FILED
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CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION BY DEPUTY

PHUONG LAP NGUYEN
Adelanto Ice Processing Center
10250 Rancho rd
[redacted]
Pro Se Petitioner

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

PHUONG LAP NGUYEN

EDCV25-03200-SRM (SP)

Pro Se Petitioner

V.

Mark Bowen- Warden-Facility Administrator
Adelanto Ice Processing Center

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

MOTION

TEMPORARY ORDER PROHIBITING THIRD COUNTRY REMOVAL AND PRESERVING JURISDICTION

INTRODUCTION

1. Pro Se Phuong Lap Nguyen The Petitioner faces immediate irreparable harm absent of this Court's

intervention. I am is experiencing unlawful prolonged immigration detention and, as a Pre-1995 Vietnamese Lawful arriving in the United States in 1982 on with a 24 year-old removal order. I am facing a real and imminent threat of removal to a third country in violation of my statutory and constitutional rights. I am respectfully asks this Court to order my release, enjoin Respondents from removing me to a third country without affording my statutory and constitutional rights in reopened removal proceedings, and enjoin Respondents from removing me to a third country for a punitive purpose and effect.

STATEMENT OF FACTS

2. I was born or [redacted] citizen of Vietnam. I lawfully enter into United States as on around April 30, 1982, at the age of 7 with two siblings and became lawful permanent US resident around in April 30, 1982 as refugee after the Vietnam War. Reside in California. My siblings are now became US citizen.

3. On around 2001, I was convicted of unlawful of PC 459 Residential Burglary. Upon my release from prison around 2002, the former Immigration and Nationality Service ("INS") took me into custody. The INS charged me with being removable under 8 U.S.C. § 1227(a)(2)(A)(iii) for have an "aggravated felony" due to around 2001 pleaded guilty to Unlawful PC 459 Residential Burglary From the Circuit Court of County. On around April 2002, I was ordered to removed by an Eloy Arizona Immigration Judge. I was not removed because Vietnam would not accept me.

4. In 2002 and 2018 , I was in ICE detention Center at for 11 months and 3 months was released on 2003 and 2018 an Order of Supervision("OSUP"). Since my released and on an order of

supervision for 7 years. During that time, I lived a law-abiding life dedicated to my family, helping my 80 year-old mother financially and emotionally as well as helping my wife take care of my two step-kids. And I has consistently checked in and has worked steadily in the construction industry. Since my last release over two decade ago. ICE has failed to procure travel documents from the Embassy

of the Socialist Republic of Vietnam or effect my removal to Vietnam.

5. I was held at the Department of Homeland Security's ('DHS") Immigration and Custom Enforcement ("ICE) Los Angeles Field Office in Santa Ana and Los Angeles 0n October 23 ,2025. On the Evening of October 25, 2025 I was transferred to Adelanto Ice Processing Center in Adelanto CA.

6. At my check-in on October 23 2025, I was instructed to report to the Alternatives to Detention Program for the Intensive Supervision Appearance Program("ISAP"). ICE did not develop a departure plan for me at this point, and my ISAP case worker instructed me to begin the process of requesting a Vietnamese passport.

7. I am proceedings to initiate the process of requesting a Vietnamese passport, even though ICE has not indicated that the Government of Vietnam had found my eligible for repatriation as part of the intensive monitoring. I was instructed to meet with an ICE Enforcement and Removal Operations officer on about 3 weeks of re-detain. At this time, there is still no indication that travel document to Vietnam has been issued or that the Government of Vietnam has found my eligible for repatriation. On the same day of my detention. ICE issued a notice of my revocation of release.
ICE indicated that my case is under current review by the Government of Vietnam for the issuance of a travel document. However, ICE did not indicate that the Government of Vietnam has found my my eligible for repatriation.

8. In about 3 weeks after re-detained, ICE asked me to prepare a request for travel documents to

submit to the Vietnamese Government while in custody.

9. I am currently detain at Adelanto ICE Processing Center in Adelanto Ca since October 23, 2025. In the Control and custody of Respondent Mark Bowen-Warden-Facility Administrator.

10. Upon information and belief, ICE never provided any written notice that the conditions of my release were being revoked and that I would again being detained.

11. My removal to Vietnam is not reasonably foreseeable. I do not have a Vietnamese passport. ICE did not obtain travel documents from Vietnam for me before again detaining me. ICE only asked me to sign the self-declaration form that Vietnam requires to process an ICE request for repatriation at the time of my detention.

12. I was last released on an Order of Supervision ("OSUP") 7 years ago. Since my last release over 7 years ago, I has not violated the terms of my OSUP.

