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Va Sang Chong

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

VA SANG CHONG,

Petitioner,

v.

Ernesto SANTACRUZ JR., Acting Director, Los Angeles Field Office, Immigration and Customs Enforcement, Enforcement and Removal Operations; Todd LYONS, Acting Director, Immigration and Customs Enforcement; Kristi NOEM, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, U.S. Attorney General; Fereti SEMAIA, Warden of Adelanto ICE Processing Center,

Respondents.

Case No.

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. §2241

PETITIONER'S DHS NO: [redacted]

INTRODUCTION

1. Petitioner, Va Sang Chong (DHS No. [redacted]5), is a 57-year-old Vietnamese national, who entered the United States as a refugee in 1975. *See* Ex. B at 3 (Notice to Appear). For five decades, Petitioner has resided in this country, having fled war-torn Vietnam as a child.

2. Since December 2, 2025, Petitioner has been unlawfully detained at the Adelanto Detention Facility. *See* Ex. A at 1 (ICE's Online Detainee Locator System Search Result). This detention constitutes a severe deprivation of liberty in direct violation of the Fifth Amendment to the U.S. Constitution, 8 U.S.C. § 1231, and the mandatory procedural requirements of 8 C.F.R. §§241.13(i)(1)-(3).

3. For more than twelve years, a period commencing on July 31, 2013 until his sudden arrest, Petitioner has been lawfully released on an Order of Supervision. *See* Ex. C at 9 (Order of Supervision). This long-standing release was based on the government's continued inability to effectuate his removal to Vietnam. However, during his recent, regularly-scheduled ICE check-in on December 2, 2025, Petitioner was detained without advance notice and without meaningful process.

4. Petitioner's re-detention is unlawful because the government cannot establish the changed circumstances necessary to revoke his release under 8 C.F.R. § 241.13(i)(2). As a pre-1995 Vietnamese national, Petitioner's removal to

Vietnam is not reasonably foreseeable in the near future. While the government may point to the 2020 U.S.-Vietnam Memorandum of Understanding (MOU) (Ex. T at 71-78) as a "change," this agreement has proven ineffective for war-displaced immigrants who lack original birth certificates or passports.

5. The 2020 MOU has been in place for five years, yet the government has still failed to produce any travel documents for Petitioner. Respondents' persistent failure to produce any such documentation corroborates the Vietnam Embassy's long-standing position that it lacks a basis to proceed with the deportation of pre-1995 nationals without specific individual documentation. Critically, Petitioner has never been issued a passport or other national identity document by any government.

6. This reality is consistent with the explicit stance taken by the Vietnamese Embassy 20 years ago. On August 31, 2005, Petitioner's previous counsel, Randy Tunac, requested travel documents to Vietnam Embassy via email. The Vietnamese Embassy promptly replied that "Deportees from the United States to Vietnam are not currently being considered for issuance of Vietnamese passports. In the absence of an agreement between the two Governments of Vietnam and the United States on deportation, the Embassy has no basis to proceed." *See* Ex. F at 24 (Prior Counsel's Email Communication with Vietnam Embassy). The current, five-year lack of documentation

demonstrates that, in practice, this position remains unchanged, establishing no imminent likelihood of removal and negating any assertion of "changed circumstances" that would justify detention.

7. Even assuming changed circumstances, Respondents ignored the mandatory procedural requirements under 8 C.F.R. § 241.13(i)(3). Petitioner was denied pre-detention notice or evidence of any supervision violations, a meaningful interview or opportunity to respond to the reasons for revocation, and a formal revocation custody review or an individualized determination that re-detention was necessary. This "arrest-first, justify-later" approach is a total abdication of the due process required by federal regulations and the Fifth Amendment.

8. Because removal is not reasonably foreseeable, Petitioner's detention is effectively indefinite. Such confinement serves no legitimate regulatory purpose and instead functions as an impermissible punishment, violating both substantive and procedural due process under the Fifth Amendment.

9. Accordingly, Petitioner seeks immediate release from custody and restoration of his Order of Supervision.

REQUIREMENTS OF 28 U.S.C. § 2243

10. Pursuant to 28 U.S.C. § 2243, this Court is required to grant the instant petition for a writ of habeas corpus or issue an order to show cause

("OSC") unless Petitioner is not entitled to relief. If an OSC is issued, Respondents must file a return forthwith and in any event within three days, or such additional time not exceeding 20 days as the Court may allow for good cause shown.

