UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

XUAN HIEU PHAM,

Petitioner,

v.

KEVIN RAYCRAFT, Acting Detroit Field Office Director for U.S. Immigration and Customs Enforcement, in his official capacity; TODD LYONS, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity; and KRISTI NOEM, Secretary of the U.S. Department of Homeland Security, in her official capacity,

Respondents.

Case No. 1:26-cv-00941

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. Petitioner Xuan Hieu Pham ("Petitioner" or "Mr. Pham"), a citizen and national of Vietnam, is unlawfully detained in the physical and legal custody of Respondents at the North Lake Processing Center in Baldwin, Michigan. Petitioner was initially admitted into the United Sates on July 18, 2022, as a B1 nonimmigrant. **[Exhibit 1 – B1 Nonimmigrant Visa]** He overstayed his visa.

2. In 2024, the Petitioner, who resides in Michigan, took the wrong exit off the highway and ended up on the Ambassador Bridge to Canada. He turned himself in to U.S. Customs and Border Protection ("CBP"). He was issued a Notice to Appear in immigration court. **[Exhibit 2 – Notice to Appear]** He was further ordered to report to U.S. Immigration and Customs Enforcement ("ICE"), Enforcement and Removal Operations ("ERO") on January 30, 2024.

3. When the Petitioner attended his report date, he was released under an Order of Supervision.

4. From January 30, 2024, until the date of his arrest and detention at his ICE check-in on December 5, 2025, to his knowledge, the Petitioner fully complied with all of the Respondents' requirements., including his participation in SMARTLINK.

5. The Petitioner married his partner, who is a citizen of the United States, in February of 2024. In addition to his U.S. citizen wife, he also has two (2) U.S. citizen stepchildren.

6. On December 5, 2025, the Petitioner reported for his regular check-in the date and was immediately taken into custody by ICE ERO, ostensibly for having "multiple ATD violations." The Petitioner was never provided with any information or a written list of the alleged violations, nor was he given an opportunity to respond to them as required by law.

7. Petitioner was transferred by the Respondents to the North Lake Processing Center, which ICE, an agency within the U.S. Department of Homeland Security ("DHS"), operates through a contract with The GEO Group, Inc., a company which operates private, for-profit prisons.

8. Respondents did a custody redetermination and ordered the Petitioner to be held until removal.

9. The Petitioner retained an immigration attorney to file a bond redetermination motion which was denied by Immigration Judge ("IJ") Ian Simons on the basis that he is purportedly a flight risk in which the burden was on the Petitioner, not the government to prove that he was not a flight risk. No explanation was given as to why the court thought the Petitioner to be a flight risk in the order denying bond. **[Exhibit 3 – IJ Order Denying Bond]**

10. The Petitioner is seeking adjustment of status (lawful permanent residence) based on his *bona fide* marriage to a U.S. citizen, who has filed an I-130, Petition for Alien Relative on his behalf. **[Exhibit 4 – I-130 Receipt Notice]**

11. Respondents do not contend that the Petitioner is an arriving alien. **[Exhibit 2]**

12. Petitioner has, to his knowledge, complied with everything required of him by the Government since his initial entry into the United States. However, as explained below, Respondents claim that he had, "multiple ATD violations." **[Exhibit 6 – I-213]** The Petitioner does not know what they are, because he was never given any notice, opportunity to respond and no information about exactly what his violations. Nor were violations actually specified or documented in the I-213. This violates the applicable federal regulations.

13. The *Accardi* doctrine stands for the unremarkable proposition that federal agencies are supposed to follow their own regulations, and arises from a 1954 Supreme Court decision. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 74 S.Ct. 499, 98 L.Ed. 681 (1954) (vacating a deportation order because it was issued without procedures that conformed to the relevant agency regulations).

