. 30,
18 2025); *Van Tran v. Noem*, 2025 WL 2770623, No. 25-cv-2334-JES, *3
19 (S.D. Cal. Sept. 29, 2025); *Truong v. Noem*, No. 25-cv-02597-JES, ECF
20 No. 10 (S.D. Cal. Oct. 10, 2025); *Khambounheuang v. Noem*, No. 25-cv-
21 02575-JO-SBC, ECF No. 12 (S.D. Cal. Oct. 9, 2025).

22 Here, the government neither gave Ta notice that his supervision
23 was revoked, nor conducted an informal interview or afforded him an
24 opportunity to be heard, nor sufficiently demonstrated ant changed
25 circumstances that would render his removal significantly likely in the
26 reasonably foreseeable future.

1 Until those statutory and constitutional requirements are met, Ta is
2 entitled to release.

3 **C. Ground Three: Ta’s removal to any third country violates**
4 **due process because ICE has given him neither notice of**
5 **the proposed third country nor an opportunity to request**
6 **deferral or withholding of removal.**

7 The Fifth Amendment “entitles [noncitizens] to due process of law
8 in the context of removal proceedings.” *Trump v. J.G.G.*, ___ U.S. ___, 145
9 S. Ct. 1003, 1006 (2025) (per curiam) (*quoting Reno v. Flores*, 507 U.S.
10 292, 306 (1993)). Noncitizens are therefore entitled to “notice and an
11 opportunity to be heard appropriate to the nature of the case.” *Id.*
12 (*quoting Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313
13 (1950)). Noncitizens in third-country removal cases are thus entitled to
14 notice that they are to be removed to the third country “within a
15 reasonable time and in such a manner as will allow them to actually seek
16 habeas relief in the proper venue before such removal occurs.” *Id.*

17 The immigration laws specify the procedures by which a country
18 may be designated for removal. *See* 8 U.S.C. § 1231(b) (“Countries to
19 which aliens may be removed”). While a fallback provision allows for
20 removal of a person to a third country other than one the person himself
21 designates or that otherwise has some connection to his citizenship,
22 residency, or territorial areas he passed through during his emigration to
23 the U.S., *cf. id.* § 1231(b)(2)(A)–(D), in no event is removal to a third
24 country permitted where the person’s life or freedom would be threatened
25 in that country due to a protected characteristic such as race or religion,
26 *id.* § 1231(b)(3)(A)—a protection referred to in governing regulations as

1 “withholding of removal.” 8 C.F.R. §§ 208.16, 1208.16. That protection is
2 mandatory.

3 So, too, the protections under the Convention Against Torture
4 (“CAT”), which Congress implemented to prohibit the government from
5 removing a person to a country where they would be tortured, and
6 charged the appropriate agencies to prescribe regulations to promote that
7 policy. *Edu v. Holder*, 624 F.3d 1137, 1145 (9th Cir. 2010). These
8 regulations were promulgated in 8 C.F.F. §§ 1208.16–1208.18, with the
9 recognition that CAT “does not permit any discretion or provide for any
10 exceptions.” *Id.*

11 The Fifth Amendment, the INA, and CAT thus all mandate
12 meaningful notice and opportunity to respond to any attempt to remove
13 Ta to a third country in reopened removal proceedings. They also entitle
14 Ta to the opportunity to make a fear-based claim against removal to a
15 third country in reopened removal proceedings.

16 None of these detailed requirements have been met. Indeed, they
17 are violated by the government’s policy for third country removals on its
18 face, since it directs ICE agents to remove people to third countries either
19 (1) without any notice or process at all as long as diplomatic assurances
20 are received, and (2) a mere six- to 24-hour notice if no such assurances
21 are received. *Y.T.D. v. Andrews*, ___ F. Supp. 3d ___, No. 1:25-CV-01100
22 JLT SKO, 2025 WL 2675760, at *10 (E.D. Cal. Sept. 18, 2025).

23 In any event, Ta has never had an opportunity to contest such a
24 removal on the grounds that he may face persecution or torture if
25 removed to such a country. His removal to any third country would
26 therefore violate federal law.

