UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

Lung Van Do,

Petitioner,

v.

Warden, Camp East Montana

Field Office Director, El Paso Field Office ICE-ERO

Respondents.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

Case No. _____

Agency Case No. A [redacted]

INTRODUCTION

1. Lung Van Do is a Vietnamese national detained at the Camp East Montana detention center. He has had a final removal order for over 16 years. U.S. Immigration and Customs Enforcement ("ICE") has had 16 years to effectuate his removal. ICE has so far been unable to do so. Although ICE was entitled to detain him for a short period after the removal order was entered, that period ended long ago. To continue detaining him, ICE must show that it will be able to remove him in the near future. ICE is unable to meet that burden. ICE does not have a travel document to return Mr. Do to his native country of Vietnam. ICE has not made appreciable progress towards getting a travel document for 16 years. Therefore, ICE must release him. ICE may continue working to effectuate his removal, but Mr. Do is entitled to be at liberty until ICE gets a travel document. ICE also violated its own regulations and Due Process when it detained him. The Court should issue a writ of habeas corpus ordering Mr. Do's release or providing a bond hearing before an immigration judge.

JURISDICTION

2. The Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

3. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

4. Venue is proper because Petitioner is detained at the Camp East Montana detention center, which is within this District. Ex. 1 – ICE Detainee Locator. Also, Respondents are officers of the United States who reside in the district, and the detention which gave rise to the claim is ongoing in the district. 28 U.S.C. § 1391(e).

PARTIES

5. Petitioner is a native of Vietnam. He is detained at the Camp East Montana detention center under the custody and control of Respondents and their agents.

6. Respondent Warden of the Camp East Montana detention center has immediate physical custody of Petitioner pursuant to the facility's contract with ICE to detain noncitizens. The Warden is a legal custodian of Petitioner.

7. Respondent Field Office Director is head of the El Paso Field Office of ICE's office of Enforcement and Removal Operations. They are responsible for the implementation and enforcement of the Immigration and Nationality Act, and they oversee Petitioner's detention by ICE. They are a legal custodian of Petitioner.

8. Both Respondents are sued in their official capacities.

FACTS

Family Background and Career

9. Petitioner Lung "Devon" Van Do was born in Vietnam in 1975 during the Vietnam war. He and his family fled the violence of the final days of the war. In the rush to escape war-ravaged Vietnam, Mr. Do's parents did not register his birth with the Vietnamese authorities. The Vietnamese state had collapsed. Mr. Do and his family (including eight brothers and sisters) received offers to resettle in the United States as refugees. So, at just three months old, Mr. Do and his family boarded a U.S. naval ship headed for the United States. They settled in Dekalb, Illinois.

10. Mr. Do received refugee status upon arrival in the United States. He received lawful permanent residence in 1975. Ex. 2 – Permanent Resident Card; Ex. 3 – Notice to Appear.

11. Mr. Do's family struggled to survive, feeding nine children on one salary. As non-English speakers, his family mostly kept to themselves and only associated with extended family members and other refugees who fled the war. As the youngest in the family, Mr. Do received all the hand-me-downs that were at the end of their lifecycle. He felt a gap between himself and his peers in rural DeKalb county. He was short, and he was frequently picked on in school.

12. Despite his difficult social circumstances, Mr. Do excelled in school, particularly in math and science. After graduating high school he got an associate's degree in computer science from Kishwaukee College in 1996. He then continued working towards a bachelor's degree in computer science at Eastern Illinois University. But before he could complete his degree, he was lured away by a lucrative job offer by 3Com, which was then the largest modem

manufacturer in the world. He was hired as a modem technician. Since then, he has earned consistent and steady promotions in the information technology field.

13. After working at 3Com for a year, he moved to a Fortune 200 company called Valspar. Then he moved to General Growth Properties, another Fortune 200 company, as a help desk specialist. In 2004 he moved to Countrywide Home Loans where he helped a loan officer close over $122M in home loans, a record for that office.

14. Mr. Do now works as the Information Technology Manager at CGW Abrasives, a position he has held since 2022. Ex. 8 – Letter from CGW Abrasives. CGW Abrasives is a leading manufacturer of tools, especially grinding wheels, cutting wheels, flap discs, coated abrasives, and vitrified products. CGW has over 300 employees and operates around 400,000 square feet of manufacturing facilities in the United States and Israel. The company stocks over 3,000 items and ships them within 24% at a fill rate of 97%. The company conducts research and development and operates product testing labs.

