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**DETAINED**

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

| | |
|---|---|
| VUONG, THIEN CHI,<br><br>Petitioner,<br><br>vs.<br><br>**PATRICIA CABANILLAS**, Field Office Director, ICE/San Francisco;<br>**GREGORY JARCHOW**, Warden, Mesa Verde ICE Processing Center;<br>**ALEJANDRO MAYORKAS**, Secretary of Homeland Security;<br>**MERRICK GARLAND**, Attorney General of the United States,<br>Respondents.<br><br>Respondents. | Case No. 1:25-cv-01847-DC-CSK<br><br>PETITIONER'S REPLY IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER<br><br>DATE: December 19, 2025.<br>TIME: 9:00 a.m.<br>COURT: Hon. Dena Coggins |

## I. INTRODUCTION

Respondents' Opposition does not cure the fundamental defects this Court identified in *Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP, 2025 WL 1993771 (E.D. Cal. July 16, 2025), and *Phan v. Becerra*, No. 2:25-cv-01757-DC-JDP, 2025 WL 1993735 (E.D. Cal. July 16, 2025). Instead, Respondents concede that **there is no substantial or material difference between this case and those cases**.

That concession is dispositive.

As in *Phan* and *Hoac*, Respondents rely on speculation rather than evidence to justify continued detention, fail to establish a significant likelihood of removal in the reasonably foreseeable future, and attempt to minimize serious medical risk by recharacterizing it as a

"conditions of confinement" issue. This Court rejected those arguments in July 2025 and should do so again here.

## II. RESPONDENTS FAIL TO DISTINGUISH *PHAN* AND *HOAC* AS ORDERED BY THE COURT

The Court expressly directed Respondents to substantively address whether any provision of law or fact distinguishes this case from *Phan* and *Hoac*. Respondents do not do so. Instead, they acknowledge that the governing legal framework is materially the same.

### A. Deficiencies Identified in *Phan* and *Hoac*

In both cases, this Court granted TRO relief because the Government:

1. Failed to produce case-specific evidence of imminent removal, relying instead on generalized assertions and diplomatic references;
2. Could not identify a material change in circumstances after prior failed removal attempts;
3. Improperly relied on alleged supervision violations to justify continued detention; and
4. Minimized serious medical risk despite evidence that detention itself posed irreparable harm.

### B. The Same Deficiencies Exist Here

Each of those deficiencies is present in Vuong's case. Respondents cite the same 2020 U.S.–Vietnam MOU rejected in *Phan* and *Hoac*, offer no travel document or scheduled removal date, and provide no individualized evidence that Vietnam has agreed to accept Petitioner. Their position is materially indistinguishable from the arguments this Court has already rejected.

## III. RESPONDENTS FAIL TO ESTABLISH A SIGNIFICANT LIKELIHOOD OF REMOVAL

Under *Zadvydas v. Davis*, detention is lawful only so long as it bears a reasonable relation to removal. 533 U.S. 678, 690 (2001). Respondents do not meet that burden.

They produce no evidence of:

- a travel document,
- acceptance by Vietnam,
- a scheduled removal date, or

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- any concrete indication that removal is imminent rather than speculative.

The mere possibility of removal at some undefined point in the future is insufficient under *Zadvydas*.

## IV. RESPONDENTS FAIL TO ESTABLISH A VALID VIOLATION OF SUPERVISION

Respondents' justification for re-detention rests entirely on the allegation that Petitioner failed to report for a scheduled check-in on October 30, 2025. Critically, Respondents **produce no evidence that Petitioner was ever properly served with notice of that check-in.**

**Respondents also fail to produce any evidence that such a check-in was ever actually scheduled.** There is no appointment notice, no reporting instruction, no ICE record reflecting the scheduling of a check-in on October 30, 2025, and no proof of service by mail, in person, or otherwise. Absent evidence that a check-in was scheduled and that Petitioner was notified, Respondents cannot establish a violation of supervision at all.

