

THE HONORABLE _____

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

LIEN NGOC DO,

Petitioner,

v.

Bruce SCOTT, Warden, Northwest ICE Processing
Center; Cammilla WAMSLEY, Enforcement and
and Removal Operations, Seattle Field Office
Director, U.S. Immigration and Customs
Enforcement; Kristi NOEM, Secretary, U.S.
Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND SECURITY;
Todd LYONS, Acting Director and Senior Official
Performing Duties of Director of ICE;
U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Respondents.

Civil Case No.: 25-cv-2187

**COMPLAINT AND PETITION
FOR WRIT OF HABEAS
CORPUS AND INJUNCTIVE
RELIEF**

INTRODUCTION

1. Petitioner Lien Ngoc Do is a 55-year-old national of Vietnam who was admitted to the United States in 1991 as an Amerasian refugee. She is the wife of a lawful permanent resident husband and mother of four children and one stepdaughter. She and her family live in Tacoma, Washington. Immigration and Customs Enforcement (“ICE”) is detaining her at the Northwest ICE Processing Center in Tacoma, Washington.

2. For 27 years, Petitioner Do has lived under an order of removal to Vietnam that the

1 U.S. government has been unable to execute because Vietnam has historically not accepted U.S.
2 deportees who entered the United States before 1995. Nonetheless, for 25 years, Ms. Do has duly
3 complied with an ICE Order of Supervision and proven she is not a flight risk and detention is
4 unwarranted. To the contrary, she has built a productive and established life in the United States
5 for more than three decades.

6 3. On August 27, 2025, ICE suddenly and without notice detained Ms. Do at her annually
7 scheduled check in. Now, more than two months later, ICE has still not provided her any legal
8 justification for her re-detention.

9 4. ICE has detained Ms. Do for a cumulative one year and nine months from the time an
10 immigration judge ordered her removed until now without being able to effectuate her removal
11 to Vietnam.

12 5. Removal to Vietnam is not reasonably foreseeable. ICE has not obtained a travel
13 document from Vietnam, and Vietnam has not agreed to accept Ms. Do.

14 6. Ms. Do files this habeas petition to seek her release from custody because ICE
15 unilaterally arrested and detained her without providing any constitutionally mandated notice and
16 a hearing; without complying with regulatory standards and procedures for re-detention and
17 revocation of release; and in violation of the detention statute and substantive due process. Ms.
18 Do also seeks to enjoin Respondents from removing her to a third country without the notice and
19 opportunity to be heard that is required by the Constitution and the immigration statute in
20 reopened removal proceedings, and to enjoin Respondents from removing her to a third country
21 for a punitive purpose and effect.

22 JURISDICTION AND VENUE

23 7. This case arises under the Constitution of the United States, the Immigration and
24 Nationality Act (“INA”), 8 U.S.C. § 1101, et seq., and the Administrative Procedures Act (“APA”),
25 5 U.S.C. §§ 500-596, 701-706.

26 8. This Court has subject matter jurisdiction under 28 U.S.C. § 2241, et seq. (habeas corpus),

1 U.S. Const. art. I, § 9, cl. 2 (Suspension Clause), 28 U.S.C. § 1331 (federal question), 28 U.S.C. §
2 1346 (United States as Respondent), and 28 U.S.C. § 1651 (All Writs Act). Respondents have
3 waived sovereign immunity for purposes of this suit. 5 U.S.C. §§ 702, 706.

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

7 10. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e)(1) because Respondents
8 are agencies or officers of agencies of the United States, Respondents reside in this District,
9 Petitioner is detained in this District, and a substantial part of the events or omissions giving rise
10 to Petitioner's claims occurred in this District.

11 PARTIES

12 11. Petitioner Lien Ngoc Do is a national of Vietnam, who immigrated to the United States
13 in 1991. She has a final order of removal, with Vietnam as the country designated for removal.
14 Petitioner is detained in the control and custody of Respondents at the Northwest ICE Processing
15 Center ("NWIPC") in Tacoma, Washington. Petitioner is a resident of Washington State and has
16 been detained at NWIPC since August 27, 2025.

17 12. Respondent Bruce Scott is the Warden of the NWIPC, oversees the day-to-day functioning
18 of the NWIPC, and has immediate physical custody of Petitioner, pursuant to a contract with ICE
19 to detain noncitizens. Mr. Scott is sued in his official capacity as the Warden of a federal detention
20 facility. *See Juarez v. Asher*, No. C20-700, 2021 WL 1946222, at *3-5 (W.D. Wash. May 14,
21 2021).

22 13. Respondent Camilla Wamsley is the Field Office Director for ICE Enforcement and
23 Removal Operations ("ERO") in Seattle, Washington. As the ERO Seattle Field Office Director,
24 he is Petitioner's immediate custodian, responsible for her detention at NWIPC, and the person
25 with the authority to authorize detention or release. Respondent Bostock is sued in his official
26 capacity.

