

**UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND**

VS,

Petitioner,

v.

C.A. 25-

MICHAEL NESSINGER Warden,
Wyatt Detention Facility, in his official
capacity only, and PATRICIA HYDE,
Acting Boston Field Office Director,
U.S. Immigration and Customs
Enforcement, in her official capacity only.

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. The Executive Branch – acting through either U.S. Immigration and Customs Enforcement (“ICE”) or its predecessor the Immigration and Naturalization Service (“INS”) – has detained Petitioner – VS – two times during the last 8 plus years for the purpose of effecting his removal to Laos, but each time has been unable to do so.
2. The INS first detained VS for a period of weeks in 2012, during which time the INS obtained an order authorizing Thou’s removal to Laos.
3. However, the INS ultimately released VS from immigration detention because the Laos People’s Democratic Republic was not at that time accepting the repatriation of Laotian nationals, which Petitioner may or may not be, from the United States due to the absence of a repatriation agreement between the two countries.
4. Most recently, on March 27, 2025, ICE detained VS – without any warning – for the purpose of effecting his removal to Laos, a detention which has continued to the present, but

which has not resulted in the Laos People's Democratic Republic indicating that it will repatriate Thou.

5. At this juncture, ICE knows that it will be unable to remove VS to Laos in the foreseeable future.

6. Because the only constitutionally permissible reason for ICE to detain VS is to effect his removal from the United States, or to ensure that VS neither absconds nor poses a danger to the community prior to such removal, VS's current immigration detention serves no legitimate purpose and thus violates the Substantive Due Process guarantee of the Fifth Amendment to the United States Constitution.

7. 11. By this Petition, VS seeks a Court order releasing him from his present unconstitutional detention.

JURISDICTION & VENUE

8. The U.S. District Court for the District of Rhode Island has jurisdiction to adjudicate the present Petition pursuant to Sections 2241 and 1331 of United States Code Title 28.

9. The U.S. District Court for the District of Rhode Island is the proper venue to hear the present Petition because VS is presently detained in the Donald W. Wyatt Detention Facility within the State of Rhode Island.

PARTIES

10. Petitioner VS is a resident of Rhode Island who immigrated to the United States in 1988 as a child refugee, who is a lawful permanent resident of the United States and who is presently being detained for immigration purposes in the Donald W. Wyatt Detention Facility, at the direction of ICE.

11. Respondent Michael Nessinger is the Warden of the Donald W. Wyatt Detention Facility and is being sued in his official capacity as Warden.

12. Respondent Patricia Hyde is this Acting Boston Field Office Director, U.S. Immigration and Customs Enforcement and is being sued in his official capacity as Field Office Director.

FACTS

13. VS was born in a Thai refugee camp in 1987 to parents whom were Laotian nationals.

14. In 1988, VS immigrated to the United States as a refugee and subsequently became a lawful permanent resident of the United States in or about March 3, 1988.

15. While VS was incarcerated, at some point from on or about September 1, 2006 until his release in 2012, the INS commenced removal proceedings against VS before the Executive Office for Immigration Review (“EOIR”) because of his conviction for Conspiracy to commit robbery, being a felon in possession of a firearm, and robbery.

16. On or about 2012, the INS took VS into immigration custody – directly following the end of a penal sentence which VS had served with the Federal Bureau of Prisons – to prevent him from fleeing or a posing a danger to the community prior to his removal from the United States.

17. On or about 2012, EOIR ordered VS’s removal to Laos.

18. At said time, the Laos People’s Democratic Republic declined to repatriate VS because of the absence of a repatriation agreement with the United States.

19. On or about 2012, the INS determined that it was unable to remove VS from the United States.

20. Accordingly, on or about 2012, the INS released VS from immigration detention with an Order of Supervision.

21. Since then, VS has supported his fiancé, and her two children, one of which is legally blind, and in need of VS's continued support.

22. Since then, VS has also been regularly employed and has done his best to comply with his Order of Supervision and has otherwise been a productive member of society

23. On or about March 27, 2025, VS went to the ICE Providence Field Office to complete his supervisory visit.

24. During that visit, ICE officers – without giving VS any advance notice – took VS into custody to determine if ICE could effect his removal from the United States.

25. At the time ICE officers detained VS, ICE had no reason to believe that VS's circumstances vis-à-vis the Laos People's Democratic Republic had significantly changed and that the Laos People's Democratic Republic or any other foreign government was likely to accept VS for repatriation.

26. Indeed, VS has never been interviewed by the Laos People's Democratic Republic which would precede any type of repatriation to that country.

27. While he was detained by ICE, VS has been seeking counsel to reopen his removal order and intended to file that imminently.

28. However, ICE has determined that it would continue to detain VS during the pendency of his reopened removal proceeding.

29. At present, ICE has no reason to believe that VS's circumstances vis-à-vis the Laos People's Democratic Republic have significantly changed and that the Laos People's Democratic Republic or any other foreign government will likely accept VS for repatriation.

30. As a result of VS's detention, VS's mother has struggled to make ends meet because VS had been the family's sole financial provider.

31. While VS has been detained, VS's mother has been unable to attend many of her doctor's appointments because she VS was her translator and been severely impaired in caring for herself.

32. VS's ongoing detention has hampered his ability to participate in his removal proceedings and continue his fight to remain in the United States as a lawful permanent resident.

33. Nevertheless, VS has remained in ICE detention since March 27, 2025, and is currently detained at the Donald W. Wyatt Detention Facility.

34. The Declaration of VS, sworn under penalty of perjury, is attached to this Petition as Exhibit 1, and the allegations therein are incorporated hereto by reference – in satisfaction of the requirements of United States Code Title 28, Sections 2242 and 1746.

FIRST CAUSE OF ACTION – UNLAWFUL DETENTION
IN VIOLATION OF U.S. CONSTITUTION, FIFTH AMENDMENT

35. VS incorporates paragraphs 1 through 44 above as if fully restated below.

36. VS is currently in the custody of the Respondents under or by color of the authority of the United States – that is, detained in the Donald W. Wyatt Detention Facility at the direction of ICE.

37. VS's detention violates the U.S. Constitution.

38. Specifically, VS is being detained for immigration purposes when ICE knows that it cannot effect his removal from the United States and thus ICE has no constitutionally permissible basis for depriving Thou of his liberty, in violation of the Substantive Due Process guarantee of the Fifth Amendment to the United States Constitution.

39. A judicial order requiring VS's release from such custody would effectively redress Respondents' unlawful conduct.

PRAYER FOR RELIEF

Wherefore, VS respectfully requests that the Court:

- A. Order Respondents to immediately release VS from the Donald W. Wyatt Detention Facility;
- B. Award to VS his reasonable litigation costs and attorney's fees pursuant to the Equal Access to Justice Act; and
- C. Grant such other further relief that is deemed just and proper by the Court.

Respectfully submitted,

Plaintiff, By his Attorneys,

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