There is no declaration, proof of service, written notice, or contemporaneous record demonstrating that Petitioner was informed of the alleged reporting requirement. Absent proof of notice, Respondents cannot establish a knowing or willful violation of supervision sufficient to justify re-detention.

This omission is particularly significant given Petitioner's **extraordinary history of compliance**. For nearly **fourteen years**, Petitioner consistently complied with all ICE reporting requirements, appeared for check-ins as directed, and remained available to the Government. Respondents identify no prior violations, no pattern of noncompliance, and no evidence of evasion.

The sudden detention of a long-compliant supervisee based on a **single, unproven missed appointment**, without evidence that the appointment was scheduled or that Petitioner was notified, raises serious due-process concerns and further undermines Respondents' claim that detention is necessary or justified.

Even assuming arguendo that a check-in was missed, a lone alleged lapse after fourteen years of compliance does not establish flight risk, danger to the community, or a lawful basis for prolonged detention—particularly where Respondents still fail to show a significant likelihood of removal in the reasonably foreseeable future.

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**V. RESPONDENTS' RELIANCE ON PETITIONER'S REMOTE CRIMINAL HISTORY IS MISPLACED**

Respondents reference Petitioner's criminal history in an apparent attempt to justify continued detention. That argument ignores the undisputed record of **rehabilitation and lawful conduct for more than fourteen years**.

Petitioner has not committed **any new criminal offenses**, supervision violations, or public safety infractions in over a decade. He has maintained steady compliance with ICE supervision, remained in the community, supported his family, and lived a law-abiding life.

A **clean record for fourteen years** is powerful evidence of rehabilitation. Courts routinely recognize that prolonged lawful conduct substantially diminishes any claim of danger or flight risk, particularly where the Government itself permitted release under supervision for years.

Petitioner is also a **devoted father of three United States citizen children**, all of whom rely on him emotionally and financially, and the **son of a United States military veteran** whose service to this country formed the basis for the family's migration to the United States. These ties further undermine any suggestion that Petitioner poses a danger or would evade supervision if released.

Respondents identify no recent conduct—criminal or otherwise—that would justify treating Petitioner as a risk after fourteen years of compliance and rehabilitation.

**VI. PETITIONER HAS SHOWN LIKELY IRREPARABLE HARM**

**A. Petitioner Faces a Real and Immediate Risk of Serious Injury or Death**

Petitioner submitted extensive evidence—through medical records and the declaration of his U.S.-citizen sister—that ICE custody has placed him at **grave medical risk**

His conditions include:

- Hypertension,
- Type II diabetes,
- Hyperlipidemia,
- Recurrent chest pain,
- Fluid in the lungs,
- Magnesium deficiency,
- Medication allergies and contraindications.

ICE has repeatedly relied on **nurses rather than physicians**, delayed or withheld medications, substituted prescriptions without explanation, and attempted to administer **Tylenol**

**despite contraindications**, which Petitioner refused because he knew it could be fatal given his condition.

These are not speculative harms. Petitioner has already experienced:

- Emergency hospitalization,
- Recurrent cardiac pain,
- Untreated hypertension,
- Elevated blood sugar,
- Ongoing respiratory risk.

This constitutes irreparable harm under Ninth Circuit precedent.

**B. ICE's "Adequate Care" Assertion Is Unsupported**

Respondents assert that Petitioner is receiving "adequate medical care," yet submit **no medical declaration**, no treatment plan, and no physician testimony.

By contrast, Petitioner's sister, who speaks with him **daily**, provides a detailed, contemporaneous account of missed medications, delayed responses, improper substitutions, and repeated cardiac events

A TRO exists precisely to prevent irreversible harm while legal questions are resolved. Continued detention exposes Petitioner to risks ICE has already failed to manage.

**VII. PETITIONER'S CLAIM IS PROPERLY BROUGHT UNDER §2241**

Respondents argue that medical claims belong in a civil rights action. This mischaracterizes Petitioner's request.

