

**ANDRES ORTIZ LAW**

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

Dabong Thang,

Petitioner,

v.

Kristi Noem, Secretary of the  
Department of Homeland Security;  
Todd M. Lyons, Acting Director of  
ICE; Ernesto Santa Cruz, Acting  
Director of Los Angeles ICE Field  
Office; Jose Casillas, SDDO ERO; R.  
Lee Immigration Officer

Respondents.

Case No.: 2:25-cv-04638

**PETITION FOR  
WRIT OF HABEAS CORPUS**

Petitioner, Dabona Thang (Mr. Thang), by and through undersigned  
counsels, hereby respectfully submits this Petition for Writ of Habeas Corpus  
pursuant to Rule 15(a)(1)(A) of the Federal Rules of Civil Procedure.

**INTRODUCTION**

1. Petitioner, Mr. Thang, moves this Court to issue a Writ of Habeas Corpus to  
compel the Respondents to appear and show cause why the U.S. Department of

1 Homeland Security (DHS), Immigration and Customs Enforcement (ICE), pursuant  
2 to Supreme Court of the United States of America (Supreme Court), Ninth Circuit  
3 Court of Appeals (Ninth Circuit) precedent, should not be enjoined from holding  
4 Mr. Thang in immigration detention. Mr. Thang has been on an order of supervision  
5 for nearly 15 years; he has not violated any terms of release under 8 C.F.R. §  
6 241.4(l) nor has ICE *initiated* a request to see if Vietnam will issue a travel  
7 document under 8 C.F.R. § 241.13(i). If this court does not intervene, Mr. Thang  
8 may be held in indefinite immigration detention.  
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11 2. Mr. Thang is a native and citizen of Vietnam, but he was born in a refugee  
12 camp in the Philippines while his family awaited permission to enter the United  
13 States. He entered the United States as a refugee when he was less than three  
14 months old and the Petitioner has resided in this country since. Soon thereafter, he  
15 adjusted to permanent residency. Mr. Thang has never lived in Vietnam and was  
16 a mere infant when he left the Philippines for the United States. In short, this  
17 country is the only country he has ever known.  
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20 3. Mr. Thang was educated in the United States, where he learned English and  
21 excelled in school. While the noncitizen was attending college, he was arrested  
22 for violating 21 U.S.C. § 841(a)(1). Ultimately, the Petitioner pled guilty and was  
23 sentenced to 12 months in federal prison and 12 months in home detention with  
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1 electronic monitoring. During Mr. Thang's criminal case, he attended all court  
2 hearings and surrendered himself when ordered by the court.

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4 4. After his arrest and conviction, he was transferred to ICE custody in Texas  
5 and was served with a Notice to Appear. The immigration judge sustained  
6 removability and ordered the Petitioner removed on February 17, 2011. Mr. Thang  
7 remained in immigration custody because Vietnam would not cooperate in  
8 facilitating the Petitioner's physical removal from the United States. After 180  
9 days, Mr. Thang was released on an order of supervision and he has remained on  
10 that order since then. During this time, he has not violated any law and he has  
11 attended every ICE check-in as required under the terms of his supervision.  
12

13  
14 5. Mr. Thang has learned from his mistake and is unquestionably a better  
15 person than when he was in his youth. He is now married to a U.S. Citizen, where  
16 he is the caregiver to his two stepchildren and one biological child. He has also  
17 been employed as a home healthcare worker for his parents. Since being let out of  
18 detention, he has demonstrated a significant growth in maturity and willingness to  
19 take on responsibility for vulnerable people. Earning the trust of vulnerable people  
20 in the community is a testament to his reform in character since his conviction.  
21

22  
23 6. Additionally, Mr. Thang is the primary caregiver for his elderly parents.  
24 Both of his parents suffer from health conditions. His father is in his 80s and  
25 cannot drive. Mr. Thang's mother has diabetes and also cannot drive. She is also  
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1 handicapped suffering from hip and legs have problems, so she has trouble doing  
2 simple tasks at home. She requires a lot of care and medical visits. Mr. Thang is  
3 the only one who takes them grocery shopping, runs errands, and takes them to  
4 doctor appointments. He also helps them with house chores and picks up his  
5 mother's medication.  
6

7 7. Given deep connection to his community, his record of court appearance,  
8 length of time since his last criminal or immigration violation, Mr. Thang hopes  
9 this Court will enjoin ICE from enforcing the agency's decision to revoke  
10 supervision or, at a minimum, order a constitutionally sufficient hearing to  
11 determine whether the agency may revoke supervision. Mr. Thang is reviewing  
12 his criminal conviction to determine whether a constitutional error led to his plea  
13 to 21 U.S.C. § 841(a)(1). He fears that if he is removed or transferred out of this  
14 jurisdiction, he will be unable to pursue any post-conviction matter if he files a  
15 petition.  
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### 19 SUMMARY OF THE ARGUMENT

20 8. Mr. Thang is detained by ICE after his order of supervision was revoked on  
21 May 21, 2025. He had not violated the terms of his release and ICE has not made  
22 any effort to secure a travel document. As such, the petitioner risks indefinite  
23 detention because he is a citizen of Vietnam, a traditionally recalcitrant country.  
24