1 14. Respondent Kristi Noem is the Secretary of the Department of Homeland Security
2 (“DHS”). In this capacity, Respondent Noem is the legal custodian of Petitioner. Respondent
3 Noem is sued in her official capacity.

4 15. Respondent Department of Homeland Security (DHS) is a federal executive agency
5 responsible for, among other things, enforcing federal immigration laws and overseeing lawful
6 immigration to the United States. Respondent DHS is a legal custodian of Petitioner.

7 16. Respondent Todd Lyons is Acting Director and Senior Official Performing the Duties of
8 the Director of ICE. Respondent Lyons is responsible for ICE’s policies, practices, and procedures,
9 including those relating to removal procedures and the detention of immigrants during their
10 removal procedures. Respondent Lyons is a legal custodian of Petitioner. Respondent Lyons is
11 sued in his official capacity.

12 17. Respondent ICE is the federal executive agency responsible for the enforcement of
13 immigration laws, including the arrest, detention, and removal of noncitizens. Respondent ICE is
14 a legal custodian of Petitioner.

15 **STATEMENT OF FACTS**

16 **Petitioner’s Facts**

17 18. Petitioner Lien Ngoc Do is a 55-year-old woman born in South Vietnam on 
18 . She was 22 years old when she was admitted as a lawful permanent resident to the United
19 States in 1991 as an Amerasian refugee.

20 19. Petitioner Do resides in Tacoma, Washington with her husband, her four children, and one
21 stepchild. Petitioner’s husband has poor health and Ms. Do is his primary caretaker.

22 20. Ms. Do has worked as a cleaner in the Muckleshoot Casino for more than two decades. She
23 is well-respected in her community and owns her own home. Ms. Do is described as a reliable,
24 patient, and kind person by those who meet her.

25 21. On March 7, 1997, when Petitioner was 27 years old, she was convicted of assault of a
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1 child in the second degree and sentenced to thirty-one months confinement with credit for 230
2 days served.

3 22. At that time, Ms. Do was a young, single mother of three children. She did not have
4 any support or formal education and could not read or write. In 1996, when her son was 2 years
5 old, she took him to a hospital in Tacoma with complaints of stomach pain. Unfamiliar with the
6 healthcare and criminal legal systems, Ms. Do was entirely unprepared for what transpired next.
7 A doctor at the hospital alleged that her son had been intentionally injured and reported Ms. Do
8 to CPS. Ms. Do was charged with assault on a child and agreed to plead guilty without being
9 advised by her lawyer about immigration consequences. Her children were placed into Child
10 Protective Service's custody and were released back into Petitioner's custody after she completed
11 her sentence and probation. Ms. Do describes this period away from her children as the worst
12 time of her life.

13 23. Upon the completion of her sentence, Ms. Do was transferred into the custody of the
14 Immigration and Naturalization Service ("INS"). Upon information and belief, she was transferred
15 into INS custody in early 1998.

16 24. On August 27, 1998, an immigration judge in Tacoma, Washington ordered her removed
17 to Vietnam and denied her applications for withholding of removal. Petitioner's appeal to the Board
18 of Immigration Appeals was dismissed on May 18, 1999.

19 25. She remained in immigration custody until March 15, 2000, when she was released on an
20 Order of Supervision.

21 26. Upon information and belief, an immigration judge ordered her removed for having an
22 aggravated felony for her assault on a child in the second-degree conviction under RCW
23 9A.36.130. Ms. Do is no longer removable as charged based on this conviction. In 2017, the
24 Ninth Circuit clarified that Washington second degree assault, which RCW 9A.36.130
25 incorporates, is not an aggravated felony. *United States v. Robinson*, 869 F.3d 933, 937-41 (9th
26 Cir. 2017).

1 27. For 25 years, she dutifully complied with the Order of Supervision, never missing a check
2 in and only appearing late to a check in once. She has had no further interaction with the criminal
3 legal system and has complied with her conditions of release since she was released from custody.

4 28. On August 27, 2025, Petitioner appeared at the ICE office in Tukwila for her annual check-
5 in. At that time, ICE suddenly and without notice detained her. ICE did not give her any reasons
6 for her re-detention.

7 29. After ICE unlawfully redetained Ms. Do, they brought her several papers and urged her to
8 sign them. ICE refused her requests for a translator, and Ms. Do refused to sign the papers they
9 provided her as she cannot read or write and had no way of understanding what she was signing.

10 30. This brief encounter occurred shortly after she was detained and is the last time an ICE
11 officer has discussed her case with her.

12 31. At no time since her re-detention on August 27, 2025 has any ICE officer conducted an
13 initial interview to explain to her the reasons why her release on supervision was revoked or
14 provide her an opportunity to explain why her removal to Vietnam is not likely or foreseeable. ICE
15 has not conducted a revocation of custody review.

16 32. ICE has not responded to undersigned counsel Georgina Olazcon Mozo's requests to speak
17 with her deportation officer or anyone who was involved in her unlawful redetention. ICE has
18 refused to provide Ms. Do, her counsel, or her family with any information regarding her
19 deportation officer or the names of the supervisors who would be responsible with requesting
20 travel documents.