Petitioner does not seek improved conditions, he seeks **release because detention itself is unconstitutional** where:

1. Removal is not reasonably foreseeable, and
2. Continued custody poses a substantial risk to life and health.

The Ninth Circuit recognizes habeas jurisdiction where detention becomes unlawful due to medical risk and lack of statutory authority. This is squarely within §2241.

**VIII. PETITIONER HAS DEMONSTRATED IRREPARABLE HARM**

Petitioner has submitted unrebutted evidence of serious medical risk. His U.S.-citizen sister, who communicates with him daily, confirms that:

- Petitioner suffers from multiple chronic and acute medical conditions;

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- ICE has relied primarily on nursing staff rather than physicians;
- Medical staff attempted to administer **Tylenol**, which Petitioner refused because it is contraindicated and could cause cardiac complications or death;
- Detention places Petitioner at risk of heart attack or other fatal medical events.

Respondents submit **no medical declaration** disputing these facts.

Unlike in *Phan* or *Hoac*, the medical danger here is immediate and life-threatening. Continued detention itself, not merely conditions, creates irreparable harm warranting emergency relief.

**IX. THE REQUESTED TRO PRESERVES THE STATUS QUO**

Respondents argue the TRO would alter the status quo. That argument fails.

The legally relevant status quo is Petitioner's long-standing release under supervision following failed removal. Re-detention is the disruptive act. As this Court recognized in *Phan* and *Hoac*, a TRO restoring supervised release preserves the status quo ante litem where detention is constitutionally suspect.

**X. BALANCE OF EQUITIES AND PUBLIC INTEREST**

The balance of equities weighs heavily in Petitioner's favor. He faces serious medical risk and indefinite detention without foreseeable removal. Respondents identify no public-safety concern and no concrete harm from temporary supervised release.

The public interest favors constitutional compliance, humane treatment, and avoidance of unnecessary detention where removal is speculative, particularly for a rehabilitated individual with deep family ties to the United States.

**XI. CONCLUSION**

Respondents concede that this case is not materially different from *Phan* and *Hoac*. They fail to show a significant likelihood of removal, fail to establish that Petitioner was ever notified of or violated a scheduled check-in, and fail to rebut unrebutted evidence of serious medical risk and long-term rehabilitation.

For the same reasons this Court granted TRO relief in July 2025, Petitioner respectfully requests that the Court **grant the Motion for Temporary Restraining Order and order**

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**Petitioner's immediate release under appropriate conditions.**

Dated: **December 19, 2025**

Respectfully submitted,

/S/RobertG.Cummings
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Attorney for Petitioner

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Exhibit 1

Letter of Declaration – Key Points

December 18, 2025

I, My Ngoc Vuong, the younger sister of **Thien Chi Vuong**, I hereby attest that the following key points were compiled from my daily phone conversations with my brother concerning his mistreatment and the inadequate care of his medical conditions while in ICE custody.

**Thien's overall chronic medical conditions includes but not limited to:**

- Hypertension (high blood pressure)
- Hyperlipidemia (high cholesterol)
- Type 2 diabetes mellitus
- Chronic neck and lower back pain
- Environmental allergies (including dust, grass, wool, and other allergens)
- Blurred vision consistent with presbyopia
- Intermittent cardiac pain described as shock-like sensations
- Generalized joint pain affecting the entire body
- Recent fluid accumulation in the lungs, with risk for developing pneumonia

**Sunday, 11/16/25 - Sunday 11/23/25**

Medical staff were responsible for providing Thien's daily medications for high blood pressure, high cholesterol, allergies, type 2 diabetes, and pain, which were normally given three times a day. **Ibuprofen, which he regularly uses for ongoing back and neck pain, was not consistently provided**.

During the first few days of detention, he received the medications he brought with him. After being seen by a doctor at the ICE facility, the medications he was given looked different from his usual prescriptions. [redacted] **He states that he was not informed of any medication changes**. He reports that these substitute medications have been less effective, as he continues to experience symptoms such as hot, aching feet.

