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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
CIVIL DIVISION**

OANH THI KIM LE,

Petitioner,

v.

Christopher LaRose Warden, Imperial Regional
Detention Center; Gregory J. Archambeault
San Diego Field Office, U.S. Immigration and
Customs Enforcement; Markwayne Mullin, Secretary
of the U.S. Department of Homeland Security;
and Todd Blanche, Attorney General of the
United States, Todd M. Lyons, Director U.S.
Immigration and Customs Enforcement,
in their official capacities,

Respondents.

Case No. **'26CV2870 JES SBC**

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Oanh Thi Kim Le, by and through undersigned counsel, Matthew Henry Springmeyer, respectfully petitions this Honorable Court for a writ of *habeas corpus* pursuant to 28 U.S.C. § 2241 to challenge the ongoing and unlawful detention by the United States Department of Homeland Security (“DHS”) and its agents. Petitioner is currently detained at the Otay Mesa Detention Center located at 7488 Calzada De La Fuente, San Diego, CA 92143.

2. Accordingly, to vindicate Petitioner's constitutional, statutory, and regulatory rights, this Court should grant the instant petition for a writ of habeas corpus.

3. The Petitioner entered the United States and sought protection from persecution in Vietnam. DHS placed him into full removal proceedings under section 240 of the Immigration and Nationality Act ("INA"). The removal proceedings are final after the court granted withholding of removal on October 7, 2025, and the Petitioner waived his rights to an appeal.

4. The Petitioner came into custody after ICE agents performed operations in a public area, despite his having pending removal proceedings. He also did not violate any terms of his release.

5. DHS has failed to conduct the required reviews for Ms. Le's release from custody.

6. Petitioner asks this Court to find that his continued detention violates the Constitution, applicable statutes, and regulations, and order that he be released from custody, given an individualized bond hearing with an immigration judge, where the government bears the burden to show continued detention is warranted.

JURISDICTION

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

8. This 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).

9. This Court may grant relief under the habeas corpus statutes for those in custody in violation of the Constitution or laws of the United States. 28 U.S.C. § 2241 *et. seq.*, and the

All Writs Act, 28 U.S.C. § 1651; *see also Hamdi v. Rumsfeld*, 542 U.S. 507, 525. Additionally, the court can grant habeas for noncitizens in custody as well. *Magana-Pizano v. I.N.S.*, 200 F.3d 603, 609 (9th Cir. 1999). The Petitioner waived appeal after the court granted withholding of removal on July 24, 2025, which made the order administratively final and triggered 1231 detention.

VENUE

10. Venue is proper because Petitioner is detained at Otay Mesa Detention Center, located at 7488 Calzada De La Fuente, which is within the jurisdiction of this District.

11. Venue is further proper in this District because Respondents are officers, employees, or agencies of the United States and a substantial part of the events or omissions giving rise to the claims occurred in this District and Petitioner resides in this District, and no real property is involved in this action. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

13. 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 order to show cause 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.* (emphasis added).

14. 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) (emphasis added).

PARTIES

15. Petitioner was granted withholding of removal on October 7, 2025, but he remains detained at the Otay Mesa Detention Center more than six months later. She is in the custody and under the direct control of Respondents and their agents.

16. Respondent Christopher LaRose is the Warden of the Otay Mesa Detention Center, and he has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent LaRose is a legal custodian of Petitioner.

17. Respondent Gregory J. Archambeault is sued in his official capacity as the Director of the San Diego Field Office of U.S. Immigration and Customs Enforcement. Respondent Archambeault is a legal custodian of Petitioner and has authority to release him.

18. Respondent Markwayne Mullin is sued in their official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Mullin is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Mullin is a legal custodian of Petitioner.

19. Respondent Todd Blanche is sued in their official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Blanche is a legal custodian of Petitioner.

20. Respondent, Todd M. Lyons, is sued in their official capacity as the Director of U.S. Immigration and Customs Enforcement. In that capacity, he has the authority to Release the petitioner.

STATEMENT OF FACTS

21. Petitioner is a native and citizen of Vietnam. When she first entered the United States, the immigration officials released her from custody on her own recognizance. Despite having done nothing to violate the terms of his release, immigration officials took her into custody. After a hearing on the merits, the court denied asylum due to the Circumvention of Lawful pathways and then granted withholding of removal.

22. Ms. Le entered the United States and expressed a fear of returning to Vietnam because of persecution she suffered there. DHS initially processed and released her from custody.

23. After being released from custody, Ms. Le retained counsel and timely filed his application with the immigration court. After several master calendar hearings, the court scheduled an individual hearing on October 7, 2025.

24. The case moved forward on October 7, 2025, and the court granted withholding of removal protections after hearing testimony and considering all the evidence. The Court was unable to issue the order on that date, however. The DHS had yet to complete the background checks, so the court rescheduled the case weekly until they were complete. The Court ultimately granted withholding of removal.

25. After being granted withholding, Respondents have refused to release Ms. Le despite requests for a post-order custodial review. Respondents have not responded to these requests for review, and Ms. Le has remained in custody for more than six months after the grant

of withholding of removal and after the order is now final. There is no indication that they will remove Ms. Le in the foreseeable future. They are unable to remove him to Vietnam due to the withholding order. The Respondents also have not been able to move him to a third country to date. And, even if they did have a third country that would accept the Petitioner, he is entitled to due process to have reasonable notice and an opportunity to be heard making removal even less likely in the foreseeable future.