15. Mr. Do is "indispensable" to CGW's operations. He resolved a critical security incident when the company's systems were compromised. He upgraded the company's systems from paper-based to electronic. The company writes that what sets Mr. Do apart is his character, "He is one of our most supportive associates—not just in IT, but across the entire company. He is always willing to lend a hand, even when the task falls outside the scope of his role. His determination and reliability have made him a trusted colleague and a central part of our workplace culture. He has been nothing short of a model employee." Ex. 8 – Letter from CGW Abrasives.

16. Mr. Do married Patricia Do, a U.S. citizen, in 2009. They had two children together who are now 15 and 16 years old. Mr. and Mrs. Do divorced in 2018, and they now share custody of their children. Mr. Do also has one child from a prior marriage.

17. Mr. Do owns his own home in Franklin Park, Illinois. He lives a simple life, going to work and raising his children. He is an excellent father and well-liked by his coworkers, family, and friends.

Immigration Proceedings

18. Shortly after marrying, the Dos wished to take a honeymoon to Mexico, but Mr. Do was unable to travel because he did not have a passport. He applied for naturalization. His application brought his criminal history to ICE's attention. He had been convicted in Illinois of four counts of retail theft and one count of burglary from 1992 to 1997, from around age 17 to 22. Ex. 3 – Notice to Appear at 3. After he began his career, such incidents did not recur.

19. However, in 2005 Mr. Do was convicted of possession of child pornography. The conviction arose from his work as a computer technician. Clients, friends, and family would often ask him to fix malfunctioning computers. He would backup the files, reformat the hard drive, reinstall the operating system, and restore the files. Some of the files he backed up for a coworker's son contained prohibited images. Mr. Do and his attorney tried to explain this to prosecutors over the course of several hearings and negotiations. He offered to provide information on the source of the files. But his attorney told him that the district attorney said it did not matter how the files got onto his computer, and if he went to trial he would likely face a minimum sentence of four years. He took a plea deal with a three-month sentence. Ex. 3 – Notice to Appear at 3.

20. Mr. Do was placed into removal proceedings October 15, 2009. Ex. 3 – Notice to Appear at 1. He was also detained by ICE.

21. Mr. Do was ordered removed by the Chicago Immigration Court on November 25, 2009. Ex. 3 – Removal Order. He did not appeal. Ex. 5 – Automated Case Information.

22. Mr. Do remained detained for nearly three additional months after his removal order was final. On February 23, 2010 he was released under an Order of Supervision, with instructions to report to ICE regularly. Ex. 6 – Release Notification; Ex. 7 – Personal Reporting Record for Order of Supervision.[1]

23. Mr. Do reported to ICE regularly, as stated on his reporting record, approximately 13 times from 2010 to 2021. Ex. 7 – Personal Reporting Record for Order of Supervision. His reporting record contains no entries after 2021 because ICE stopped in-person reporting during the COVID-19 pandemic.[2] Mr. Do reported electronically after the suspension of in-person reporting. Mr. Do last reported to ICE around six weeks ago.

24. On November 12, 2025, DHS agents showed up at Mr. Do's workplace in Niles, Illinois and detained him. He has remained detained since then. He is now detained at Camp East Montana. Ex. 1 – ICE Detainee Locator.

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[1] Regarding the date of release, the release notification is dated February 10, 2010 and contemplates his future release. Ex. 6 – Release Notification ("Prior to your release from custody, an immigration officer may verify the sponsorship or employment offers presented during your review."). The Order of Supervision dated February 23, 2010 was provided to him upon his release.

[2] ICE, "ICE Guidance on COVID-19" Sept. 22, 2020, https://iptp-production.s3.amazonaws.com/media/documents/ICE_Guidance_on_COVID-19__ICE.pdf ("Due to the COVID-19 pandemic…ICE has temporarily suspended the requirement for [Alternatives to Detention] participants to report in-person for office visits….").

25. Camp East Montana is a hastily constructed tent facility in Fort Bliss, Texas that is notorious for "foul-tasting drinking water, rotten food and inadequate healthcare."[3] The $1.2 billion contract for constructing Camp East Montana was entrusted to a mysterious company owned by a retired military officer.[4] ICE itself recently found that the facility violated at least 60 federal standards for immigration detention.[5]

26. In 2008 Vietnam and the United States signed a repatriation agreement providing that Vietnam would only accept repatriations of its citizens who arrived in the United States after July 12, 1995, the date Vietnam and the United States established diplomatic relations.[6] Since Mr. Do arrived in the U.S. two decades before 1995, he could not be repatriated under that agreement.

27. In November 2020 the U.S. and Vietnam signed a Memorandum of Understanding creating a process for the U.S. to request repatriation for pre-1995 arrivals.[7] However, Vietnam does not approve every request.