14. The *Accardi* doctrine has come to stand for the proposition that agencies may not violate their own rules and regulations to the prejudice of others." *Battle v. FAA*, 393 F.3d 1330, 1336 (D.C. Cir. 2005); *see also Steenholdt v. FAA*, 314 F.3d 633, 639 (D.C. Cir. 2003) (holding that "[t]he *Accardi* doctrine requires federal agencies to follow their own rules, even gratuitous procedural rules that limit otherwise discretionary actions."); *Wilkinson v. Legal Servs. Corp.*, 27 F.Supp.2d 32, 34 n.3 (D.D.C. 1998) (citing *Accardi* and stating that "government agencies are bound to follow their own rules, even self-imposed procedural rules that limit otherwise discretionary decisions"); *Vanover v. Hantman*, 77 F.Supp.2d 91, 103 (D.D.C. 1999), aff'd, 38 F. App'x 4 (D.C. Cir. 2002) (judicial review under *Accardi* available for "claims that an agency has acted in violation of its own binding procedures where those procedures are promulgated for the

protection of individuals, even where the procedures were not issued as formal regulations"); *see also Jefferson v. Harris*, 285 F.Supp.3d 173, 185 (D.D.C. 2018).

15. It is unclear at the moment why Respondents have subjected the Petitioner to detention; however, in any case, Respondents' detention of Petitioner is unlawful without first according him due process of law with regard to revoking his order of supervision.

16. Respondents have detained Petitioner based not on his personal circumstances or individualized facts but because of Respondents' incorrect categorical determination that, the Fifth Amendment notwithstanding, noncitizens are not entitled to due process of law.[1]

17. But Respondents cannot evade the law so easily. The U.S. Constitution requires the Respondents provide the Petitioner with due process of law.

18. Due process requires that, prior to redetention on an order of supervision, the detainee must be given notice and an opportunity to respond. *See, e.g., Mbonga v. Raycraft*, 809 F. Supp. 3d 762 (N.D. Ohio 2025) Instead, Respondents have redetained the Petitioner and he has no idea why.

19. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant petition for a writ of habeas corpus. Petitioner asks this Court: (a) to find that Respondents' attempts to detain and transfer Petitioner are arbitrary and capricious and in violation of the law; (b) to immediately issue an order preventing Petitioner's transfer out of this district; and (c) to order either a bond hearing before an immigration judge in which the **government** bears the burden of flight risk or risk to public safety by **clear and convincing evidence** or to order the

[1] *See, e.g.,* NBC News, Meet the Press interview of President Donald Trump (May 4, 2025), https://www.nbcnews.com/politics/trump-administration/read-full-transcript-president-donald-trump-interviewed-meet-press-mod-rcna203514 (in response to a question whether noncitizens deserve due process under the Fifth Amendment, President Trump replied "I don't know. It seems—it might say that, but if you're talking about that, then we'd have to have a million or 2 million or 3 million trials.").

Respondent's immediate release from detention, or, in the alternative, to show cause in writing within three (3) days why the writ of habeas corpus and other relief requested in the petition should not be granted.

JURISDICTION AND VENUE

20. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.

21. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), the INA, 8 U.S.C. §§ 1101–1537, regulations implementing the INA, the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701–706, and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

22. 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., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

23. The federal government has waived its sovereign immunity and permitted judicial review of agency action under 5 U.S.C. § 702. In addition, sovereign immunity does not bar claims against federal officials that seek to prevent violations of federal law (rather than provide monetary relief).

24. Venue is proper because Petitioner is detained in Respondents' custody at the North Lake Processing Center in Baldwin, Michigan. The federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness or constitutionality of their immigration detention. *See, e.g.*, *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

25. Venue is further proper 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 Western District of Michigan.

26. 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 Western District of Michigan, the judicial district in which the Petitioner is currently detained.

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

27. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

28. There is no statutory exhaustion requirement in 28 U.S.C § 2241. In the absence of a statutory exhaustion requirement, "prudential" exhaustion may be judicially required. *Island Creek Coal Co. v. Bryan*, 937 F.3d 738, 746 (6th Cir. 2019). Whether or not to require prudential exhaustion falls within this Honorable Court's sound judicial discretion, provided that such discretionary requirement complies with statutory schemes and the intent of Congress. *See Shearson v. Holder*, 725 F.3d 588, 593-594 (6th Cir. 2013) (internal citation/quotation omitted).

29. The United States Court of Appeals for the Sixth Circuit has not yet issued a precedential decision as to whether courts or not should impose administrative exhaustion in the context of a noncitizen's habeas petition for unlawful mandatory detention. *See, e.g., Jose O. Puerto-Hernandez v. Robert Lynch, et al.*, No. 25-1097, 2025 WL 3012033 (W.D. Mich. Oct. 28, 2025) (internal citations omitted).