JURISDICTION

11. Petitioner is in the physical custody of Respondents. Petitioner is presently detained at the Adelanto Detention Facility in Adelanto, California. *See* Ex. A at 1 (ICE's Online Detainee Locator System Search Result).

12. This Court has jurisdiction under 28 U.S.C. § 2241(c) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

13. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

14. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Central District of California, the judicial district in which Petitioner currently is detained.

15. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Central District of California.

PARTIES

16. Petitioner is a citizen of Vietnam who has been in immigration detention since December 2, 2025. Petitioner was arrested during his regular ICE check-in.

17. Respondent, Ernesto Santacruz Jr., is the Acting Director of the Los Angeles Field Office of ICE ERO. As such, Ernesto Santacruz Jr. is the Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

18. Respondent, Todd Lyons, is the Acting Director of ICE, a federal law enforcement agency within the DHS. ICE's responsibilities include operating the immigration detention system. In his capacity as ICE Acting Director, Respondent, Todd Lyons, exercises control over and is a custodian of persons held at ICE facilities nationally. He is Petitioner's immediate custodian and is responsible for Petitioner's detention. At all times relevant to this petition, Respondent, Todd Lyons, was acting within the scope and course of his employment with ICE. He is sued in his official capacity.

19. Respondent, Kristi Noem, is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

20. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

21. Respondent, Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

22. Respondent, Fereti Semaia, is the Warden of the Adelanto Detention Facility, Adelanto, California, where Petitioner is retained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

LEGAL FRAMEWORK

23. Detention, release, and removal of non-citizens ordered removed is governed by 8 U.S.C. § 1231(a), which requires removal within 90 days of the final removal order (the "removal period"). The 90-day removal period is extended, and the non-citizen may remain detained, if the non-citizen fails or

refuses to make timely application in good faith for travel or other documents necessary to the non-citizen's departure. 8 U.S.C. §§ 1231(a)(1)(A), (C). Once that period expires and the non-citizen is not removed, the non-citizen shall be subject to supervision under regulations prescribed by the Attorney General. 8 U.S.C. §1231(a)(3).

24. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held that a non-citizen may be detained only for a period reasonably necessary to bring about their removal, presumptively six months. *Id.* at 689, 701. After that point, if the non-citizen shows good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the government must either rebut that showing or release the non-citizen. *Id.* at 701.

25. Sections 241.4 and 241.13 of 8 C.F.R. govern the release of non-citizens pursuant to 8 U.S.C. § 1231(a). 8 C.F.R. § 241.4 provides procedures for continued detention of individuals under final removal orders. 8 C.F.R. § 241.13 implements *Zadvydas* by establishing procedures to determine whether there is a significant likelihood of removing a detained alien in the reasonably foreseeable future.

26. 8 C.F.R. § 241.13(b)(1) clarifies the relationship between these sections: Section 241.4 governs the detention of non-citizens under a final order of removal unless the government has made the specific determination that there

is no significant likelihood of removal in the reasonably foreseeable future, in which case section 241.13 governs.

27. Petitioner's 2013 Order of Supervision stated that release was granted because "ICE has not effected your deportation or removal during the period prescribed by law." This indicates the government determined there was no significant likelihood of removal in the reasonably foreseeable future. Accordingly, 8 C.F.R. § 241.13 governs Petitioner's release and any revocation thereof. *See* Ex. C at 9 (Order of Supervision).

28. Under 8 C.F.R. §§ 241.13(i)(1) and (2), release may be revoked only if (1) the non-citizen violates the conditions of release, or (2) on account of changed circumstances, the government determines there is a significant likelihood that the non-citizen may be removed in the reasonably foreseeable future.

29. Both conditions require mandatory procedural protections. Upon revocation of release, 8 C.F.R. § 241.13(i)(3) requires that (1) the non-citizen shall be notified of the reasons for revocation of his or her release; and (2) the non-citizen shall be given an initial informal interview promptly after return to custody to afford the non-citizen an opportunity to respond to the reasons for revocation stated in the notification.

30. Under 8 C.F.R. § 241.13(i)(2), if release under this section is revoked based on changed circumstances and a determination that there is a significant likelihood of removal in the reasonably foreseeable future, the non-citizen is returned to post-order detention status and becomes subject to the regular post-order custody review procedures applicable under the regulations.

