

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

MP,

Petitioner,

v.

C.A. 25-*CV-00220*

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 – MP for the purpose of effecting his removal to Laos but has been unable to do so.
2. ICE first detained MP on December 20, 2024 and on January 2, 2025, during his first appearance before the immigration court, having appeared Pro Se, an immigration judge ordered MP’s removal to Laos.
3. It is unclear whether the Laos People’s Democratic Republic is accepting the repatriation of Laotian nationals, and Petitioner may or may not be, removed from the United States due to the absence of a repatriation agreement between the two countries.
4. At this juncture, ICE knows that it will be unable to remove MP to Laos in the foreseeable future.

5. Because the only constitutionally permissible reason for ICE to detain MP is to effect his removal from the United States, or to ensure that MP neither absconds nor poses a danger to the community prior to such removal, MP'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.

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

JURISDICTION & VENUE

7. 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.

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

PARTIES

9. Petitioner MP 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.

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

11. 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

12. MP was born in a Thai refugee camp in 1980 to parents who were Laotian nationals.

13. In 1980, MP immigrated to the United States as a refugee and subsequently became a lawful permanent resident of the United States.

14. On or about December 20, 2024, ICE took MP into immigration custody, while MP was out on bond for criminal charges now pending in the state of Rhode Island.

15. On January 2, 2025, after having appeared Pro Se, EOIR ordered MP's removal to Laos.

16. MP is currently married to a United States Citizen. MP also has three minor children who are also United States Citizens, however said children are of a prior relationship. MP's children all lived with MP prior to MP's detention, and they continue to live in the family home with MP's spouse. MP's mother is also a United States Citizen.

17. Prior to being detained, MP lived with MP's three children, two step-children and spouse. MP helped maintain the home as a mechanic.

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

19. At the time ICE detained MP, ICE was aware of MP's pending criminal charges and detaining him would impair MP's ability to prepare a valid defense against said charges.

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

21. At present, ICE has no reason to believe that MP'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 MP for repatriation.

22. As a result of MP's detention, his wife has been left to care for the family on her own.

23. MP's ongoing detention has hampered his ability to participate in his removal proceedings, to participate in his defense against state criminal charges against him, move to reopen proceedings and continue his fight to remain in the United States as a lawful permanent resident.

24. Nevertheless, MP has remained in ICE detention since December 20, 2024 and is currently detained at the Donald W. Wyatt Detention Facility.

25. The Declaration of MP, 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**

26. MP incorporates paragraphs 1 through 26 above as if fully restated below.

27. MP 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.

28. MP's detention violates the U.S. Constitution.

29. Specifically, MP 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.

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

PRAYER FOR RELIEF

Wherefore, MP respectfully requests that the Court:

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