30. Moreover, the fundamental question presented by this petition is whether due process requires notice and opportunity to respond prior to the redetention of a noncitizen previously released under an order of supervision. There is no dispute that such notice was not provided here.

31. Finally, the Petitioner's constitutional challenge to his detention does not require exhaustion. The Sixth Circuit has noted that due process challenges, such as the one raised by Petitioner here, generally do not require exhaustion because the BIA cannot review constitutional challenges. *See Sterkaj v. Gonzalez*, 439 F.3d 273, 279 (6th Cir. 2006).

32. Thus, requiring prudential exhaustion is a futile exercise, and will only result in the extended, unlawful detention of the Petitioner.

33. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

34. Petitioner is "in custody" for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

PARTIES

35. Petitioner Xuan Hieu Pham, a 43-year-old citizen of Vietnam, was lawfully admitted to the United States on a B-1 visa on July 18, 2022. Petitioner has a pending Form I-130, Petition for Alien Relative, filed on his behalf. Petitioner has been in immigration detention since December 5, 2025. Petitioner is present within the Western District of Michigan as of the time of filing this petition, as he is currently detained at the North Lake Processing Center in Baldwin, Michigan.

36. Respondent Kevin Raycraft is the Acting Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division, a component of the Department of Homeland Security. As such, he is Petitioner's immediate custodian for purposes of habeas and is responsible for Petitioner's detention and removal. *See Roman v. Ashcroft*, 340 F.3d 314 (6th Cir. 2003). He is sued in his official capacity.

37. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement, the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens, and a component agency of the Department of Homeland Security. He is sued in his official capacity.

38. 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.

LEGAL FRAMEWORK

FACTUAL BACKGROUND

39. Mr. Pham is a citizen of Vietnam who was living in Czechoslovakia for a number of years. He lawfully entered the United States on July 18, 2022 on a B1/B2 visitor visa that was issued in Prague. **[Exhibit 1]** He was initially admitted until January 17, 2023.

40. Following his authorized period of admission, Mr. Pham remained in the United States beyond the expiration of his visa.

41. On January 28, 2024, Mr. Pham made a wrong turn onto the Detroit Ambassador Bridge and presented himself to CBP. He was subsequently issued a Notice to Appear, released on his own recognizance, and told to report to ICE ERO on January 30, 2024. **[Exhibit 2]**

42. Mr. Pham married Hong Van Trieu Giang, his U.S. Citizen girlfriend, in February 2024. He initiated the process of adjusting his status to a permanent resident based on their marriage by filing the form I-130, Petition for Alien Relative on or about October 4, 2024. **[Exhibit 4]**

43. On information and belief, Mr. Pham continued to comply with all ICE check-ins and court hearings.

44. On December 20, 2024, Mr. Pham appeared for his annual check-in, and at that time, was released without issue. **[Exhibit 5 – DHS Call-In Letter]**

45. On December 5, 2025, the following year, Mr. Pham reported for his annual check-in and was immediately taken into custody by ERO. His order of supervision was revoked without any reason to him by the ERO officer.

46. In revoking his order of supervision, Respondents failed to follow their own regulations. 8 C.F.R.§ 241.4(l)(1)-(2).

47. The Form I-213, Record of Deportable/Inadmissible Alien issued on December 5, 2025 states that "Upon review, PHAM was found to have multiple ATD violations." He was provided with no information regarding these alleged violations in writing or verbally, no notice, and no opportunity to respond. In addition, the I-213 contains numerous factual inaccuracies. It incorrectly states that Mr. Pham is unmarried and has no children; in fact, he is married and has two U.S. citizen stepchildren. The form further states that Mr. Pham had no immigration benefit applications pending with USCIS, despite the fact that an I-130 petition had already been filed and was pending at the time of his unlawful detention. Additionally, the I-213 identifies Vietnamese as Mr. Pham's primary language and claims that he speaks little to no English; however, Mr. Pham was never provided with an interpreter. **[Exhibit 6 – Form I-213]**

48. On the basis of the foregoing, the I-213 is clearly not reliable.

49. Mr. Pham was denied bail on the basis that he is a flight risk. However, no explanation was given why the court thought him to be a flight risk. Rather he was denied bond because, despite having a U.S. citizen wife and children and strong ties to his community, the IJ concluded that **Mr. Pham failed to demonstrate he was not a flight risk**. **[Exhibit 3]**

50. Mr. Pham has no criminal history in the United States or anywhere else in the world and will participate fully and actively in pursing relief from removal under the laws of this country. He plans on seeking the relief of asylum, withholding of removal or relief under the convention against torture.