31. This Court may take judicial notice that, on November 20, 2020, the United States and Vietnam signed the 2020 MOU (Ex. T at 71-78) establishing a process for requesting travel documents for Vietnamese nationals, and that the MOU states that Vietnam will process requests on a case-by-case basis and intends to respond within 30 days. *Lam Dat Quan v. Mark Bowen*, Order Granting Preliminary Injunction (Nov. 14, 2025), C.D. Cal. Case No. 5:25-cv-02546-HDV-PVC, at 7-9 (hereinafter *Quan Order*); Ex. S at 65 (*Quan Order*).

32. This Court may take judicial notice of the *Quan Order*, which explains the practical obstacles pre-1995 Vietnamese immigrants face in complying with the 2020 MOU document requirements. The *Quan Order* (Ex. S at 65) describes the 2020 MOU's document requirements (a Vietnamese birth certificate, a completed passport application and biography form, and two passport photos) and quotes the declaration of expert, Dr. Thao Ha, who explains that pre-1995 immigrants often cannot obtain them due to war displacements or linguistic barriers, with the process taking 3-6 months. *Quan Order* at 8.

33. The Court may further take judicial notice that this Court previously noted in the *Quan Order* (Ex. S at 65) that Dr. Ha described how the process is even more difficult, uncertain, and protracted for individuals in immigration custody. Dr. Ha pointed to reports produced in connection with the *Trinh v. Homan*, 466 F.Supp. 3d 1077, 1083 (C.D. Cal. 2020) litigation between December 2021 and September 2023, which show that 26 pre-1995 Vietnamese nationals with final orders of removal were detained for prolonged periods – between 47 and 529 days, with an average of 160.5 – while awaiting travel documents. *Quan Order* at 8.

34. This Court may further take judicial notice of the findings and reasoning in *Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP, 2025 LX 206685 at 12 (E.D. Cal. July 16, 2025) and *Nguyen v. Hyde*, 788 F. Supp. 3d 144, 151 (D. Mass. 2025), in which those courts held that 2020 MOU did not establish changed circumstances or significant likelihood of removal under *Zadvydas*.

35. Pursuant to Fed. R. Evid. 201 and *Castillo-Villagra v. INS*, 972 F.2d 1017, 1027 (9th Cir. 1992), this Court may take judicial notice of these adjudicative facts. Respondents shall have adequate notice and opportunity to respond.

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FACTS

36. Petitioner was born on [redacted] in Saigon, Vietnam. Petitioner was admitted to the United States on August 31, 1975 as a refugee. Petitioner adjusted his status to that of a lawful permanent resident. *See* Ex. B at 3 (Notice to Appear; Notice of Custody Determination; Warrant for Arrest of Alien).

37. Petitioner has resided in the United States for approximately 50 years and has built a productive life in this country.

38. In addition to other convictions, in 1995, Petitioner was convicted of an assault with a deadly weapon other than a firearm in violation of Cal. Penal Code § 245(a)(1). For this offense, Petitioner was sentenced to three years' probation and one year in jail. *See* Ex. D at 16 (California Criminal History Information).

39. Based on this conviction, on November 14, 2001, DHS issued a Notice to Appear (NTA), charging Petitioner as deportable as a lawful permanent resident under section 237(a)(2)(A)(iii) of the Immigration and Nationality Act (INA), codified at 8 U.S.C. § 1227(a)(2)(A)(iii). *See* Ex. B at 3 (NTA; Notice of Custody Determination; Warrant for Arrest of Alien).

40. On November 14, 2001, as stated in the Notice of Custody Determination, DHS determined that, pending a final determination by the

immigration judge, and in the event Petitioner was ordered removed from the United States, Petitioner shall remain in government custody until his departure is effected. *See* Ex. B at 6 (Notice to Appear, Notice of Custody Determination, Warrant for Arrest of Alien).

41. Later, on June 29, 2005, NTA, Notice of Custody Determination, and Warrant for Arrest of Alien were served with Petitioner. *See* Ex. B at 4 (Notice to Appear; Notice of Custody Determination; Warrant for Arrest of Alien).

42. On June 29, 2005, Petitioner requested redetermination of custody by an immigration judge, and on the same date, DHS served Warrant for Arrest of Alien with Petitioner. *See* Ex. B at 5-7 (Notice to Appear; Notice of Custody Determination; Warrant for Arrest of Alien).