21 33. ICE did not have a travel document for Petitioner at the time of her re-detention.

22 34. ICE has never asked Petitioner to complete the Self-Declaration Form for Vietnam that is
23 required for Vietnam to process a request by the United States for a travel document.

24 35. Petitioner does not have a Vietnamese passport. She does not have a birth certificate from
25 Vietnam. She was born at home and does not know if there is any official record of her birth in
26 Vietnam.

1 36. Petitioner's removal to Vietnam is not reasonably foreseeable.

2 **Repatriation to Vietnam History**

3 37. Before a Vietnamese immigrant without a passport or other travel document can be
4 repatriated, Vietnam must issue a passport or other travel document in response to a request from
5 ICE. *See Trinh v. Homan*, 466 F.Supp.3d 1077, 1083 (C.D. Cal. 2020).

6 38. Between the end of the Vietnam War and 2008, Vietnam refused to repatriate any
7 Vietnamese immigrant who had been ordered removed from the United States. *See id.*

8 39. In 2008, the United States and Vietnam reached a diplomatic agreement pursuant to which
9 Vietnam agreed to start considering repatriation requests for certain Vietnamese immigrants. *See*
10 *id.* The agreement obligated Vietnam to consider repatriation requests for Vietnamese immigrants
11 who had arrived in the United States after July 12, 1995. *See id.* The agreement also provided that
12 "Vietnamese citizens are not subject to return to Vietnam under this agreement if they arrived in
13 the United States before July 12, 1995." *Id.* Relying on this provision, Vietnam maintained its
14 policy of non-repatriation for pre-1995 Vietnamese immigrants after signing the 2008 agreement.
15 *See id.*

16 40. Prior to 2017, ICE maintained that the removal of pre-1995 Vietnamese immigrants was
17 unlikely given Vietnam's consistent refusal to repatriate them. *See id.* ICE adopted a policy of
18 detaining pre-1995 Vietnamese immigrants for no longer than ninety days after their removal
19 orders became final. *See id.* After ninety days, ICE generally released them into the community on
20 orders of supervision. *See id.* In 2017, after some negotiations with Vietnam led ICE to believe
21 Vietnamese officials would begin considering travel documents for pre-1995 Vietnamese
22 immigrants, ICE began re-detaining some Vietnamese individuals who had previously been
23 released on supervision and detaining individuals for longer than 90 days based on a possibility
24 that Vietnam would issue the requisite travel documents. *Id.* That possibility did not materialize.

25 41. After renewed discussions with Vietnam in August 2018, ICE reversed its position again
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1 and acknowledged that the removal of pre-1995 immigrants to Vietnam was not significantly
2 likely. *Id.* In October 2018, ICE instructed field offices to resume the practice of releasing pre-
3 1995 Vietnamese immigrants within 90 days of a final order of removal. *Id.*

4 42. Between 2017 and 2019, ICE requested travel documents for pre-1995 Vietnamese
5 immigrants 251 times. Vietnam granted those requests only 18 times.

6 43. In November 2020, the United States and Vietnam signed a Memorandum of
7 Understanding that creates a process for deporting pre-1995 immigrants. Section 4 of the MOU
8 obliges the United States and Vietnam to consider specific factors prior to deciding to remove a
9 Vietnamese citizen and prior to deciding to accept for repatriation a Vietnamese citizen. *Id.* These
10 factors are not publicly known because the U.S. government redacted them in Freedom of
11 Information Act (FOIA) disclosures of the MOU, yet they appear to dictate which categories of
12 people may be deported to Vietnam. *Id.* Under Section 8 of the MOU, if a person meets the
13 designated criteria, ICE is expected to put together a documentation package for Vietnam to
14 include, inter alia, a self-declaration form of the individual to be removed (using a form attached
15 to the MOU), copies of identity and citizenship documents, and copies of the final order of removal
16 and any criminal records. *Id.* The MOU states that Vietnam intends to issue the travel document
17 within 30 calendar days of receiving the information package when the individual meets the
18 eligibility criteria. *Id.*

19 44. Between September 2021 to September 2023, the U.S. government deported only four pre-
20 1995 Vietnamese immigrants. *Id.*

21 **Punitive Banishment to Third Countries**

22 45. Since January 2025, Respondents have developed and implemented a policy and practice
23 of removing individuals to third countries, without first following the procedures in the INA for
24 designation and removal to a third country and without providing fair notice and an opportunity to
25 contest the removal in immigration court.

26 46. Respondents reportedly have negotiated with at least 58 countries to accept deportees from

1 other nations. On June 25, 2025, the *New York Times* reported that seven countries—Costa Rica,
2 El Salvador, Guatemala, Kosovo, Mexico, Panama, and Rwanda—had agreed to accept deportees
3 who are not their own citizens.¹ Since then, ICE has carried out highly publicized third country
4 deportations to South Sudan, Eswatini, Rwanda, Uganda, and Ghana.