13. ICE has not shown that travel document for Vietnam has been issued. ICE has not shown that I am a risk of flight or a danger to the community prior to additional detainment.

14. ICE's decision to re-detain a non-citizen like me who has been granted supervised on (OSUP) release is governed by ICE's own regulation requiring an individualized determination by ICE that based on changed circumstances, removal has become significantly likely in the reasonably foreseeable future." Kong v. United States, 62 F.4th 608, 619-20 (1st Cir. 2023) (citing 8 C.F.R. § 241.13(i)(2)).

15. The plain language of the regulation however, does not allow a court in the first instance to make the required individualized finding. To the extent ICE claims that it made such a determination, the court should review that claim in light of the regulations instructing ICE on how it should make such a determination. "Kong, 62 f.4th at 620 (citing 8 C.F.R. § 241.13(f), (i)(2)).

16. ICE has not shown that I was not in compliance with my current OSUP for 7 years.

17. Since my last release over two decade ago, ICE has failed to procure travel documents from the Embassy of the Socialist Republic of Vietnam or effect my removal to Vietnam.

18. I am proceeded to initiate the process of requesting a Vietnamese passport, even though ICE has not indicated that the Government of Vietnam had found my eligible for repatriation.

19. At this time, there is still no indication that travel documents to Vietnam has been issued or that the Government of Vietnam has found my eligible for repatriation.

20. On the same day of my detention, ICE issued a notice of my revocation of release. ICE indicated that my case is under current review by the Government of Vietnam for the Issuance of a travel document. However, ICE did no indicate that the Government of Vietnam has found My eligible for repatriation.

Vietnam has a longstanding policy of not accepting Vietnamese immigrants who entered before 1995

ICE has proved unable to remove me for the last 23 years: Vietnam has a longstanding policy of not accepting pre-1995 Vietnamese immigrants for deportation. In 2008, Vietnam and the United States signed a repatriation treaty under which Vietnam agreed to consider accepting certain Vietnamese immigrants for deportation. See Trinh v. Homan, 466 F. Supp. 3d 1077, 1083 (C.D. Cal. 2020). The treaty exempted pre-1995 Vietnamese immigrants, providing."Vietnamese citizens are not subject to return to Vietnam under this Agreement if they arrived in the United States before July 12, 1995." Agreement Between the United States of America and Vietnam, at (Jan 22, 2008).

Despite that limit, the first Trump administration detained Vietnamese immigrants and held them for months while the administration tried to pressure Vietnam to take them. See Trinh, 466 F. Supp. 3d at 1083-84. that possibility did not materialize. "In total, between 2017

and 2019, ICE requested travel documents for Pre-1995 Vietnamese immigrants 251 times. Vietnam granted those requests only 18 times, in just over seven percent of cases." Id. At 1084. The administration was forced to release many of these detainees in 2018. See id.

In 2020 the administration secured a Memorandum of Understanding ("MOU") with Vietnam, which created a process through which the Vietnamese government could consider some pre-1995 Vietnamese immigrants for removal.

The MOU limited consideration to See Nguyen v. Scott, No. 2:25-CV-01398, 2025 WL 2419288, (W.D. Wash Aug. 21, 2025). When an immigrant does qualify, the MOU provides only that Vietnam has "discretion whether to issue a travel document," which is exercises "on a case by case basis." Hoac v. Becerra, No 2:25-CV-01740-DC-JDP,2025 WL 1993771, (E.D. Cal. July 16, 2025).

Even after signing the MOU, Vietnam overwhelmingly declined to timely issue travel documents for pre-1995 immigrants. By October 2021, ICE had adopted a "policy of generally finding that "pre-1995 Vietnamese Immigrants" are not likely to be removed in the reasonably foreseeable future." Order on Joint Motion for Entry of Stipulated Dismissal, Trihn, 18-CV-316-CJC-GJS, Dkt. 161 (C.D. Cal. Oct. 7, 2021).That admission aligned with two years' worth of quarterly reports that ICE agreed to submit as part of a class action settlement. Those quarterly reports showed that between September 2021 and September 2023 only four immigrants who came to the U.S. before 1995 were given travel documents and deported. Asian Law Caucus, Resources on Deportation of Vietnamese Immigrants who enter the U.S. before 1995 (Jul 15, 2025) (providing links to all quarterly reports). During the same period, ICE made 14 requests for travel documents that, as of 2023, had not been granted, including requests made months or years before the September 2023 cutoff. See id. (proposed counsel's count based on quarterly reports.)