43. On July 6, 2005, Petitioner was released from Eloy Detention Center on $12,000 immigration bond. *See* Ex. G at 26-27 (Immigration Bond).

44. On August 31, 2005, Petitioner's then-counsel emailed to Vietnam Embassy asking the Embassy to issue a passport or travel documents for Petitioner. On the very same day, Vietnam Embassy replied that "Deportees from the United States to Vietnam are not currently being considered for issuance of Vietnamese passports. In the absence of an agreement between the two Governments of Vietnam and the United States on deportation, the Embassy has

no basis to proceed." *See* Ex. F at 24 (Prior Counsel's Email Communication with Vietnam Embassy).

45. In or about September 2005, Petitioner, through counsel, filed I-589 Application for Asylum and for Withholding of Removal with the United States Citizenship and Immigration Services.

46. In 2006, Petitioner's former spouse filed Form I-130 Petition for Alien Relative, and after I-130 approval, Petitioner filed Form I-485 Application to Register Permanent Residence or Adjust Status. I-485 was later denied.

47. On December 8, 2009, an immigration judge (IJ) denied all applications for relief and ordered Petitioner removed from the United States.

48. On December 14, 2009, Petitioner filed a Notice of Appeal from a Decision of an Immigration Judge with the Board of Immigration Appeals (BIA).

49. On October 19, 2011, the BIA dismissed Petitioner's appeal affirming the IJ's decision.

50. On May 3, 2013, the $12,000 immigration bond posted on July 6, 2005 was canceled as DHS found that the conditions of the immigration bond were satisfied. *See* Ex. H at 37-39 (Immigration Bond Cancellation Notice).

51. On May 3, 2013, DHS issued Petitioner Warning for Failure to Depart, instructing him to surrender all passports (current and expired) to ICE. Petitioner has never been issued a passport by any government. In addition, DHS

Form I-217 Information for Travel Document or Passport was issued. *See* Ex. E at 21-23 (Warning for Failure to Depart; Instruction Sheet to Detainee Regarding Requirement to Assist in Removal; Form I-217 Information for Travel Document or Passport).

52. On or about August 2, 2013, pursuant to Order of Supervision (Ex. C at 9), Petitioner was released under supervision because ICE had not effected his deportation or removal during the statutorily prescribed period. The Order of Supervision imposed several conditions on Petitioner's release, including requirements to report to ICE as directed.

53. Petitioner has never been issued a passport by any government entity. The absence of travel documents further underscores the legal and practical impossibility of Petitioner's removal in the reasonably foreseeable future, as there is no evidence that a travel document can or will be issued by the destination country.

54. After his release on supervision in 2013, Petitioner was convicted of a misdemeanor violation of California Penal Code § 273.5(a) (corporal injury on a spouse/cohabitant) in 2014. *See* Ex. D at 18 (California Criminal History Information). However, Petitioner has committed no other violations of law or supervision for more than a decade. This ten-year period of sustained compliance

and good conduct strongly demonstrates Petitioner's successful rehabilitation, lack of flight risk, and that he is not a danger to the community.

55. On December 2, 2025, Petitioner attended a regularly scheduled ICE check-in as required under his Order of Supervision. Petitioner had no prior notice that ICE intended to revoke his release, detain him, or change his status.

56. Without explanation, Petitioner was detained during that check-in and has remained in immigration custody at Adelanto Detention Facility since December 2, 2025. Petitioner was given no opportunity to respond to any allegations or reasons for detention prior to his custody change.

57. Upon information and belief, Respondents have failed to provide Petitioner with any notice of the procedural protections mandated by 8 C.F.R. § 241.13(i). Specifically, Petitioner has received no written notice of the reasons for his revocation, no disclosure of evidence regarding alleged violations, and no opportunity for the required informal interview to respond to such allegations. This total absence of notice and a meaningful opportunity to be heard constitutes a clear violation of Petitioner's procedural due process rights.