1 To the extent that Ta's detention is meant to facilitate his removal
2 to a third country, his detention is illegal for that reason as well. And
3 because his due process claim "necessarily impl[ies] the invalidity of [my]
4 confinement and removal" to a third country not yet named in any
5 removal order, *J.G.G.*, 145 S. Ct. at 1005, it is properly raised in a habeas
6 petition, and an order for his release a proper remedy.

7 **D. Ground Four: Removal to third countries where Ta might**
8 **face imprisonment violates the constitutional prohibition**
9 **on "punitive" removal practices.**

10 The U.S. Supreme Court long ago held that the government may
11 not inflict upon individuals an "infamous punishment" atop deportation
12 as a penalty for an immigration violation, absent criminal charges, a
13 judicial trial, and related constitutional protections. *Wong Wing v. United*
14 *States*, 163 U.S. 228, 236–38 (1896). More than a century later the Court
15 reaffirmed the point, holding that while it is within the constitutional
16 power of congress to remove those unlawfully present in the United
17 States, "punitive measures c[annot] be imposed upon [noncitizens]"
18 merely by dint of their removal, as "all persons within the territory of the
19 United States are entitled to the protection' of the Constitution.'" *Zadvydas v. Davis*, 533 U.S. 678, 694 (2001) (quoting *Wong Wing*, 163
20 U.S. at 238).

21 Yet the purposes of the government's third-country removal
22 program are substantially punitive. As one district court recently held,
23 government officials have made public statements, judicially noticeable,
24 that "offer evidence that third country deportation is occurring as a
25 punishment." *Nguyen v. Scott*, ___ F. Supp. 3d ___, No. 2:25-CV-01398,
26

1 [2025 WL 2419288](#), at *24 (W.D. Wash. Aug. 21, 2025). These include an
2 official video of President Donald J. Trump stating, “[I]f illegal aliens
3 choose to remain in America, they’re remaining illegally and they will
4 face severe consequences,” with “punishments ... including ... sudden
5 deportation in a place and manner solely of our discretion.” *Id.* at *24.
6 “Other courts [too] across the country have recognized that the
7 government is intentionally removing individuals to countries where they
8 will be imprisoned” in facilities where “ ‘torture is pervasive’ ” and
9 “ ‘human rights violations’ ” “ ‘widespread,’ ” under “ ‘horrific prison
10 conditions [engineered] for the specific purpose of inflicting suffering.’ ”
11 *Id.* (quoting cases).

12 Removal to such countries under the government’s current policy
13 would thus violate the constitutional prohibition on punitive removal
14 practices as well.

15 V.

16 CONCLUSION

17 For the foregoing reasons, Ta asks that the Court:

- 18 • order the government to answer this petition;
- 19 • expedite any briefing and relief, as his current custody is
20 illegal;
- 21 • allow him to conduct discovery in order to support his claim
22 for relief;
- 23 • order an evidentiary hearing, if needed to resolve disputed
24 facts;
- 25 • order the government to release Ta from their custody; and
26

- grant any other relief that is just and practicable.

Respectfully submitted,
CUAUHTEMOC ORTEGA
Federal Public Defender

DATED: October 31, 2025

s/ Michael T. Drake

MICHAEL T. DRAKE
Deputy Federal Public Defender

Proposed Counsel for Petitioner
PHU VAN TA

DECLARATION OF MICHAEL T. DRAKE

1. I am an attorney with the Office of the Federal Public Defender for the Central District of California, licensed to practice law in California, and admitted to practice in this Court.
2. On October 30, 2025, I spoke to petitioner Phu Van Ta by phone, and he authorized me to make and file the foregoing habeas petition on his behalf because he is currently detained in immigration custody.
3. The historical allegations in this petition are based on information and belief through my conversations with Ta and review of what I believe to be correct copies of relevant records filed in prior court and immigration proceedings.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, this day of October 31, 2025, in Los Angeles, California.

s/ Michael T. Drake

MICHAEL T. DRAKE

Deputy Federal Public Defender