(https://cdn.craft.cloud/5cd1c590-65ba-4ad2-a52c-b55e67f8f04b/assets/media/ALC-FOIA-Re-Release-MOU-bates-1-8-8-10-21.pdf.)

https://static1.squarespace.com/static/5f0cc12a064e9716d52e6052/t/618e99e5613d7372c1bb197e/1636735461479/Trinh+-+Doc+161+Order+Granting+Stip+Dismissal.pdf.

https://www.asianlawcaucus.org/news-resources/guides-reports/trinh-reports

On June 9, 2025, the Trump administration rescinded ICE's policy of generally finding that pre-1995 Vietnamese immigrants were not likely to be removed in the reasonably foreseeable future. See Nguyen v. Scott, No. 2:25-CV-01398, 2025 WL 2419288, (W.D. Wash. Aug. 21, 2025). But since then, several courts have found that facts on the ground likely have not changed enough to show that these detainees will be timely removed to Vietnam. See Nguyen v. Scott, No. 2:25-CV-01398, 2025 WL 2419288, (W.D. Wash. Aug. 21 2025); Hoac, 2025 WL 1993771, ; Nguyen v. Hyde, No. 25-CV-11470-MJJ,2025 WL 1725791, (D. Mass. June 20,2025).

The government is carrying out deportations to third countries without providing sufficient notice and opportunity to be heard.

When Immigrants cannot be removed to their home country including Vietnamese immigrants-ICE has begun deporting those individuals to third countries without adequate notice or a hearing. The Trump administration reportedly has negotiated with at least 58 countries to accept deportees from other nations. Edward Wong et al, Inside the Global deal-Making behind Trump's Mass Deportations, On June 25, 2025, the New York Times reported that seven countries Costa Rica, El Salvador, Guatemala, Kosovo, Mexico, Panama, and Rwanda -had agreed to accept deportees who are not their own citizens. Id. Since then, ICE has carried out highly publicized third country deportations to South Sudan and Eswatini.

The Administration has reportedly negotiated with countries to have many of these deportees imprisoned in prisons, camps, or other facilities. The government paid El Salvador in prisons, camps, or other facilities. The government paid El Salvador about $ 5 million to imprison more than 200 deported Venezuelans in a maximum-security prison notorious for gross human rights abuses, known as CECOT. See id. In February, Panama and Costa Rica took in hundreds of deportees from countries in Africa and Central Asia and imprisoned them in hotels, a jungle camp, and a detention center. Id.;Vanessa Buschschluter, Costa Rican court orders release of migrants deported from U.S., BBC (June 25, 2025). On July 4, 2025 ICE deported eight men, including one pre-1995 Vietnamese refugees to South Sudan. See Wong, supra. On July 15, 2025 ICE deported five men to the tiny African nation of Eswatini, including one man from Vietnam, where they are reportedly being held in solitary confinement. Gerald Imray, 3 Deported by US held in African Prison Despite Completing Sentences Lawyers Say, PBS (Sept 2, 2025). Many of these countries are known for human rights abuses or instability. For instance, conditions in South Sudan are so extreme that the U.S. State Department website warns American not to travel there, and if they do, prepare their will, make funeral arrangements, and appoint a hostage-taker negotiator first. See Wong, supra.

On June 23, 2025 to July 3, 2025, the Supreme Court issued a stay of a national class-wide preliminary injunction issued in D.V.D v. U.S. Department of Homeland Security, No. CV 25-10676-BEM, 2025 WL 1142968, (D. Mass. Apr. 18, 2025), which required ICE to follow statutory and constitutional requirements before removing an individual to a third country. U.S. Department of Homeland Security v. D.V.D., 145 S. Ct. 2153 (2025) (mem.); id., No. 24A1153, 2025 WL 1832186 (U.S. July 3, 2025). On July 9, 2025, ICE rescinded previous guidance meant to give immigrants a "meaningful opportunity "to assert claims for

protection under the Convention Against Torture (CAT) before initiating removal to a third country.

Under the new guidance, ICE may remove any immigrant to third country "without the need for further procedures," as long as -in the view of the State Department-the United States has received "credible""assurances" from that country that deportees will not be persecuted or tortured. Id. At 1. If a country fails to credibly promise not to persecute or torture releases, ICE may still remove immigrants there with minimal notice. Id. Ordinarily, ICE must provide 24 hours' notice. But "[i]n exigent circumstances," a removal may take place in as little as six hours,"as long as the alien is provided reasonably means and opportunity to speak with an attorney prior to the removal." Id.