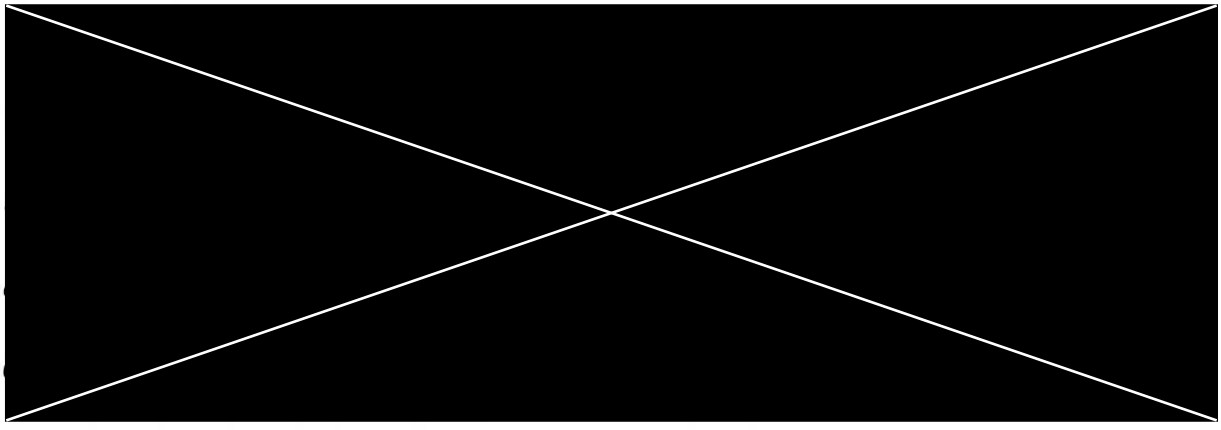
58. Petitioner has been in custody at least for 22 days without being afforded a meaningful opportunity to respond to the reasons for revocation of his release or to present evidence demonstrating that removal to Vietnam is not reasonably foreseeable.

59. Petitioner has strong family ties in the United States, including three (3) United States-born children: Joey Seanon Chong, born on [redacted], Shannie Sean Chong, born on [redacted]; and Coby Seanon Chong, born on [redacted]. *See* Ex. J at 41-43 (Birth Certificates of Petitioner's United States Citizen Children).

60. Petitioner also has five (5) United States citizen siblings: Ms. Kiu Chan Chong (DOB: [redacted]), Ms. May Chong (DOB: [redacted]), Mr. Tommy Ha Chong (DOB: [redacted]), Mr. Cun Sau Chong (DOB: [redacted]), and Mr. Andy Mark Chong (DOB: [redacted]).

61. Petitioner's deep-rooted community and family ties are evidenced by the declarations of his United States citizen siblings. These declarations uniformly affirm that Petitioner is an indispensable part of their family unit, providing vital emotional and practical support to his relatives. Also, the siblings detail the emotional and physical toll Petitioner's detention has exacted upon the family, specifically highlighting their grave concerns regarding his precipitous health decline while in custody. This extensive family support network serves as a powerful guarantee that Petitioner is neither a flight risk nor a danger to the community. *See* Ex. K at 44-45 (Declaration & U.S. Passport of Petitioner's Brother, Cun Sau Chong); Ex. L at 46-47 (Declaration & U.S. Passport of Petitioner's Brother, Tommy Ha Chong); Ex. M at 48-49 (Declaration & U.S.

Passport of Petitioner's Brother, Carl (Cau) Chong); Ex. N at 50-51 (Declaration & U.S. Passport of Andy Chong); Ex. O at 52-53 (Declaration & U.S. Passport of Petitioner's Sister, Chan Kiu Chong); Ex. P at 54-55 (Declaration & U.S. Passport of Petitioner's Sister, May Chong).



63. Upon information and belief, Petitioner has been continually employed as a truck driver at Intermodal West, Inc. and other companies. Petitioner has a commercial driver license. *See* Ex. I at 40 (Petitioner's Commercial Driver License).

64. Petitioner has timely filed his income tax returns, demonstrating a long-standing pattern of adherence to U.S. laws, his integration into the economic fabric of his community and his stable and verifiable life in the United States.

65. Petitioner's good moral character and professional reliability are further corroborated by a declaration from his former colleague, Mr. Bobby Chang of World Logistics US Inc. *See* Ex. R at 57 (Declaration of Petitioner's Co-Worker, Bobby Chong). Mr. Chang's testimony confirms Petitioner's history

of steady employment and diligent work ethic, further demonstrating that Petitioner possesses the stable economic ties and professional support network necessary to ensure his continued compliance with all conditions of supervision upon release.

