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8 *Attorney for Petitioner-Plaintiff*
9 N.D.N.

10 UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF CALIFORNIA

12 N.D.N.,

13 Petitioner-Plaintiff,

14 v.

15 Sergio ALBARRAN, Acting Field Office Director
16 of San Francisco Office of Detention and Removal,
17 U.S. Immigrations and Customs Enforcement; U.S.
18 Department of Homeland Security;

19 Todd M. LYONS, Acting Director, Immigration and
20 Customs Enforcement, U.S. Department of
21 Homeland Security;

22 Kristi NOEM, in her Official Capacity, Secretary,
23 U.S. Department of Homeland Security;

24 Pam BONDI, in her Official Capacity, Attorney
25 General of the United States; and

26 Tonya Andrews, Facility Administrator at Golden
27 State Annex Detention Center, McFarland,
28 California;

Respondents-Defendants.

Case No.:

**DECLARATION OF AVANTIKA
SHASTRI IN SUPPORT OF
PETITION FOR WRIT OF
HABEAS CORPUS AND EX-
PARTE MOTION FOR
TEMPORARY RESTRAINING
ORDER**

Request for Declaratory and
Injunctive Relief

1 I, Avantika Shastri, do hereby declare:

2 1. I am a Senior Attorney at Van Der Hout LLP at 360 Post Street, Suite 800, San
3 Francisco, CA 94108. I have personal knowledge of the matter stated herein because I am
4 Petitioner Mr. N.D.N.'s attorney in the instant matter. I make this declaration in connection with
5 his Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief and
6 Ex-Parte Motion for Temporary Restraining Order.

7 2. Mr. N.D.N. was born in Vietnam. In 1991, he and his family fled Vietnam to escape
8 persecution. His family held anti-communist political views, and his father was in combat
9 alongside the United States military during the Vietnam war. After the war, Mr. N.D.N.'s father
10 was imprisoned and tortured for several years by the communist regime in Vietnam.

11 3. In 1992, Mr. N.D.N. entered the United States, around the age of 16 as a U.S. lawful
12 permanent resident pursuant to the Amerasian Act.

13 4. In 1997, weeks after his twenty-first birthday, Mr. N.D.N. was convicted of his sole
14 conviction in the United States: California Penal Code § 213(a)(1)(A) (robbery). He was sentenced
15 to prison for six years but was released after about three years.

16 5. On information and belief, upon Mr. N.D.N.'s release from prison, he was
17 transferred into Immigration and Customs Enforcement (ICE) custody. On January 25, 2000, the
18 U.S. Department of Homeland Security (DHS) commenced removal proceedings against him,
19 charging him as removable for having been convicted of an aggravated felony pursuant to 8 U.S.C.
1227(a)(2)(A)(iii). Attached at Exhibit A is a true and correct copy of his Notice to Appear.

20 6. On April 19, 2000, the Immigration Judge (IJ) found Mr. N.D.N. removable based
21 on the charges, denied Mr. N.D.N.'s application for relief pursuant to the Convention Against
22 Torture (CAT) and ordered him removed. In the decision, the IJ found that it was more likely than
23 not that Mr. N.D.N. would be persecuted if he were returned to Vietnam, but found him ineligible
24 for relief on other grounds. On November 16, 2000, the Board of Immigration Appeals (BIA)
25 affirmed the Immigration Judge's decision. He did not appeal the BIA's decision. Attached at
26 Exhibit B is a true and correct copy of the BIA's decision, which constitutes his final order of
27 removal.

28 7. Following the issuance of his final order of removal, ICE continued to hold Mr.

1 N.D.N. in custody to effectuate his removal. At the time, the United States and Vietnam had an
2 agreement that citizens of Vietnam, like Mr. N.D.N., who entered the United States before July
3 1995 could not be repatriated to Vietnam.¹ Due to the existing repatriation agreement, Mr. N.D.N.
4 could not be removed to Vietnam.

5 8. On February 26, 2001, unable to remove Mr. N.D.N. to Vietnam, ICE released him
6 from custody and placed him on an Order of Supervision ("OSUP"), which permitted him to
7 remain free from custody. Mr. N.D.N. has complied with the terms of his OSUP by regularly
8 checking in at the San Francisco ICE Field Office. He also applied for and received a work
9 authorization document. Attached at Exhibit C is a true and correct copy of his OSUP, issued
10 February 26, 2001, and OSUP continuation pages issued to him

11 9. For the past nearly twenty-five years that Mr. N.D.N. has lived at liberty, he has
12 been able to start a family, while working and supporting himself and his family, and contributing
13 to his community. Since his sole conviction in 1997, he has had no further arrests or convictions.
14 He and his U.S. citizen wife have three U.S. citizen children—their six-year-old daughter, fifteen-
15 year-old son from Mr. N.D.N.'s wife's prior relationship, and 23-year-old daughter from Mr.
16 N.D.N.'s prior relationship. See Exhibit D (letters of support from Mr. N.D.N.'s wife, pastors,
17 family friend, and employer regarding his family and community ties, employment record and
18 success, and other ties to the United States).