Upon serving notice, ICE " will not affirmatively ask whether the alien is afraid of being removed to the country of removal." Id. (emphasis original). If the non-citizen "does not affirmatively state a fear of persecution or torture if removed to the country of removal listed on the Notice of Removal within 24 hours, [ICE] may proceed with removal to the country identified on the notice." Id. At 2. if the non-citizen "does affirmatively state a fear if removed to the country of removal" then ICE will refer the case to U.S. Citizenship and Immigration Services ("USCIS") for a screening for eligibility for withholding of removal and protection under the Convention Against Torture ("CAT"). Id. At 2. "USCIS will generally screen within 24 hours." Id. If USCIS determines that the non-citizen does not meet the standard, the individual will be removed. Id. If USCIS determines that the non-citizen has met the standard, then the policy directs ICE to either move to reopen removal proceedings "for the sole purpose of determining eligibility for [withholding of removal protection] and CAT" or designated another Country for removal. Id.

LEGAL STANDARD

To obtain a TRO, I am YOUR NAME the plaintiff "must establish that I am likely to succeed on the merits, that I will likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in my favor, and that an injunction is in the public interest." Winter v. Nat. Res, Def. Council, Inc., 555 U.S. 7, 20 (2008); Stuhlbarg Int'l Sales Co v. John D. Brush & Co., 240 F.3d 832, 839-40 & n.7 (9th Cir. 2001) (noting that a TRO and preliminary injunction involve "substantially identical." analysis). In this Circuit, courts employ " an alternative serious question standard, also known as the sliding scale variant of the Winter standard," Fraihat v. U.S. Immigr. & Customs Enf't, 16 F.4th 613, 635 (9th Cir. 2021) (citation omitted). Under this approach, the four Winter elements are "balanced, so that a stronger showing of one element may offset a weaker showing of another." All. For the Wild Rockies v. Cottrell, 632 F.3d 1127,1131 (9th Cir. 2011). TRO may be granted where there are "serious questions going to the merits" and a hardship balance. Tips sharply toward me the plaintiff," and so long as the other Winter factors are met.Id.at1132.

ARGUMENT

This Court should issue a temporary restraining order because "immediate and irreparable injury, or damage" is occurring and will continue in the absence of an order. Fed. R. Civ. P.65 (b). Respondents have re-detained me in violation of my due process and statutory rights and threaten to remove me to a third country without adhering to constitutional and statutory procedural protections and in violation of bedrock law prohibiting the government from imposing punitive measures on non citizens order removed. This Court should order me release an enjoin removal to a third country where I may be imprisoned or harmed and absent legally required protections.

This Court should grant this petition and order me to immediate release. Zadvydas v. Davis, 533 U.S. 678 (2001) holds that immigration statutes do not authorize the government

to detain immigrants like me, for whom there is "no significant likelihood of removal in the reasonably foreseeable future." 533 U.S. 678,701 (2001). ICE's own regulations require

changed circumstances before re-detention, as well as a chance to contest a re-detention decision. And due process requires ICE to provide notice and an opportunity to be heard before any removal to a third country.

My detention violates Zadvydas and 8 U.S.C. § 1231.

A. Legal Background

In Zadvydas v. Davis, 533 U.S. 678 (2001), the Supreme Court considered a problem affecting people like me: Federal law requires ICE to detain an immigrant during the "removal period" which typically spans the first 90 days after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-(2). After that 90 day removal period expires, detention becomes discretionary-ICE may detain the migrant while continuing to try to remove them. Id. § 1231(a)(6). Ordinarily this scheme would not lead to excessive detention as removal happens within days or weeks. But some detainees cannot be removed quickly. Perhaps their removal "simply requires more time for processing,"or they are" "ordered removed to countries with whom the United States does not have a repatriation agreement," or their countries" "refuse to take them," or the are "effectively stateless" because of their race and/ or place of birth." Kim Ho Ma v. Ashcroft 257 F.3d 1095, 1104 (9th Cir. 2001). In these and other circumstances, detained immigrants can find themselves trapped in detention for months, years, decades or even the rest of their lives.

If federal law were understood to allow for "indefinite, perhaps permanent, detention," it would pose "a serious constitutional threat ." Zadvydas v. Davis, 533 U.S. at 699. In Zadvydas, the Supreme Court avoided the constitutional concern by interpreting § 1231(a)(6) To incorporate implicit limits. Id. At 689.

As an initial matter, Zadvydas held that detention is "presumptive reasonable" for at Least six months. Id. At 701. This acts as a kind of grace period for effectuating removals. Following the six-month grace period, courts must use a burden-shifting framework to decide whether detention remains authorized. First, the petitioner must make a prima facie case for relief: must prove that there is "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." Id.

If I do so, the burden shifts to "the Government [to] respond with evidence sufficient to rebut that showing." id. Ultimately, then, the burden of proof rests with the government. The government must prove that there is a "significant likelihood of removal in the reasonably Foreseeable future," or the immigrant must be released. Id.