66. Petitioner has resided continuously in the United States for over five decades. His sole departure occurred in 1993, when he traveled to Vietnam for a brief two-week duration pursuant to a validly issued Reentry Permit. Aside from this isolated visit thirty-two years ago, Petitioner has remained in the United States, where all of his familial, social, and economic ties are exclusively located.

CLAIMS FOR RELIEF

COUNT I

Violation of 8 C.F.R. §241.13

67. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

68. Under 8 C.F.R. § 241.13(i)(2), the government's authority to revoke a non-citizen's release is strictly contingent upon a dual finding: (1) a change in circumstances, and (2) a determination that there is a significant likelihood of removal in the reasonably foreseeable future. Respondents have failed to establish either prong.

69. For over 12 years, from his 2013 release on Order of Supervision until his re-detention in December 2025, Petitioner consistently appeared for his regularly scheduled ICE check-ins, maintained a stable, verifiable residence, and complied with other conditions of supervision. With the sole exception of a 2014 misdemeanor conviction for violating Cal. Penal Code § 273.5(a), Petitioner has committed no other criminal violations or breaches of supervision for more than a decade. *See* Ex. D at 18 (California Criminal History Information). This decade-long history of law-abiding behavior and full compliance with the U.S. government oversight directly demonstrates Petitioner's successful rehabilitation, strong community ties, and current lack of flight risk or danger to the public.

70. Respondents cannot meet their burden under *Zadvydas v. Davis*, 533 U.S. 678 (2001), to demonstrate that Petitioner's removal to Vietnam is "significantly likely" in the "reasonably foreseeable future" for the following reasons: (1) As a pre-1995 Vietnamese national, Petitioner falls into a category where the Vietnamese government retains absolute discretion to refuse repatriation on a case-by-case basis; (2) The Vietnamese Embassy previously denied Petitioner's travel document request in 2005. Respondents have provided no evidence that the factors leading to that denial have changed; (3) Respondents have offered no individualized assessment, no updated travel document, and no diplomatic communication from the Vietnamese government indicating that a

travel document for Petitioner is forthcoming; (4) Historical data indicates that even when travel documents are eventually issued for this class of nationals, the process typically exceeds the "reasonably foreseeable" window established by the Supreme Court.

71. Petitioner has never been issued a passport by any government, and despite being under supervision for over 12 years, DHS has failed to obtain any alternative travel document or certificate of identity from the Vietnamese government. Without a valid passport or an enforceable travel document, there is no significant likelihood of removal in the reasonably foreseeable future, rendering Petitioner's continued detention unauthorized under 8 U.S.C. § 1231(a)(6).

72. Petitioner has made a prima facie showing that removal is not likely. Under the *Zadvydas* framework, the burden has shifted to Respondents to provide "adequate, specific, and individualized" evidence to the contrary. General references to the 2020 MOU or hypothetical diplomatic progress are insufficient as a matter of law to justify Petitioner's continued deprivation of liberty. *Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP, 2025 LX 206685 at 12 (E.D. Cal. July 16, 2025); *Nguyen v. Hyde*, 788 F.Supp. 3d 144, 151 (D. Mass. 2025).

73. Because there is no significant likelihood of removal in the reasonably foreseeable future, Petitioner's continued detention is not authorized by 8 U.S.C. § 1231(a)(6) as interpreted by *Zadvydas*.

COUNT II

Violation of 8 C.F.R. § 241.13(i)(3)

74. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

75. Even assuming arguendo that changed circumstances exist, Respondents violated the mandatory procedural requirements for revoking Petitioner's release, rendering his re-detention unlawful.

76. Under 8 C.F.R. § 241.13(i)(3), upon revocation of release, the non-citizen "shall be notified of the reasons for revocation of his or her release."

77. Upon information and belief, Petitioner has received no notice whatsoever regarding the revocation of his release.

78. Petitioner was entitled to specific notice of reasons – for example, whether the alleged reason was: (1) a violation of a condition of release; (2) changed circumstances rendering removal foreseeable; (3) conduct indicating release is no longer appropriate; or (4) some other specified basis under 8 C.F.R. § 241.13(i)(3)(1)-(2).

79. Under § 241.13(i)(3), a non-citizen "shall be given an initial informal interview promptly after his or her return to custody to afford the non-citizen an opportunity to respond to the reasons for revocation stated in the notification."