5 47. Punishment and deterrence appear to be the point of the Administration's third country
6 removal scheme. The Administration has reportedly negotiated with countries to have deportees
7 imprisoned in prisons, camps, or other facilities. The government paid El Salvador about \$5
8 million to arbitrarily and indefinitely imprison more than 200 deported Venezuelans in a
9 maximum-security prison notorious for gross human rights abuses, known as CECOT. In
10 February, Panama and Costa Rica took in hundreds of deportees from countries in Africa and
11 Central Asia and imprisoned them in hotels, a jungle camp, and a detention center. On July 4,
12 2025, ICE deported eight men, including one Vietnamese man, to South Sudan. The men have
13 been detained incommunicado ever since. On July 15, ICE deported five men to the African nation
14 of Eswatini, including one man from Vietnam, where they are reportedly being held in solitary
15 confinement.

16 48. The Administration has hand selected countries known for human rights abuses and
17 instability for these third country deportation agreements to frighten people in the United States
18 into self-deporting or to accept removal to their home countries. Indeed, conditions in South Sudan
19 are so extreme that the U.S. State Department website warns Americans not to travel there, and if
20 they do, to prepare their will, make funeral arrangements, and appoint a hostage-taker negotiator
21 first.

22 49. On July 9, 2025, ICE issued a new memo to staff instructing that when seeking to remove
23 an individual to a country not designated on that person's removal order, that ICE may deport that
24 person without any procedures for notice or an opportunity to be heard if the State Department
25 confirms that it has received diplomatic assurances that individuals will not be persecuted or
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¹ Edward Wong et al, *Inside the Global Deal-Making Behind Trump's Mass Deportations*, N.Y. Times, June 25, 2025.

1 tortured. If no diplomatic assurances are received, the ICE memo instructs officers to serve on the
2 individual a Notice of Removal that includes the intended country of removal. It instructs officers
3 not to ask whether the individual is afraid of removal to that country. It states that officers should
4 “generally wait at least 24 hours following service of the Notice of Removal before effectuating
5 removal,” but that “[i]n exigent circumstances, [ICE] may execute a removal order six (6) or more
6 hours after service of the Notice of Removal as long as the [noncitizen] is provided reasonable
7 means and opportunity to speak with an attorney prior to removal.”

8 50. The memo further instructs that if the noncitizen “does not affirmatively state a fear of
9 persecution or torture if removed to the country of removal listed on the Notice of Removal within
10 24 hours, [ICE] may proceed with removal to the country identified on the notice.” If the
11 noncitizen “does affirmatively state a fear if removed to the country of removal” then ICE will
12 refer the case to U.S. Citizenship and Immigration Services (“USCIS”) for a screening for
13 eligibility for withholding of removal and protection under the Convention Against Torture
14 (“CAT”). “USCIS will generally screen within 24 hours.” If USCIS determines that the noncitizen
15 does not meet the standard, the individual will be removed. If USCIS determines that the
16 noncitizen has met the standard, then the policy directs ICE to either move to reopen removal
17 proceedings “for the sole purpose of determining eligibility for [withholding of removal
18 protection] and CAT” or designate another country for removal.

19 51. The government has now carried out numerous third country removals without notice or
20 opportunity to contact family or counsel or make any meaningful fear-based claim. The eight men
21 who were ultimately deported to South Sudan all claimed fear of removal to South Sudan. None
22 of those men were provided a fear screening by a USCIS officer or otherwise, even though they
23 were held by ICE for six weeks on a U.S. military base in Djibouti before their final removal to
24 South Sudan. In a recent third country removal to Ghana, individuals were rounded up by ICE
25 officials in the middle of the night on September 5, 2025, shackled, straightjacketed and put on a
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1 U.S. military cargo plane without any notice. They were reportedly not informed where they were
2 being taken until the plane was already in flight.

3 LEGAL FRAMEWORK

4 Post-Removal Order Detention and Re-Detention

5 52. The INA provides that after a removal order becomes final, the government “shall remove
6 the alien from the United States within a period of 90 days.” 8 U.S.C. § 1231(a)(1)(A). This 90-
7 day period is often referred to as the “initial removal period,” and during it, the government “shall
8 detain the alien.” *Id.* § 1231(a)(2). In some circumstances, federal immigration authorities can
9 continue to detain an alien beyond the initial removal period. Specifically, section 1231(a)(6)
10 allows the government to detain certain enumerated classes of immigrants—including those
11 ordered removed due to criminal convictions—for more than 90 days. *Id.* § 1231(a)(6). In
12 *Zadvydas*, 533 U.S. 678, the Court addressed the question of how long the government can detain
13 an immigrant pursuant to section 1231(a)(6).