**Monday, 11/24/25**

At approximately 3:00 PM, the male nurse responsible for giving his medications initially **refused to provide them**, despite Thien reporting significant pain. He **waited about four hours** (until 7:00pm) before receiving medication, but **was given blood pressure pills instead of pain medication**. Thien recognized this because the pills matched his usual blood pressure medication. As a result, his pain was not treated and continued throughout the night.

**Tuesday, 11/25/25**

Staff decided to give him a batch of his daily medications so that he could take them himself as needed. Despite this, he still was **not provided adequate pain medication**. Approximately at **3:00 PM**, they told him they are **out of pain meds** so he **suffered the rest of the week without any pain medication**.

Thien's **blood sugar level remains high at approximately 260**, which is **dangerously high** despite taking [redacted] **causing hot, aching feet**. He suffers from **persistent neck and back pain**, with inconsistent access to ibuprofen, and cannot sleep well due to inadequate bedding. His allergy medication is ineffective, making it **hard to breathe**, while his usual Claritin-D would control symptoms.

**Friday, 11/28/25**

**At approximately 9:30 AM, an ICE officer prevented him from returning to his housing area** while other detainees were allowed back. **He informed Officers M. Long and Treadwell that he needed his routine medications, but his request was ignored.** He was **held in a "holding tank" for about 2.5 hours** despite his medical needs.

During this time, he experienced **severe neck pain without access to pain medication**. He was **not given 800 mg of ibuprofen until around 1:15 PM**, after seeing a nurse and reporting severe pain.

**Sunday, 11/30/25**

Thien has blurred vision from presbyopia and has not received his prescribed medicated eye drops (VIZZ) in detention. **He informed the facility doctor that he needs VIZZ daily, but was only given over-the-counter Visine**, making it increasingly difficult for him to see and read. He also believes inadequate diabetic medication may be worsening his vision.

Additionally, the **meals provided do not meet his dietary needs for type 2 diabetes**. He reported that many foods are high in sugar, such as pancakes with syrup, peanut butter and jelly sandwiches, hot dogs, and burritos. Even snacks offered by ICE officers, like peanut butter and jelly sandwiches, apples, or apple juice, are too sugary for his condition.

**Friday 12/5/25**

Thien stated that the **doctor will finally prescribe eye drops** to address his blurred vision; however, they will be a **substitute for the Vizz** drops he normally uses. The medication is expected to arrive by Monday, 12/8.

Thien also reported aching in his hands and feet. Medical staff indicated that he may be experiencing **side effects from** [redacted] and advised him to discontinue its use. [redacted]

[redacted]

**Monday 12/8/25**

Thien received the **new eye drop medication today, but it doesn't seem to work as well** for him. He can see up close, but his distance vision is still unclear. His previous eye drops, VIZZ, allowed him to see both near and far.

**Tuesday 12/9/25**

Thien experienced **chest pain last night**. A female staff member checked on him around 1:00 AM, which frightened him and had thought he died. Later, **an ambulance was called, and he was taken to the hospital around 8:18 AM, arriving at the ER at 8:30 AM.**

At the hospital, he was evaluated and told that:

- His bloodwork was normal
- His heart appeared normal
- His **calcium level was high**
- His **magnesium level was low**
- **Fluid was detected in his lungs**
- He also reported **body aches**

Medical staff said the lung fluid may be related to his smoking history and that he could be at **risk for pneumonia**. They **prescribed anxiety medication and ibuprofen but did not provide further treatment**, noting that results would be sent to the detention facility doctor.

Vision update: Thien reports that Pilocarpine drops allow him to see up close but take about three hours to see far distances, which is less effective than VIZZ, which works for both near and far vision within 30 minutes.

**Wednesday 12/10/25**

Thien reported that he has been given magnesium pill and anxiety medication. He stated that he experienced **heart pain again last night**; the pain comes and goes unpredictably. He noted that he received the **anxiety medication but no additional treatment**, and he does not feel the medication is helping. He does not know the name of the anxiety medication, as it is provided to him in a cup each evening. He will continue taking it as instructed.