Using this framework, I can make all the threshold showings needed to shift the burden to the government.

B. The six-month grace period has expired.

The six-month grace period has long since ended. The Zadvydas grace period lasts for "six month after a final order of removal -that is, three months after the statutory removal period has ends." Kim Ho ma v Ashcroft, 257 F.3d 1095, 1102 n.5 (9th Cir. 2001). My order of removal was enter in July 13, 2013. According to Executive Office for Immigration Review ("EOIR") records. My appealed to be BIA, and the appeal was completed on about the end of August 2013.

Accordingly, my 90-day removal period began then. 8 U.S.C. § 1231 (a)(1)(B). The Zadvydas grace period thus expires six months after the appeal finished and three months after the removal period ended, both of which occurred in July and August 2013. Furthermore, I was detained for 4 months in 2013, and has been detained for about a month and a half in 2025. Thus this threshold requirement is met.

(Please Check EOIR, Automated Case Information, https://acis.eoir.justice.gov/en/).

The Government has sometimes proposed calculating the Zadvydas grace period differently where, as here, an immigrant is released and then rearrested. But these proposed alternative calculations contradict the statute and Zadvydas.

First, the government has sometimes argued that release and rearrest resets the six-month grace period completely, taking the clock back to zero."Courts… broadly agree" that this is not correct. Diaz-Ortega v. Lund, 2019 WL6003485, (W.D.La Oct 15, 2019), report and recommendation adopted, 2019 WL6037220 (W.D.La. Nov. 13, 2019); see also Sied v. Nielsen, No 17-CV-06785-LB, 2018 WL 1876907, (N.D. Cal. Apr. 19, 2018)(collecting cases). This proposal would create an obvious end run around Zadvydas, because ICE could detain an immigrant indefinitely by releasing and quickly rearresting them every six months.

Second, the government has sometimes claimed that rearrest at least resets the 90-day removal period under 8 U.S.C. § 1231 (a)(1). See, e.g., Farah v. INS, No. Civ 02-4725(DSD/RLE), 2003 WL 221809, (D. Minn. Jan 29, 2013) (adopting this view). But as a court explained in Bailey v. Lynch, that view cannot be squared with the statutory definition of the removal period in 8 U.S.C.§ 1231(a)(1)(B). No. CV 16-2600 (JLL), 2016 WL 5791407, (D.N.J. Oct 3, 2016). "Pursuant to the statute, the removal period, and in turn the [six-month] presumptive reasonable period, begins from the latest of 'the date the order of removal becomes administratively final,' the date of a reviewing court's final order where the removal order is judicially removed and that court orders a stay of removal, or the alien's release from detention or confinement where I was detained for reasons other than immigration purposes at the time of my final order of removal." Id. None of these statutory starting points have anything to do with whether or when an immigrant is detained. See id. Because the statutorily-defined removal period has nothing to do with release and rearrest, releasing and rearresting the immigrant cannot reset the removal period.

For all these reasons, the six-month grace period poses no barrier to granting this Zadvydas petition

Vietnam's decades-long policy of not repatriating most pre-1995 Vietnamese immigrants provides very good reason to believe that I will not likely be removed in the reasonably foreseeable future.

Because the six month grace period has passed, this Court must evaluate my Zadvydas claim using the burden-shifting framework. At the first stage of the framework, I must "provide good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future."Zadvydas, 533 U.S. at 701.

This Standard can be broken down into three parts.

1."Good reason to believe." The "good reason to believe" standard is a relatively forgiving one . " A petitioner need not establish that there exists no possibility of removal." Freeman v. Watkins, No. CV B:09-160, 2009 WL10714999, (S.D. tex. Dec. 22, 2009). Nor does "good reason to believe". Place a burden upon the detainee to demonstrate no reasonably foreseeable, significant likelihood of removal or show that my detention is indefinite; it is something less than that." Rual v. Barr, No. 6:20-CV-06215 EAW, 2020 WL 3972319, (W.D.N.Y. July 14, 2020) (quoting Senor v. Barr, 401 F. Supp. 3D 420, 430 (W.D.N.Y. 2019). In short, the standard means what it says: I need only give a "good reason"- not prove anything to a certainty.

2. "Significant likelihood of removal." This component focuses on whether I will likely be removed: Continued detention is permissible only if it is "significantly likely" that ICE will be able to remove me. Zadvydas, 533 U.S. at 701. This inquiry targets "not the existence of untapped possibilities, but also the probability of success in such possibilities." Elashi v. Sabol, 714 F. Supp 2d 502, 506 (M.D. Pa. 2010)(second emphasis added). In other words even if "there remains some possibility of removal," a petitioner can still meet its burden

if there is good reason to believe that successful removal is not significantly likely.