14 53. The *Zadvydas* Court began by rejecting the government’s position that section 1231(a)(6)
15 permitted indefinite detention following the initial removal period. *See id.* It held that “[a] statute
16 [that] permit[ed] indefinite detention of an alien would raise a serious constitutional problem,” *id.*
17 at 690, and instead determined that section 1231(a)(6) “implicitly limits an alien’s detention to a
18 period reasonably necessary to bring about that alien’s removal,” *id.* at 679. Thus, “once removal
19 is no longer reasonably foreseeable, continued detention is no longer authorized by [section
20 1231(a)(6)].” *Id.* at 699.

21 54. The Court went on to institute a framework that would govern future challenges to section
22 1231(a)(6) detention. “[F]or the sake of uniform administration in the federal courts,” the Court
23 found that post-removal detention was “presumptively reasonable” for the first six months. *Id.* at
24 700-01. When that “presumptively reasonable” six-month period ends, aliens seeking release from
25 custody bear the initial burden of providing “good reason to believe that there is no significant
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1 likelihood of removal in the reasonably foreseeable future.” *Id.* at 701. Once that initial showing
2 is made, the burden shifts to the government to respond with evidence sufficient to rebut it. *See id.*

3 55. Upon release from custody, a noncitizen subject to a final order of removal must comply
4 with certain conditions of release. 8 U.S.C. § 1231(a)(3), (6). The revocation of that release is
5 governed by 8 C.F.R. § 241.13(i), which authorizes ICE to revoke a noncitizen’s release for
6 purposes of removal.

7 56. ICE may revoke a noncitizen’s release and return them to ICE custody due to failure to
8 comply with any of the conditions of release, 8 C.F.R. § 241.13(i)(1), or if, “on account of changed
9 circumstances, the Service determines that there is a significant likelihood that the [noncitizen]
10 may be removed in the reasonably foreseeable future.” *Id.* § 241.13(i)(2).

11 57. Upon such a determination by ICE to re-detain, “the alien will be notified of the reasons
12 for revocation of his or her release. [ICE] will conduct an initial informal interview promptly after
13 his or her return to [ICE] custody to afford the alien an opportunity to respond to the reasons for
14 revocation stated in the notification. The [noncitizen] may submit any evidence or information that
15 he or she believes shows there is no significant likelihood he or she be removed in the reasonably
16 foreseeable future, or that he or she has not violated the order of supervision. The revocation
17 custody review will include an evaluation of any contested facts relevant to the revocation and a
18 determination whether the facts as determined warrant revocation and further denial of release.”
19 *Id.* § 241.13(i)(3).

20 58. In addition to the regulatory framework, procedural due process does not permit ICE to re-
21 detain an individual it has released on an order of supervision without providing a pre-deprivation
22 hearing on the reasons for re-detention. Individuals released on orders of supervision have a
23 protected liberty interest in remaining in the community on supervision that cannot be taken away
24 without notice and a pre-deprivation hearing. *See, e.g., Zakzouk v. Becerra*, No. 25-cv-06254, 2025
25 WL 2097470, at *3 (N.D. Cal. July 26, 2025) (“Courts have previously found that individuals
26 released from immigration custody. . . have a protectable liberty interest in remaining out of

1 custody.”) (citing cases); *Romero v. Kaiser*, No. 22-cv-02508-TSH, 2022 WL 1443250, at *2
 2 (N.D. Cal. May 6, 2022).

3 59. “[C]ivil immigration detention is permissible only to prevent flight or protect against
 4 danger to the community.” *Zadvydas*, 533 U.S. at 690. Once a person has been ordered released
 5 and is complying with the conditions of supervision, ICE has no legitimate interest in re-detaining
 6 the individual. In the event a travel document is obtained, ICE can notify the individual and
 7 facilitate their orderly departure without detention, consistent with ICE’s standard notice of release
 8 and order of supervision. The language of ICE’s standard “Release Notification” reads “Once a
 9 travel document is obtained, you will be required to surrender to the ICE for removal. You will, at
 10 that time, be given an opportunity to prepare for an orderly departure.”

11 **Third Country Removals**

12 60. The immigration laws delineate the proper procedures by which a country may be
 13 designated for removal. See 8 U.S.C. § 1231(b). These procedures move in incremental steps.

14 61. First, an individual with a removal order may designate the country to which they want to
 15 be removed, and the government *shall* remove the alien to that country. *Id.* § 1231(b)(2)(A). The
 16 government may disregard that designation if (1) the individual fails to designate a country
 17 promptly; (2) the government of that country does not inform the U.S. government finally, within
 18 30 days after the date the U.S. government first inquires, whether the government will accept the
 19 individual into that country; (3) the government of the country is not willing to accept the alien
 20 into the country; or (4) the government decides that removing the individual to that country is
 21 prejudicial to the United States. *Id.* § 1231(b)(2)(C).

22 62. Second, if the individual is not removed to the country they designated under section
 23 1231(b)(2)(A), the government shall remove the individual to the country of which the individual
 24 is a “subject, national, or citizen” unless the government of that country does not inform the U.S.
 25 government or the individual within 30 days after first inquiry or within another reasonable period
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1 of time whether the government will accept the individual into the country or the country is not
2 willing to accept the individual into the country. *Id.* § 1231(b)(2)(D).