**Thursday 12/11/25**

Thien asked for his magnesium pill in the evening, but **the nurse refused, saying none was available** and that he would need to take it in the morning. They only gave him his anxiety medication. A few days earlier, a nurse had given him **two red pills claiming they were magnesium, but later said they did not know what the pills were and had no magnesium for him and that they had not received any magnesium medication for him.**

Around 10:30 PM last night, Thien experienced heart pain again and went to the medical office, where staff noted **high blood pressure but gave no treatment. Additionally, while he was there, he had experienced the heart pain again They did not examine him or address his pain.**

This morning around 10 AM, **a doctor told him everything was fine but suggested his heart pain might be due to low magnesium.** The doctor prescribed magnesium, but Thien is unsure when he will receive it. He reports that the pain occurs 2–3 times per day, feels like a "shock" in his heart, and plans to take magnesium when it is provided to see if it helps.

**Friday 12/12/25**

Thien experienced sharp, shocking **heart pain last night lasting about 10 seconds**. He **did not receive magnesium** at that time because staff said it should be taken in the morning. This morning, he was given 400 mg of magnesium at 8:55 AM and another 400 mg at 3:00 PM, though he believes it is normally taken once daily and plans to confirm the correct dose. He is unsure if the magnesium is helping.

Thien also reported aching joints. The **facility doctor suggested he may be allergic to red-coated pills, which could be causing the pain**. His high blood pressure medication and ibuprofen will switch to non–red-coated alternatives.

**Saturday 12/13/25**

Thien reported experiencing **chest pain again three times last night**. He was administered magnesium 400 mg today at approximately 3:00 PM. Thien confirmed that magnesium is prescribed once daily; however, Thien was inadvertently **given an extra dose in error yesterday.**

**Sunday 12/14/25**

Thien experienced **heart pain twice last night and continues to have body aches**. He was given magnesium again at 3:00 PM but reports that it **has not relieved his heart pain after several days of use**. He plans to tell staff tomorrow if it continues to be ineffective.

This morning, his **blood pressure medication (Benazepril) was missed**. When he asked, a nurse said it would be given later, but he **has not received it yet**.

Thien received pneumonia and metal (possibly tetanus) vaccines around 2:00 PM today.

**Monday 12/15/25**

Thien reported that his **Benazepril prescription has not changed** and remains a red-coated pill, to which he is allergic. The **non–red-coated version is still unavailable**, so **he has been unable to take his blood pressure medication for two days**. He continues to receive an anxiety medication, even though **he has no anxiety diagnosis**.

He experienced **chest pain twice last night and twice today**. **He also has severe body aches**, and ibuprofen has not helped. **Staff advised him to take red-coated Tylenol with ibuprofen, but he cannot take it due to his allergy and high blood pressure, raising a safety concern. Staff should be aware of both his medication allergies and contraindications**.

Thien also had a high fever last night that continued into this morning, possibly as a reaction to the vaccines given yesterday.

**Tuesday 12/16/25**

Thien continues to have **body aches and had a fever** this morning, possibly from yesterday's vaccinations. At 3:00 PM, he was given magnesium and a substituted Benazepril. He could not identify the **new blood pressure medication but noted it is white and looks unusual.**

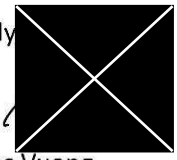
**Wednesday 12/17/25**

Thien reported that his **doctor reviewed his results and determined he has a weakened heart** from the combination of high blood pressure, diabetes, and high cholesterol. He is being referred to a **specialist for further evaluation**, including repeat blood work and thyroid testing due to **elevated thyroid levels**. At this time, there is no appointment scheduled.

He experienced **heart pain two to three times yesterday** and says the **magnesium has not helped**. Thien also stated that he has stopped taking the anxiety medication, with yesterday being the final dose, as **he does not have anxiety**.

Thank you for taking the time to review this letter.

Sincerely



My Ngoc Vuong