Kacanic v. Elwood, No. CIV.A. 02-8019 2002 WL 31520362, (E.D.Pa. Nov. 8, 2002)

3. "In the reasonably foreseeable future." This component of the test focuses on when I will likely be removed: Continued detention is permissible only if removal is likely to happen "in the reasonably foreseeable future." Zadvydas, 533 U.S. at 701 This inquiry places a time limit on ICE's removal efforts. If the Court has "no idea of when it might reasonably expect [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal is likely to occur-or even that it might occur-in the reasonably foreseeable future." Palma v. Gillis, No 5:19-CV-112-DCB-MTP, 2020 WL 4880158, (S.D.Miss. July 7, 2020), report and recommendation adopted, 2020 WL 4876859 (S.D. Miss. Aug 19, 2020) (quoting Singh v. Whitaker, 362 F. Supp. 3D 93, 102 (W.D.N.Y. 2019). Thus, even if this Court concludes that I "would eventually receive" a travel document, I can still meet his burden by giving good reason to anticipate sufficiently lengthy delays. Younes v. Lynch, 2016 WL 6679830 (E.D. Mich. Nov. 14, 2016)

I am readily satisfies this standard for two reasons.

First, as explained above, Vietnam generally does not accept pre-1995 Vietnamese immigrants for deportation. Even after Vietnam signed the 2020 MOU, ICE had to admit that there was no reasonable likelihood of removing such immigrants in the reasonably foreseeable future, Order on Joint Motion for Entry of Stipulated Dismissal, Trihn, 18-CV-316-CJC-GJS, Dkt. 161 (C.D. Cal. Oct 7, 2021-an admission amply backed up by 2 years' experience under the MOU, Asian law Caucus, Resources on Deportation of Vietnamese Immigrants Who entered the U.S. before 1995 (July 15, 2025).

(providing links to all quarterly reports). Though the Trump administration rescinded this admission, (Nguyen, 2025 WL 2419288,, there is no evidence that facts on the ground have

changed. Thus, several courts have found that these barriers continues to obstruct removal for people like me. See Nguyen, 2025 WL 2419288; Hoac, 2025 WL 1993771; Nguyen, 2025 WL 1725791.

Second my own experience bears this out. ICE has now had 12 years to deport me, including 5 years under the MOU. I has fully cooperated with ICE's removal efforts throughout that time, including at yearly check in. Yet ICE has proved unable to remove me.

Thus I has met my initial burden shifts to the government. Unless the government can prove a "significant likelihood of removal in the reasonably foreseeable future," I must be released Zadvydas, 533 U.S. at 701.

Count 2: ICE Failed to Comply with its own regulations before re-detaining me, violating my rights under the Fifth Amendment and the Administrative Procedures Act.

In addition to Zadvydas's protections, a series of regulations provide extra process for someone who like me, is re-detained following a period of release. Title 8 C.F.R. § 241.4 § applies to re-detention generally, while 8 C.F.R.§ 241.13(i) applies to persons released after providing good reason to believe that they will not be removed in the reasonably foreseeable future, see Rokhfirooz v. Larose, No. 25-CV-2053-RSH-VET, 2025 WL 2646165, (S.D. Cal. Sept 15, 2025.

These regulations permit an official to "return [s] [the person] to custody" because they "violate [d] any of the conditions of release." 8 C.F.R. § 241.13 (i)(1);see also id. § 241(])(1). Otherwise, they permit revocation of release only if the appropriate official (1) "Determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future," id. § 241.13(i)(2), and (2) make that finding "on account of changed circumstances." id.

No matter the reason for re-detention, the re-detained person is entitled to "an initial

informal interview promptly," during which they "will be notified of the reasons for revocation." Id. § 241.4(l)(1), 241.13(i)(3). The interviewer must afford the person an opportunity to respond to the reasons for revocation," allowing them to "submit any evidence or information" relevant to re-detention and evaluating "any contested facts." Id.

ICE is required to follow its own regulations. United States ex rel. Accardi v. Shaughnessy,347 U.S. 260, 268 (1954); see Alcaraz v. INS, 384 F.3d 1150, 1162 (9th Cir. 2004) ("The legal proposition that agencies may be required to abide by certain internal policies is well-established."). A court may review a detention decision for compliance with the regulations. See Phan v. Beccerra, No. 2:25-CV-01757,2025 WL 1993735, (E.D. Cal. July 16, 2025); Nguyen v. Hype, No. 25-CV-11470-MJJ,2025 WL 1725791, (D. Mass. June 20, 2025) (citing Kong v. United States, 62 F. 4th 608, 620 (1st Cir. 2023).