80. Respondents' failure to provide the mandatory procedural safeguards required by 8 C.F.R. § 241.13(i)(3) has directly resulted in a violation of Petitioner's Fifth Amendment right to procedural due process. By denying Petitioner both a formal notice of the specific reasons for his revocation and the required initial informal interview, Respondents have stripped him of any meaningful opportunity to contest the government's assertion of "changed circumstances." Consequently, Petitioner has been prevented from presenting evidence, such as his record of compliance and the ongoing lack of travel documents, that would demonstrate his removal is not reasonably foreseeable. This administrative non-compliance renders his continued, indefinite detention arbitrary and unlawful.

81. These procedural failures are in clear violation of 8 C.F.R. §241.13(i)(3). An increasing number of courts, including courts within this Circuit, have found that governmental failure to follow release revocation procedures renders the re-detention unlawful and requires release. See *Delkash v. Noem,* No. 5:25-cv-01675-HDV-AGR, 2025 LX 476523 at 15 (C.D. Cal. Aug. 28, 2025); *Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP, 2025 LX 206685 at 15

(E.D. Cal. July 16, 2025); *Qvoc Bui v. Warden of the Otay Mesa Det. Facility,* No. 25-cv-2111-JES-DEB, 2025 LX 425393 at 11 (S.D. Cal. Oct. 23, 2025).

82. These procedural failures violate Petitioner's Fifth Amendment right to due process. *See Nam Su Hoang v. Cruz*, No. EDCV 25-2766 JGB (JCx), 2025 LX 466860 at 9-10 (C.D. Cal. Oct. 28, 2025); *Qvoc Bui v. Warden of the Otay Mesa Det. Facility,* No. 25-cv-2111-JES-DEB, 2025 LX 425393 at 6-7 (S.D. Cal. Oct. 23, 2025).

83. For these reasons, Petitioner's re-detention is unlawful, and he is entitled to immediate release and restoration of his Order of Supervision.

COUNT III

Fifth Amendment Violation

84. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

85. Petitioner's detention, absent any significant likelihood of removal in the reasonably foreseeable future, violates substantive due process under the Fifth Amendment because it is not reasonably related to a legitimate government purpose. Petitioner has a documented history of non-removability; his travel document request was denied by the Vietnamese government as early as 2005, and there is no evidence that this status has changed. Petitioner has never been issued a passport by any government.

86. Despite this, Petitioner has lived under supervision for over 12 years with deep community ties. His sudden re-detention in 2025, pending a travel document request which appears to have failed, constitutes the very type of indefinite detention prohibited by *Zadvydas v. David.*

87. Because his removal is not practically attainable, this incarceration "shocks the conscience" and serves no valid regulatory interest.

88. As a civil detainee, Petitioner's right to due process under the Fifth Amendment prohibits the government from subjecting him to conditions that amount to punishment. Petitioner is currently held at the Adelanto Detention Facility under conditions that are objectively unreasonable and punitive, including overcrowding, inadequate medical care, and insufficient nutrition.

89. Respondents' interest in detaining Petitioner, an integrated community member with strong family ties, is minimal and cannot justify prolonged detention absent any lawful basis.

90. For these reasons, Petitioner's detention is unconstitutional and unlawful, and Petitioner is entitled to immediate release.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred outside the Central District of California while this habeas petition is pending;

c. Issue an Order to Show Cause ordering Respondents to show cause within three days why this Petition should not be granted; and ordering Respondents to file a return to this petition within three days of service, or such additional time not exceeding 20 days as the Court may allow for good cause shown;

d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner from custody immediately;

e. Order Respondents to restore Petitioner to his Order of Supervision with appropriate terms and conditions;

f. Enjoin Respondents from removing, deporting, or threatening to remove or deport Petitioner pending resolution of this habeas corpus action and any subsequent appeal;

g. Waive the bond requirement under Fed. R. Civ. P. 65(c) because Respondents will not suffer harm from restoration of Petitioner's lawful supervised status, and requiring a bond would violate Petitioner's constitutional rights to liberty;

h. Hold an expedited hearing on this petition given the urgency of Petitioner's circumstances and the imminent risk of unlawful removal;

i. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

j. Grant any other and further relief that this Court deems just and proper.

DATED: December 22, 2025

Respectfully submitted,

/s/Gita B. Kapur
Gita B. Kapur
Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 22, 2025, I served a copy of this Petition for Writ of Habeas Corpus by email to the following individual:

David M. Harris
Chief of the Civil Division
U.S. Attorney's Office
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