3 63. Third, if the individual is not removed to either the country of their designation or the
4 country of which they are a subject, national, or citizen then the government shall remove them to
5 any of the following options: (1) the country from which the individual was admitted to the United
6 States; (2) the country in which is located the foreign port from which the individual left for the
7 United States or for a foreign territory contiguous to the United States; (3) the country in which
8 the individual resided before the individual entered the United States and from which the
9 individual entered the United States; (4) the country in which the individual was born; or (5) the
10 country in which the individual's birthplace is located when the individual was ordered removed.
11 *Id.* § 1231(b)(2)(E). Only "[i]f impracticable, inadvisable, or impossible" to remove the individual
12 to any of these countries may the government remove the individual to "another country whose
13 government will accept [them] into that country." *Id.* § 1231(b)(2)(E)(vii).

14 64. Notwithstanding any of these procedures, the statute prohibits removal to a third country
15 where a person may be persecuted or tortured, a form of protection known as withholding of
16 removal. See *id.* § 1231(b)(3)(A). The government "may not remove [a noncitizen] to a country if
17 the Attorney General decides that the [noncitizen's] life or freedom would be threatened in that
18 country because of the [noncitizen's] race, religion, nationality, membership in a particular social
19 group, or political opinion." *Id.*; see also 8 C.F.R. §§ 208.16, 1208.16. Withholding of removal is
20 a mandatory protection.

21 65. Similarly, Congress codified protections enshrined in the CAT prohibiting the government
22 from removing a person to a country where they would be tortured. See FARRA 2681-822
23 (codified as 8 U.S.C. § 1231 note) ("It shall be the policy of the United States not to expel,
24 extradite, or otherwise effect the involuntary return of any person to a country in which there are
25 substantial grounds for believing the person would be in danger of being subjected to torture,
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1 regardless of whether the person is physically present in the United States.”); 28 C.F.R. § 200.1;
 2 id. §§ 208.16-208.18, 1208.16-1208.18. CAT protection is also mandatory.

3 66. To comport with the requirements of due process, the government must provide notice of
 4 the third country removal and an opportunity to respond. Due process requires “written notice of
 5 the country being designated” and “the statutory basis for the designation, i.e., the applicable
 6 subsection of § 1231(b)(2).” *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1019 (W.D. Wash. 2019); *see*
 7 *also D.V.D. v. U.S. Dep’t of Homeland Sec.*, No. 25-cv-10676-BEM, 2025 WL 1453640, at *1 (D.
 8 Mass. May 21, 2025) (“All removals to third countries, i.e., removal to a country other than the
 9 country or countries designated during immigration proceedings as the country of removal on the
 10 non-citizen’s order of removal, must be preceded by written notice to both the non-citizen and the
 11 non-citizen’s counsel in a language the non-citizen can understand.” (citation omitted));
 12 *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (due process requires notice to the
 13 noncitizen of the right to apply for asylum and withholding to the country where they will be
 14 removed). The government must be able to show evidence that the third country will accept the
 15 individual into that country. *See Himri v. Ashcroft*, 378 F.3d 932, 939 (9th Cir. 2004) (when “at
 16 the time the government proposes a country of removal pursuant to § 1231(b)(2)(E)(vii), the
 17 government must be able to show that the proposed country will accept the [individual]”).

18 67. Due process also demands that the government “ask the noncitizen whether he or she fears
 19 persecution or harm upon removal to the designated country and memorialize in writing the
 20 noncitizen’s response. This requirement ensures DHS will obtain the necessary information from
 21 the noncitizen to comply with section 1231(b)(3) and avoids [a dispute about what the officer and
 22 noncitizen said].” *Aden*, 409 F. Supp. 3d at 1019; *cf. D.V.D.*, 2025 WL 1453640, at *1 (“Following
 23 notice, the individual must be given a meaningful opportunity, and a minimum of ten days, to raise
 24 a fear-based claim for CAT protection prior to removal.” (emphasis omitted)).

25 68. If the noncitizen claims fear, measures must be taken to ensure that the noncitizen can seek
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1 asylum, withholding, and relief under CAT before an immigration judge in reopened removal
 2 proceedings. *Cf. D.V.D.*, 2025 WL 1453640, at *1 (requiring the government to move to reopen
 3 the noncitizen's immigration proceedings if the individual demonstrates "reasonable fear" and to
 4 provide "a meaningful opportunity, and a minimum of fifteen days, for the non-citizen to seek
 5 reopening of their immigration proceedings" if the noncitizen is found to not have demonstrated
 6 "reasonable fear"); *Aden*, 409 F. Supp. 3d at 1019 (requiring notice and time for a respondent to
 7 file a motion to reopen and seek relief).

8 69. Finally, notice of the country to which the noncitizen will be removed must not be "last
 9 minute" because that would deprive an individual of a meaningful opportunity to apply for fear-
 10 based protection from removal. *Andriasian*, 180 F.3d at 1041. They must have time to prepare and
 11 present relevant arguments and evidence and to seek reopening of their removal case.