19 10. On information and belief, on January 25, 2025, officials in the new Trump
20 administration directed senior ICE officials to increase arrests to meet daily quotas. Specifically,
21 each field office was instructed to make 75 arrests per day.²

22 11. On October 15, 2025, Mr. N.D.N. attended his annual check-in at the San Francisco
23 ICE Field Office. At the check-in, ICE officers provided Mr. N.D.N. with paper forms relating to
24 obtaining travel documents. The ICE officers then scheduled Mr. N.D.N. to return on October 22,

25 ¹ See U.S. Department of State, "Repatriation Agreement Between the United States of America
26 and Vietnam" (Jan. 22, 2008), available at: <https://www.state.gov/wp-content/uploads/2019/02/08-322-Vietnam-Repatriations.pdf> ("Vietnamese citizens are not subject
27 to return to Vietnam under this Agreement if they arrived in the United States before July 12,
1995....").

28 ² See "Trump officials issue quotas to ICE officers to ramp up arrests," *Washington Post* (Jan. 26,
2025), available at: <https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/>.

2025, with the completed forms and two passport-style photos. Attached at Exhibit E is a true and correct copy of Mr. N.D.N.'s OSUP log reflecting the October 22 appointment and instructions to return with the travel document forms.

12. On October 22, 2025, when Mr. N.D.N. voluntarily appeared at the ICE San Francisco office with an attorney, and provided the forms and photos requested, ICE officers arrested him. Mr. N.D.N. asked for an explanation for the sudden and unexpected arrest. Mr. N.D.N. recalls that the only explanations for his re-detention was the officer was "just doing his job," and that Mr. N.D.N. had been ordered deported. Mr. N.D.N. and his attorney requested that he be released because his family depended on him to no avail. ICE officers separated Mr. N.D.N. from his attorney, handcuffed Mr. N.D.N., and took him into custody.

13. Later that same day, on October 22, 2025, after separating him from his attorney, ICE officers issued Mr. N.D.N. a Notice of Revocation of Release, informing him that his OSUP had been revoked based on "changed circumstances" in his case. The notice referred to Mr. N.D.N.'s order of removal to Vietnam on April 19, 2000, and stated that his case was "currently under review by the Government of Vietnam for the issuance of a travel document and your removal is now imminent." Mr. N.D.N. recalls that at some point, after his repeated pleas to release him, the officers asked him to explain why he wanted to be released. Mr. N.D.N. explained that he was the sole provider for his family, that he had a job to return to, and most importantly, that his young daughter was waiting for him to return home. Attached at Exhibit F is Mr. N.D.N.'s Notice of Revocation of Release, dated October 22, 2025. Mr. N.D.N. also requested that ICE provide him with the opportunity for his attorney to review the forms prior to signing them, but ICE officers refused Mr. N.D.N.'s request. Attached at Exhibit G is Mr. N.D.N.'s Form I-229, reflecting that ICE wrote "Refused to Sign/Documents has to be reviewed by AoR."

14. Subsequent to re-arresting Mr. N.D.N., ICE transferred him to Golden State Annex Detention Facility, where he remains detained.

15. While in detention, Mr. N.D.N. has not spoken further about his case with an officer or been asked to sign any additional documents.

16. On information and belief, no evidence has been presented or made available to Mr. N.D.N., his prior counsel, or current counsel to support that, prior to Mr. N.D.N.'s arrest or

1 since that time, ICE either attempted to procure or obtained a travel document from the government
2 of Vietnam, that Vietnam has indicated to ICE that there is a significant likelihood that Vietnam
3 will accept Mr. N.D.N. in the reasonably foreseeable future or that Vietnam will issue him a travel
4 document.

5 17. On information and belief, Mr. N.D.N. has never been ordered removed to any third
6 country or notified of such potential removal.

7 18. Currently, the DHS has a policy of removing or seeking to remove individuals to
8 third countries without first providing constitutionally adequate notice of third country removal, or
9 any meaningful opportunity to contest that removal if the individual has a fear of persecution or
10 torture in that country. Attached at Exhibit H is a copy of that policy, dated March 30, 2025, which
11 was provided as part of the litigation in *D.V.D. v. U.S. Department of Homeland Security*, No. 25-
12 10676-BEM, 2025 WL 1142968 (D. Mass. 2025).

13 19. Attached at Exhibit I is a copy of an order from the U.S. District Court for the
14 Northern District of California granting a Temporary Restraining Order in *T.P.S. v. Kaiser*, et al.,
15 5:25-cv-05428 (N.D. Cal. June 30, 2025) that prohibits the government from re-detaining the
16 petitioner without notice and a hearing before a neutral adjudicator.

17 I declare under penalty of perjury that the foregoing is true and correct. Executed on this 18th day
18 of November 2025, at Richmond, California.

19 /s/ Avantika Shastri
20 Avantika Shastri
21 Declarant
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