

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

KC,

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 – KC – 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 KC for approximately 6 months, between May of 2016 and January of 2017, during which time the INS obtained an order authorizing Thou’s removal to Laos.
3. However, the INS ultimately released KC 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 April 23, 2025, ICE detained KC – 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 KC to Laos in the foreseeable future.

6. Because the only constitutionally permissible reason for ICE to detain KC is to effect his removal from the United States, or to ensure that KC neither absconds nor poses a danger to the community prior to such removal, KC’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, KC 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 KC is presently detained in the Donald W. Wyatt Detention Facility within the State of Rhode Island.

PARTIES

10. Petitioner KC is a resident of Rhode Island who immigrated to the United States in 1980 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. KC was born in a Thai refugee camp in 1981 to parents whom were Laotian nationals.

14. In 1980, KC immigrated to the United States as a refugee and subsequently became a lawful permanent resident of the United States in or about June or July 1980.

15. While KC was incarcerated, at some point from on or about September 9, 2009 until his release in or about May 2017, the INS commenced removal proceedings against KC 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 June 2017, the INS took KC into immigration custody – directly following the end of a penal sentence which KC 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 March 22, 2016, EOIR ordered KC’s removal to Laos.

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

19. On or about January 1, 2017, the INS determined that it was unable to remove KC from the United States.

20. Accordingly, on or about January 1, 2017, the INS released KC from immigration detention with an Order of Supervision.

21. Since then, KC has supported his mother, who has severe medical issues and disability often times assisting her in completing her activities of daily living.

22. Since then, KC 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 April 23, 2025, KC went to the ICE Providence Field Office to complete his supervisory visit.

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

25. At the time ICE officers detained KC, ICE had no reason to believe that KC'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 KC for repatriation.

26. Indeed, KC 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, KC had moved to reopen his 2016 removal order.

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

29. At present, ICE has no reason to believe that KC'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 KC for repatriation.

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

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

32. KC'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, KC has remained in ICE detention since April 2024 and is currently detained at the Donald W. Wyatt Detention Facility.

34. The Declaration of KC, 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. KC incorporates paragraphs 1 through 44 above as if fully restated below.

36. KC 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. KC's detention violates the U.S. Constitution.

38. Specifically, KC 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 KC's release from such custody would effectively redress Respondents' unlawful conduct.

PRAYER FOR RELIEF

Wherefore, KC respectfully requests that the Court:

- A. Order Respondents to immediately release KC from the Donald W. Wyatt Detention Facility;
- B. Award to KC 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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