12 **Punitive Removal Practices**

13 70. It is bedrock law that the U.S. government may not impose or inflict an infamous
 14 punishment for violations of civil immigration law. In 1896, the U.S. Supreme Court ruled that
 15 while deportation itself was not a punishment, the government could not attach punitive conditions
 16 to deportation—in that case, imprisonment at hard labor—absent a criminal charge, trial in a court
 17 of law, and the protections of the Fifth, Sixth, and Eighth Amendments. *Wong Wing v. United*
 18 *States*, 163 U.S. 228, 237 (1896).

19 71. Importantly, the Court drew a distinction between deportation, which the Court
 20 reasoned is "not a 'banishment,' in the sense in which that word is often applied to the expulsion
 21 of a citizen from [her] country by way of punishment," and government actions aimed at
 22 punishment, such as imprisonment at hard labor in addition to deportation. *Id.* at 236. The Court
 23 explained that deportation "is but a method of enforcing the return to [her] own country of an
 24 alien who has not complied with the conditions upon the performance of which the government
 25 of the nation, acting within its constitutional authority and through the proper departments, has
 26 determined that [her] continuing to reside here shall depend." *Id.* (quoting *Fong Yue Ting v.*

1 *United States*, 149 U.S. 730 (1893)). But the Court admonished that the government may not
2 “declare unlawful residence within the country to be an infamous crime, punishable by
3 deprivation of liberty and property . . . unless provision were made that the fact of guilt should
4 first be established by a judicial trial.” *Id.* at 237.

5 72. Deportation of individuals to third countries to be imprisoned or harmed is unquestionably
6 punishment.

7 **CLAIMS FOR RELIEF**

8 **COUNT ONE**

9 **Unlawful Re-Detention**

10 **Violation of the Fifth Amendment Due Process Clause, Immigration and Nationality Act**
11 **(“INA”), 8 U.S.C. § 1231(a), 8 C.F.R. § 241.13, and the Administrative Procedures Act**
12 **(“APA”)**

13 73. The allegations in the above paragraphs are realleged and incorporated herein.

14 74. Respondents’ re-detention of Petitioner Lien Ngoc Do violates her rights guaranteed by the
15 Due Process Clause of the Fifth Amendment of the U.S. Constitution; the INA, 8 U.S.C. § 1231(a);
16 implementing regulations, 8 C.F.R. § 241.13; and the APA.

17 75. Neither the statute nor the Constitution authorizes ICE’s sudden re-detention of Ms. Do,
18 nor does it authorize her continued detention.

19 76. Respondents were required to provide Petitioner pre-deprivation notice and a hearing
20 before re-detaining her, given that she has remained fully compliant with her order of supervision
21 and release conditions.

22 77. Respondents violated governing regulations for revoking Petitioner’s conditions of release.
23 Petitioner has duly complied with the conditions of her supervised release, including attending
24 check-ins and providing the information and documentation requested of her. Her release may be
25 revoked only if changed circumstances make her removal reasonably foreseeable. 8 C.F.R. §
26 241.13(i)(2). Upon such a determination, several procedural steps are required to revoke release,

1 id. § 241.13(i)(3), none of which were followed here. Respondents are required to follow their own
2 regulations. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954).

3 78. Petitioner's removal to Vietnam is not significantly likely to occur in the reasonably
4 foreseeable future. Petitioner has already spent cumulatively one year and eight months in
5 immigration custody during which time the government has been unable to remove her. As the
6 reasonably presumptive period of six months for post-order detention has elapsed, ICE has no
7 authority under the detention statute or the Constitution to continue detaining Ms. Do. Moreover,
8 civil immigration detention is only authorized if a person is a flight risk or a danger to the
9 community. Ms. Do is neither.

10 79. Upon information and belief, Respondents do not have agreement from Vietnam to
11 repatriate Petitioner and have not secured her travel documents. There is no evidence that Vietnam
12 will issue a travel document.

13 80. For all these reasons, the Court should order Ms. Do's immediate release.

14 **COUNT TWO**

15 **Third Country Removal**

16 **Violation of the Fifth Amendment, 8 U.S.C. § 1231, Convention Against Torture,**
17 **Implementing Regulations, and the APA**

18 81. The allegations in the above paragraphs are realleged and incorporated herein.

19 82. The Fifth Amendment, the INA, the CAT, and implementing regulations mandate
20 meaningful notice and opportunity to respond to any attempt to remove Petitioner to a third country
21 in reopened removal proceedings. They also require an opportunity for Petitioner to make a fear-
22 based claim against removal to a third country in reopened removal proceedings. Respondents'
23 policy for third country removals violates all of these laws because it directs ICE agents to remove
24 individuals to third countries without any notice or process at all where diplomatic assurances are
25 received and, where no diplomatic assurances are received, to provide flagrantly insufficient notice
26

(6-24 hours) and opportunity to respond, in violation of the statute, regulations, and Fifth Amendment.