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[3] Ex. 11 – Reuters, "Migrants at Largest US Detention Camp Face Foul Water, Rotten Food, Congresswoman Says" 1, Nov. 11, 2025, https://www.reuters.com/world/us/migrants-largest-us-detention-camp-face-foul-water-rotten-food-congresswoman-2025-11-11/.

[4] Ex. 12 – The Texas Tribune, "Mystery Surrounds $1.2 Billion Army Contract to Build Huge Detention Tent Camp in Texas Desert" Aug. 28, 2025, https://www.texastribune.org/2025/08/28/texas-army-detention-tent-camp-desert-contract/.

[5] Ex. 13 – Washington Post, "60 Violations in 50 Days: Inside ICE's Giant Tent Facility at Ft. Bliss," Sept. 16, 2025.

[6] Ex. 9 – "Repatriation Agreement Between The United States of America and Vietnam" 5, Jan. 22, 2008, https://www.state.gov/wp-content/uploads/2019/02/08-322-Vietnam-Repatriations.pdf.

[7] Ex. 10 – "Memorandum of Understanding," Nov. 21, 2020, https://cdn.craft.cloud/5cd1c590-65ba-4ad2-a52c-b55e67f8f04b/assets/media/ALC-FOIA-Re-Release-MOU-bates-1-8-8-10-21.pdf.

28. ICE has been able to deport some pre-1995 arrivals. But there is no record of ICE deporting people like Mr. Do who were born during the final days of the Vietnam War, who never registered their births in Vietnam, and whom Vietnam has never acknowledged as citizens.

CLAIMS FOR RELIEF

COUNT ONE:
8 U.S.C. § 1231 AND DUE PROCESS

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

30. Mr. Do is detained under 8 U.S.C. § 1231, the post-removal order detention statute. The statute lays out a 90-day removal period when DHS "shall detain the alien" for the purpose of removal. 8 U.S.C. § 1231(a)(2)(A).

31. The removal period begins on the latest of three dates:

    (i) "The date the order of removal becomes administratively final.

    (ii) If the removal order is judicially review and if a court orders a stay of the removal of the alien, the date of the court's final order.

    (iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement."

    8 U.S.C. § 1231(a)(2)(B).

32. Thus, the removal period begins when the removal order becomes administratively final, unless it is stayed during judicial review or the noncitizen is in custody for non-immigration reasons, such as a criminal sentence.

33. Mr. Do did not seek judicial review of his removal order. Mr. Do was not in custody of any sort from his release on February 23, 2010 until his recent detention by ICE on November 12, 2025. Thus, the removal period began when his removal order became administratively final.

34. When Mr. Do was ordered removed, both he and DHS waived appeal, meaning the order became final when it was entered on November 25, 2009. Ex. 4 – Removal Order (the box under the Immigration Judge's signature states "APPEAL: Waived" and does not state any appeal due date).

35. Mr. Do's 90-day removal period began November 25, 2009 and ended February 23, 2010, the date he was released by ICE.

36. Certain inadmissible or criminal noncitizens "may be detained beyond the removal period." 8 U.S.C. § 1231(a)(6). To comply with Due Process, the Supreme Court has construed this clause as containing an implicit "reasonable time" limitation. *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001). For the sake of uniform administration of the immigration laws, the Supreme Court interpreted the statute as permitting detention for six months from the date of the removal order. *Id.* at 701. After six months, the noncitizen must be released unless there is a "significant likelihood of removal in the reasonably foreseeable future" ("SLRRFF"). *Id.* at 701.

37. Mr. Do does not contest that 8 U.S.C. § 1231(a)(6) permitted his detention beyond the 90-day removal period. However, six months after his removal order became final, the government could only detain him if it could show a SLRRFF. Thus, since May 25, 2010, his detention has only been permissible upon a showing of SLRRFF.

38. ICE chose to release Mr. Do in 2010 due to the impossibility of deporting him. But ICE vowed to continue working to obtain a travel document, "ICE will continue to make efforts to obtain your travel document that will allow the United States government to carry out your removal pursuant to your order of deportation, exclusion, or removal." Ex. 7 – Release Notification.

39. Nothing has changed since 2010. ICE still does not have a travel document for Mr. Do. On information and belief, ICE did not even try to obtain a travel document before redetaining him in 2025. ICE has violated 8 U.S.C. § 1231 and Mr. Do's Due Process rights by detaining him without first obtaining a travel document.

40. ICE is free to continue seeking a travel document that would enable Mr. Do's deportation. But ICE must obtain the travel document first before detaining him. To detain him before getting a travel document is unlawful.