None of the prerequisites to detention apply here. I was not returned to custody because of a conditions violation. And there are no changed circumstances that justify re-detaining me.

The same treaty has applied since 2008, and the same MOU has applied since 2020. Of course, ICE may be planning to try again to remove me. But absent any evidence for "why obtaining a travel document is more likely this time around. Respondents' intent to eventually complete a travel document request for me does not constitute a changed circumstance." Hoac v. Becerra, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, (E.D. Cal July 16, 2025) (citing Liu v. Carter, No. 25-3036-JWL, 2025 WL 1696526, (D. Kan. June 17, 2025). Nor has I received the interview required by regulation. No one from ICE has ever invited me to contest my detention.

Numerous courts have released re-detained immigrants after finding that ICE failed to comply with applicable regulations. Ceesay v. Kurzdorfer, 781 F. Supp. 3D 137, 166 (W.D.N.Y.

2025; You v. Nielsen, 321 F. Supp. 3D 451, 463 (S.D.N.Y. 2018); Rombot v. Souza, 296 F. Supp. 3D 383, 387 (D. Mass. 2017). (Zhu v. Genalo, No. 1:25-CV-06523) (JLR), 2025 WL 2452352, (S.D.N.Y Aug 26, 2025); M.S.L. v. Bostock, No. 6:25-CV-01204-AA, 2025 WL 2430267, (D. Or. Aug 21, 2025); Escaante v. Noem, No. 9:25-CV-00182-MJT, 2025 WL 2491782,(E.D. Tex. July 18, 2025); Hoac v. Becerra, No 2:25-CV01740-DC-JDP, 2025 WL 1993771, (E.D. Cal. July 16, 2025); Liu, 2025 WL 1696526, : M.Q. v United States, 2025 WL 965810, (S.D.N.Y. Mar 31, 2025). That includes Judge Huie earlier this month. Rokhfirooz, 2025 WL 2646165. "Because officials did not properly revoke my release pursuant to the applicable regulations, that revocation has no effect, and I am is entitled to my release (subject to the same Order of Supervision that governed my most recent release)." Liu, 2025 WL 1696526.

Count 3: ICE may not remove me to a third country without adequate notice and an opportunity to be heard.

In addition to unlawfully detaining me, ICE's policies threaten my removal to a third country without adequate notice and an opportunity to be heard. These policies violate the Fifth Amendment, the Convention Against Torture, and implementing regulations.

LEGAL BACKGROUND

U.S. law enshrines protections against dangerous and life-threatening removal decisions. By statute, the government is prohibited from removing an immigrant to any third country where they may be persecuted or tortured, a form of protection known as withholding of removal.

See 8 U.S.C. § 1231(b)(3)(A). The government "may not remove [a non citizen] to a country if the Attorney General decides that the [non citizen's] life or freedom would be threatened in

that country because of the [non citizen's] race, religion, nationality, membership in a particular social group, or political opinion." Id.; see also 8 C.F.R. §§ 208.16, 1208.16. Withholding of removal is a mandatory protection.

Similarly, Congress codified protections enshrined in the CAT prohibiting the government from removing a person to a country where they would be tortured. See FARRA 2681-822 (codified as 8 U.S.C. § 1231 note) ("It shall be the policy of the United States not to expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, regardless of whether the person is physically present in the United States."); 28 C.F.R. § 200.1; Id. §§ 208.16-208.18, 1208.16-1208.18. CAT protection is also mandatory. To comport with the requirements of due process, the government must provide notice of the third country removal and an opportunity to respond. Due process requires "written notice of the country being designated" and "the statutory basis for the designation, i e., the applicable subsection of § 1231 (b)(2)." Aden v. Nielsen, 409 F. Supp. 3D 998, 1019 (W.D. Wash. 2019); accord D.V.D. v U.S. Department of Homeland Security., No. 25-CV-10676-BEM, 2025 WL 1453640, (D. Mass. May 21, 2025); Andriasian v. INS, 180 F.3d 1033, 1041 (9th Cir.1999).

The government must also "ask the non citizen whether he or she fears persecution or harm upon removal to the designated country and memorialize in writing the non citizen's response. This requirement ensures DHS will obtain the necessary information from the non citizen to comply with section 1231(b)(3) and avoids [a dispute about what the officer and non citizen said].; Aden, 409 F. Supp.3d at 1019. " Failing to notify individuals who are subject to deportation that they have the right to apply for asylum in the United States and for

withholding of deportation to the country to which they will be deported violates both INS regulations and the constitutional right to due process." Andriasian, 180 F.3d at 1041.