26. The Respondent has sought release through Post Order Custodial Review, but the Respondents have provided no response to that request to date.

LEGAL FRAMEWORK

27. The Government may not detain an individual for prolonged period without further justification. *See Zadvydas v. Davis*, 533 U.S. 678 (2001). He has not received any notice of impending removal to any countries, and he is entitled to notice and an opportunity to be heard before any third-country removal. *Id.* at 16-19.

28. The Petitioner is currently detained pursuant to 8 U.S.C. § 1231. The government is required to detain noncitizens who are subject to a removal order during the removal period. 8 U.S.C. § 1231(a)(1)(A). The removal period is ninety days after the removal order becomes final, when a stay is entered on review, or if the alien is detained until they are released. 8 U.S.C. 1231(a)(1)(A), (B). *See Riley v. Bondi*, 606 U.S. 259, 267 (2025).

29. When a noncitizen is detained more than six months, then their continued detention becomes unreasonable absent a showing that removal is reasonably foreseeable. *See Zadvydas*, 533 U.S. at 701. When the Petitioner demonstrates there is no significant likelihood of release in the reasonably foreseeable future, then the Respondent must rebut that showing to justify that detention is reasonable. *Id.*

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

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

31. The Petitioner's detention is no longer presumptively reasonable as he has been detained for more than six months after being granted withholding of removal.

32. There is no reasonable likelihood that Petitioner will be removed from the United States in the near future. There is no evidence that DHS has made progress in removing him. Further, even if they have made any good faith efforts, these have not been successful in more than six months and cannot support the conclusion that removal will occur in the reasonably foreseeable future. *See Zadvydas*, 533 U.S. at 702 (rejecting the argument that continued detention is lawful "as long as good faith efforts to effectuate deportation continue.")

COUNT TWO

Violation of 8 U.S.C. § 1231 and Implementing Regulations

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

34. The regulations require the government to conduct a post-order custodial review, which DHS is required to rebut and issue a written decision. 8 C.F.R. § 241.13. The Respondent submitted to ICE a POCR request, but, to date, neither our office nor the Petitioner has received a written decision as required.

35. The Regulations do permit DHS to detain a noncitizen despite their removal not being reasonably likely if it gives that noncitizen notice of that special circumstance justifies their detention in writing. 8 C.F.R. § 241.13(e)(6).

36. There is no evidence that the Department has followed the procedures to consider the factors listed in the regulations. *Id.* § 241.13(f).

37. The Petitioner also asked for ICE to review its prior decision, albeit it is unclear any decision or evaluation was made as no written decision was provided, but no response has been provided to date. *Id.* § 241.13(j).

38. For these reasons, Petitioner's detention violates 8 U.S.C. § 1231 and 8 C.F.R. § 241.13.

COUNT Three
Violation of Fifth Amendment Right to Due Process Third Country Removal

39. On July 9, 2025, U.S. Immigration and Customs Enforcement ("ICE") issued internal guidance entitled *Third Country Removals Following DHS v. D.V.D.*, addressing procedures for removing noncitizens to countries other than the country designated in their removal orders.

40. That memorandum recognizes that, prior to effectuating removal to a third country, ICE must provide written notice identifying the proposed country of removal and afford the noncitizen an opportunity to assert fear of removal to that country.

41. The memorandum further contemplates screening procedures for protection-based claims, including withholding of removal and protection under the Convention Against Torture, before removal to a third country may lawfully occur.

42. To date, Respondents have not provided Petitioner with any written notice identifying a proposed third country of removal.

43. Respondents have not initiated any fear screening or protection procedures with respect to any third country.

44. Because no third country has been identified and no procedures have been initiated, removal is not significantly likely in the reasonably foreseeable future within the meaning of *Zadvydas v. Davis*, 533 U.S. 678 (2001).

45. Any attempt to remove Petitioner to a third country without prior written notice and a meaningful opportunity to assert protection claims would violate the Due Process Clause of the Fifth Amendment.

46. The absence of notice and the absence of any identified third country further demonstrate that Petitioner's continued detention under 8 U.S.C. § 1231(a)(6) is not reasonably related to effectuating removal.

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1231, and 8 C.F.R. § 241.13.
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately or, in the alternative, to conduct a constitutionally adequate POOR and provide a written decision with cogent reasons that form the basis for that decision.
- (5) Enjoin Respondents from removing Petitioner to any third country without first providing:
 - (a) Written notice identifying the specific proposed country of removal;
 - (b) A meaningful opportunity to assert fear of persecution or torture in that country;

(c) Access to appropriate protection screening procedures consistent with the Constitution and governing regulations.

(6) Order Respondents to release Petitioner under reasonable conditions of supervision unless they can demonstrate that removal is significantly likely in the reasonably foreseeable future.

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

Respectfully submitted,

Dated: 05/06/2026

/s/ Matthew Henry Springmeyer
Matthew Henry Springmeyer, Esq.
Attorney for Petitioner

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

I represent Petitioner, Oanh Thi Kim Le, and submit this verification on his behalf. 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.

Dated: 05/06/2026

/s/ Matthew Henry Springmeyer
Matthew Henry Springmeyer, Esq.
Attorney for Petitioner