41. Mr. Do asks the Court to order his immediate release.

COUNT TWO:
DUE PROCESS

42. Petitioner incorporates the foregoing paragraphs by reference.

43. Mr. Do was lawfully released from detention and lived at liberty for 15 years. During that time, he built up significant ties to the community, such as continuing to raise his children, advancing his career to the point of becoming indispensable to a large company, and buying property. Mr. Do has a protected liberty interest in remaining free from detention.

44. Under the balancing test from *Mathews v. Eldridge*, 424 U.S. 319 (1976), Mr. Do must be provided a pre-deprivation bond hearing including an individualized determination of whether he poses a flight risk or a danger to the community. *Nguyen v. Bondi*, No. 25-CV-323, 2025 WL 3120516, at *7 (W.D. Tex. Nov. 7, 2025); *Trejo v. Warden of ERO El Paso E. Montana*, No. 25-CV-401, 2025 WL 2992187, at *6 (W.D. Tex. Oct. 24, 2025).

COUNT THREE:
***ACCARDI* VIOLATION**

45. Petitioner incorporates the foregoing paragraphs by reference.

46. Agencies must abide by their own regulations. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265 (1954). This is true even when a regulation constrains how the agency exercises discretion conferred by statute. *Id.* at 266.

47. ICE violated its own regulations in several respects when it revoked Mr. Do's Order of Supervision.

48. First, Mr. Do must be informed of the reasons for revocation of his release, and he must promptly be provided an informal interview and the opportunity to respond to the reasons for his detention. 8 C.F.R. § 241.4(l)(1); 8 C.F.R. § 241.13(i)(3).

49. ICE did not inform Mr. Do of the reasons for his detention, and he was not provided an interview nor given an opportunity to respond.

50. Second, only certain government officials may revoke an Order of Supervision. The Executive Associate Commissioner of ICE is entrusted with the power to revoke an Order of Supervision. 8 C.F.R. § 241.4(l)(2). A District Director of ICE may also revoke an Order of Supervision when revocation serves the public interest and "circumstances do not reasonably permit referral of the case to the Executive Associate Commissioner." *Id.*

51. The Executive Associate Commissioner of ICE did not order the revocation of Mr. Do's release on an Order of Supervision. The District Director did not find that revocation of release is in the public interest and that referral to the Executive Associate Commissioner was impossible. Since the decision to revoke Mr. Do's release was not taken by the correct officer for the correct reasons, ICE acted unlawfully in detaining him.

52. Third, revoking an Order of Supervision is only permissible in four circumstances:

> "(i) The purposes of release have been served;
>
> (ii) The alien violates any condition of release;

(iii) It is appropriate to enforce a removal order or to commence removal proceedings against an alien; or

(iv) The conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate."

Id.

53. None of these conditions exists. Mr. Do was released so ICE could obtain a travel document, and that has not occurred. Mr. Do did not violate any condition of release. It is impossible to execute the removal order at this time. Mr. Do has not committed any act that would undermine the justification for his release, such as committing a crime.

54. None of the circumstances existed for ICE to lawfully revoke Mr. Do's Order of Supervision. Thus, the decision to revoke his release was unlawful. *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 165 (W.D.N.Y. 2025).

55. Mr. Do asks the Court to order his release under the terms of the Order of Supervision.[8]

PRAYER FOR RELIEF

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

(1) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.

(2) Declare that Petitioner's detention is unlawful under 8 U.S.C. § 1231 and the Due Process clause of the Fifth Amendment;

(3) Order Petitioner's immediate release, conduct a bond hearing, or order the government to provide a bond hearing before an immigration judge at which the government bears

[8] Even if the Court grants relief on the third count, Mr. Do still asks the Court to rule on the first two counts. A ruling based solely on the third count would leave him vulnerable to redetention. *See Santamaria Orellana v. Baker*, No. CV 25-1788, 2025 WL 2841886, at *13 (D. Md. Oct. 7, 2025) (granting a preliminary injunction in a second habeas corpus petition after ICE redetained petitioner and corrected the regulatory violations).

the burden of proving by clear and convincing evidence that he is a danger to the community or a flight risk;

(4) Grant any further relief this Court deems just and proper.

Respectfully submitted,

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Counsel for Petitioner

VERIFICATION

I am the ex-wife of Petitioner Lung Van Do. I am familiar with the facts mentioned in the complaint and I submit this verification on his behalf. He is unable to sign this verification himself due to his detention far from home in squalid conditions. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Signed under penalty of perjury this December 9, 2025.

Patricia Do

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