If the non citizen claims fear, measures must be taken to ensure that the non citizen can seek asylum, withholding, and relief under CAT before an immigration judge in reopened removal proceedings. The amount and type of notice must be "sufficient" to ensure that "given [a non citizen's] capacities and circumstances, he would have a reasonable opportunity to raise and pursue my claim for withholding of deportation." Aden, 409 F. Supp. 3D at 1009 (citing Mathews v. Eldridge, 424 US. 319, 349 (1976) and Kossov v. I.N.S., 132 F.3d 405, 408 (7th Cir. 1998); *cf*. D.V.D. 2025 WL 1453640, (requiring the government to move to reopen the non citizen's immigration proceedings if the individual demonstrates "reasonable fear" and to provide "a meaningful opportunity, and a minimum of fifteen days, for the non citizen to seek "reasonable fear"); Aden, 409 F. Supp. 3D at 1019 (requiring notice and time for a respondent to file a motion to reopen and seek relief).

"Last minute" notice of the country of removal will not suffice, Adriansian, 180 F.3d at 1041; accord Najjar v. Lunch, 630 Fed. App'x 724 (9th Cir. 2016), and for good reason To have a meaningful opportunity to apply for fear-based protection from removal, immigrants must have time to prepare and present relevant arguments and evidence. Merely telling a person where they may be sent, without giving them a chance to look into country conditions. Does not give them a meaningful chance to determine whether and why they have a credible fear.

B. The June 9, 2025 Memo's removal policies violate the Fifth Amendment, 8 U.S.C. § 1231, the Conviction Against Torture, and Implementing Regulations.

The policies in the June 9, 2025 memo do not adhere to these requirements. First, under the policy, ICE need not give immigrants any notice or any opportunity to be heard before removing them to a country that-in the State Department's estimation -has provided

"credible" "assurances" against persecution and torture. By depriving immigrants of any chance to challenge the State Department's view, this policy violates "the essence of due process," "the requirement that a person in jeopardy of serious loss be given notice of the case against him and opportunity to meet it." Mathews v. Eldridge, 424 U.S. 319, 348 (1976) (cleaned up).

Second, even when the government has obtained no credible assurances against persecution and torture, the government can still remove the person with between 6 and 24 hours notice, depending on the circumstances. Practically speaking, there is not nearly enough time for a detained person to assess their risk in the third country and martial evidence to support any credible fear-let alone a chance to file a motion to reopen with an IJ. An immigrant may know nothing about a third country, like Eswatini or South Sudan, when they are scheduled for removal there. Yet if given the opportunity to investigate conditions, immigrants would find credible reasons to fear persecution or torture-like patterns of keeping deportees indefinitely and without charge in solitary confinement or extreme instability raising a high likelihood of death -in many of the third countries that have agreed to removal thus far. Due process requires an adequate chance to identify and raise these threats to health and life. This Court must prohibit the government from removing me without these due process safeguards.

CONCLUSION

For the foregoing reasons, the Court should immediately grant me Phuong Lap Nguyen the Petitioner's TRO.

Respectfully Submitted, **Dated: November 20, 2025**

_____

Phuong Lap Nguyen
Pro Se Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I Pro Se Phuong Lap Nguyen the Petitioner, and submit this verification on my behalf. I hereby verify that the factual statements made in the foregoing First Amended Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 30th day of October 2025.

___Phuong Lap Nguyen_____

Pro Se Petitioner

Phuong Lap Nguyen
(Name of alien(s) in proceedings)

A [redacted]
(A-Number of alien(s) in proceedings)

CERTIFICATE OF SERVICE

On, (date) I, Phuong Lap Nguyen (printed name of person signing below)

served a copy of this TRO
(type of document)

and any attached pages to United States District Court
(name of the party served)

at the following address: 3470 Twelfth Street
(address of party served)

Riverside CA 92501-3801
(address of party served)

by: First Class Mail
(method of service-for example, overnight courier, hand delivery, first class mail, ICE OPLA e Service

(signature) 11/21/25
(date)

Mark Bowen -Warden
Facility Adminstration
Adelanto Ice Processing Center
10250 Rancho rd
Adelanto, CA 92301

Phuong Lap Nguyen
(Name of alien(s) in proceedings)

A [redacted]
(A-Number of alien(s) in proceedings)

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(signature) 11/21/25
(date)

U.S Department Homeland Security
801 I Street N.W. Ste#900
Washington DC, 20536

Phuong Lap Nguyen
(Name of alien(s) in proceedings)

A [redacted]
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