83. Prior to any third country removal, Petitioner must be provided with constitutionally and statutorily compliant notice and an opportunity to respond and contest that removal if she has a fear of persecution or torture in that country in reopened removal proceedings.

COUNT THREE

Punitive Third Country Banishment

Violation of Fifth and Eighth Amendments

84. The allegations in the above paragraphs are realleged and incorporated herein.

85. Under the Fifth Amendment of the U.S. Constitution, no person shall “be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury;” “be subject for the same offence to be twice put in jeopardy of life or limb;” or “be deprived of life, liberty, or property, without due process of law.”

86. The Eighth Amendment provides that no “cruel and unusual punishments” may be inflicted.

87. The U.S. Supreme Court long ago held that the government may not inflict upon individuals an “infamous punishment” in addition to deportation, as a penalty for an immigration violation, absent criminal charges, a judicial trial, and attendant constitutional protections. *Wong Wing*, 163 U.S. at 236-38.

88. Petitioner was convicted and completed her sentence decades ago. Her conviction made her removable from the United States, but her conviction does not authorize the government to inflict, as a matter of executive policy and discretion, additional punishment on her. Respondents’ third country removal program is punitive in nature and execution. The government has arranged for third countries to receive deportees and imprison them on arrival, possibly indefinitely and often in abhorrent conditions. It has selected countries notorious for human rights abuses and instability for third country removal arrangements. It has targeted individuals with criminal

1 convictions for third country removals where they will be imprisoned and harmed and publicly
2 broadcast those removals to demonize and dehumanize the individuals subjected to these practices
3 and strike fear in the immigrant community to send a message of retribution and deterrence.
4 Respondents' third country removal program is more than a publicity stunt. The hundreds of
5 individuals who have already been subjected to it have been banished in foreign prisons upon
6 arrival without charge and often without communication with the outside world, including their
7 families and lawyers.

8 89. Respondents may not subject Petitioner to its third country removal program designed to
9 impose a severe punishment on its subjects. *See id.* Such conduct "shocks the conscience" under
10 Fifth Amendment substantive due process, is cruel and unusual punishment, and may not be
11 imposed without charge and a judicial trial.

12 90. Respondents may not seek to remove Petitioner to a third country under their punitive
13 banishment policy and practices.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Petitioner respectfully requests that this Honorable Court:

16 A. Assume jurisdiction over this action;

17 B. Order Respondents to immediately release Petitioner from custody;

18 C. Order that Respondents may not re-detain Petitioner without first following the
19 statutory and regulatory procedures for revocation of release and without first obtaining agreement
20 from Vietnam to repatriate her, obtaining her travel documents, and securing a travel date;

21 D. Order that Respondents may not remove or seek to remove Petitioner to a third country
22 without notice and meaningful opportunity to respond in compliance with the statute and due
23 process in reopened removal proceedings;

24 E. Order that Respondents may not remove Petitioner to any third country because
25 Respondents' third country removal program seeks to impose unconstitutional punishment on its
26 subjects, including imprisonment and other forms of harm;

1 F. Award costs and reasonable attorney fees under the Equal Access to Justice Act, 28
2 U.S.C. § 2412; and

3 G. Order all other relief that the Court deems just and proper.
4

5 Dated: November 3, 2025.
6

7 Respectfully submitted,

8 /s/ Jennifer Pasquarella

9 Seattle Clemency Project (WA Bar. No. 62205)
10 20415 72nd Ave S., Suite 1-415
11 Kent, WA 98032
12 Telephone: 917.690.2038
13 jennie@seattleclemencyproject.org

14 /s/ Georgina Olazcon Mozo

15 Georgina Olzacon Mozo (WA Bar No. 60581)
16 UW Law Immigration Clinic,
17 William H. Gates Hall, Suite 265
18 P.O Box 8510
19 Seattle, WA 98145
20 Telephone: 206.221.8791
21 golazcon@uw.edu

22 /s/ Grayson McGowan

23 Grayson McGowan
24 UW Law Immigration Clinic,
25 **Student Attorney
26 Telephone: 757.572.5422
graysmc@uw.edu

Attorneys for Petitioner

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VERIFICATION

Pursuant to Local Court Rule 100(e), I, Georgina Olazcon Mozo, verify that the facts set forth therein are true and correct to the best of my knowledge. I make this verification on behalf of Petitioner, LIEN NGOC DO, who is unable to make this verification herself while she is detained at the Northwest Immigration and Customs Enforcement Processing Center in Tacoma, Washington.

DATED: November 3, 2025.

/s/ Georgina Olazcon Mozo

Georgina Olazcon Mozo

CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2025, I caused a true and correct copy of the foregoing document to be filed with the Clerk of the Court for the United States District Court – Western District of Washington by using the CM/ECF system. All participants in this case are registered CM/ECF users and will be served by the CM/ECF system.

/s/ Jennifer Pasquarella

Jennifer Pasquarella