51. Petitioner remains in detention and without relief from this court, faces the prospect of months, or even years, in immigration custody, separated from his family and community.

52. Petitioner has been denied due process of law by Respondents, and by the immigration judge.

CLAIMS FOR RELIEF

COUNT ONE
Violation of Fifth Amendment Right to Due Process
Procedural Due Process

53. Petitioner restates and realleges all paragraphs as if fully set forth here.

54. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

55. To determine whether a civil detention violates a detainee's Fifth Amendment procedural due process rights, courts apply the balancing test set forth in *Mathews v. Eldridge*, 424

U.S. 319 (1976). *United States v. Silvestre-Gregorio*, 983 F.3d 848, 852 (6th Cir. 2020) (applying the *Matthews v. Eldridge* test in the context of immigration).

56. *Matthews v. Eldridge* requires a court to consider the following three factors: "(1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest; and (3) the government's interest, including the fiscal and administrative burdens that the additional or substitute procedures entail." *See Lopez-Campos v. Raycraft, et al.*, No. 2:25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) at *9 (*citing Mathews*, 424 U.S. at 335).

57. The Petitioner was detained based on the revocation of his order of supervision without according him notice and an opportunity to contest the basis for that revocation in violation of his right to due process of law.

58. Subjecting the Petitioner to continued detention based upon an I-213 that contains numerous errors of fact and no corroborating evidence is a violation of his right to due process of law.

59. Subjecting the Petitioner to indefinite, mandatory detention violates his due process rights.

COUNT TWO
Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A), the Immigration and Nationality Act – 8 U.S.C. § 1226, and Federal Regulations
Not in Accordance with Law and in Excess of Statutory Authority
Unlawful Detention

60. Petitioner restates and realleges all paragraphs as if fully set forth here.

61. Under the APA, a court shall "hold unlawful and set aside agency action" that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

62. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in

view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (*quoting Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

63. To survive an APA challenge, the agency must articulate "a satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made." *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

64. By categorically detaining the Petitioner and transferring Petitioner away from the district in which he resides or the district in which he lives without consideration of Petitioner's individualized facts and circumstances, Respondents have violated the INA, implementing regulations, and the APA.

65. On information and belief, Respondents revoked the Petitioner's order of supervision without notice or an opportunity to respond, in violation of the statutory and regulatory scheme, based on a faulty administrative document prepared by the Respondents and in violation of his Due Process rights.

66. Respondents submitted their faulty administrative document when arguing against the Petitioner's release in immigration court without any additional information or corroborating documentation.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

a) Assume jurisdiction over this matter;
b) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
c) Declare that Petitioner's arrest and detention based on the revocation of his order of supervision without notice or an opportunity to respond violates the Due Process Clause of the Fifth Amendment;
d) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody immediately, or, in the alternative, to promptly provide him with a bond hearing before

an immigration judge in which the government bears the burden of proof by clear and convincing evidence that Petitioner is a flight risk or danger to the community and enjoining Respondents from relying on the faulty I-213 in the absence of corroborating evidence of supposed ATD violations;

e) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;
f) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
g) Grant any further relief this Court deems just and proper.

Dated this 23rd day of March, 2026,

Respectfully submitted,

s/ Amy Maldonado
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ATTORNEY FOR PETITIONER

VERIFICATION

On this 23rd day of March, 2026, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. I make this verification in lieu of and acting on behalf of the Petitioner, Xuan Hieu Pham, because the Petitioner is currently detained and because of the urgent nature of the relief requested. I am authorized to make this verification as a member of the legal team representing the Petitioner, Xuan Hieu Pham.

Dated: 03/23/2026

East Lansing, MI

s/ Amy Maldonado

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