25 9. ICE's failure to follow its regulations relating to noncitizens on an order of  
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1 supervision violates his right to due process under the Fifth Amendment to the  
2 United States Constitution and the protections afforded to him under the  
3 Administrative Procedures Act. Because ICE has not proven that Mr. Thang  
4 violated a condition of release and has not established a substantial likelihood that  
5 Vietnam will accept the Petitioner, judicial intervention is needed to prevent  
6 indefinite detention.  
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8  
9 **PARTIES**

10 10. Petitioner Mr. Thang is a forty-three-year-old native and citizen of Vietnam.  
11 He has been on an order of supervision since August 19, 2011 because Vietnam has  
12 long been considered a recalcitrant country.  
13

14 11. Respondent Kristi Noem sued in her official capacity as the Secretary of the  
15 Department of Homeland Security (DHS). She is the executive officer who has  
16 been given authority to manage and control the Immigration and Customs  
17 Enforcement. As such, she would be the ultimate legal custodian of Mr. Thang.  
18

19 12. Respondent Todd M. Lyons is sued in his official capacity as the acting  
20 director of U.S. Immigration and Customs Enforcement (ICE).

21 13. Respondent Ernesto Santa Cruz, the Los Angeles Field Office Director of  
22 ICE is sued in his official capacity. In his official capacity, he is be a legal custodian  
23 over Mr. Thang because he is responsible for providing a detailed worksheet,  
24 including a recommendation on continued detention or release, so that the  
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1 Headquarters Custody Determination Unit can make the final decision on continued  
2 detention.

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4 14. Respondent Jose Casillas, is the SDDO of the Los Angeles Filed Office, he  
5 was responsible for revoking Mr. Thang's supervised release without lawful cause.  
6 He made the final decision to detain Mr. Thang.

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8 15. Immigration Officer R. Lee (10799) is an immigration officer in the Los  
9 Angeles Filed Office, he was responsible for revoking Mr. Thang's supervised  
10 release without lawful cause.

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12 **JURISDICTION**

13 16. This Court has jurisdiction under 28 U.S.C. § 2241, Article I § 9, Clause 2  
14 of the United States Constitution (Suspension Clause), and 28 U.S.C. § 1331, as  
15 Mr. Thang has been ordered to be re-detained and will be in custody under color of  
16 the authority of the United States, and such custody is in violation of the  
17 Constitution, laws, regulations, and, or treaties of the United States.

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19 17. This Court may also exercise jurisdiction under 28 U.S.C. § 1361  
20 (Mandamus Clause). This Court may grant relief pursuant to 28 U.S.C. § 2241, the  
21 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28  
22 U.S.C. § 1651, to protect Mr. Thang's rights under the Due Process Clause of the  
23 Fifth Amendment to the United States Constitution, and under applicable Federal  
24 law.  
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**VENUE**

18. Venue is proper in the Central District of California Court because Mr. Thang was detained in the ICE detention center, in Los Angeles, California, and the records and witnesses pertinent to her claim are likely to be found there. A substantial part of the events or omissions giving rise to Mr. Thang's claim occurred in the Central District of California.

19. Los Angeles, California, is also within the geographical jurisdiction of this Court. Several of the Respondents reside and work in their official capacity in this District. 28 U.S.C. 1391(e). Furthermore, it is a convenient forum for both the Respondents and Mr. Thang. *Branden v. 30th Judicial Circuit Court*, 410 U.S. 484, 493-94 (1973).

**STATEMENT OF FACTS & PROCEDURAL HISTORY**

20. Mr. Thang is a native and citizen of Vietnam, but he was born in a refugee camp in the Philippines while his family awaited permission to enter the United States. He entered the United States as a refugee when he was less than three months old and the Petitioner has resided in this country since. Soon thereafter, he adjusted to permanent residency. Mr. Thang has never lived in Vietnam and was a mere infant when he left the Philippines for the United States. In short, this country is the only country he has ever known.

1 21. Mr. Thang was educated in the United States, where he learned English and  
2 excelled in school. While the noncitizen was attending college, he was arrested  
3 for violating 21 U.S.C. § 841(a)(1). Ultimately, the Petitioner pled guilty and was  
4 sentenced to 12 months in federal prison and 12 months in home detention with  
5 electronic monitoring. During Mr. Thang's criminal case, he attended all court  
6 hearings and surrendered himself when ordered by the court.  
7

8 22. After his arrest and conviction, he was transferred to ICE custody in Texas  
9 and was served with a Notice to Appear. The immigration judge sustained  
10 removability and ordered the Petitioner removed on February 17, 2011. Mr. Thang  
11 remained in immigration custody because Vietnam would not cooperate in  
12 facilitating the Petitioner's physical removal from the United States. After 180  
13 days, Mr. Thang was released on an order of supervision and he has remained on  
14 that order since then. During this time, he has not violated any law and he has  
15 attended every ICE check-in as required under the terms of his supervision.  
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18 23. Mr. Thang has learned from his mistake and is unquestionably a better  
19 person that when he was in his youth. He is now married to a U.S. Citizen, where  
20 he is the caregiver to his two stepchildren and one biological child. He has also  
21 been employed as a home healthcare worker for his parents. Since being let out of  
22 detention, he has demonstrated a significant growth in maturity and willingness to  
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1 take on responsibility for vulnerable people. Earning the trust of vulnerable people  
2 in the community is a testament to his reform in character since his conviction.

3 24. Additionally, Mr. Thang is the primary caregiver for his elderly parents.  
4 Both of his parents suffer from health conditions. His father is in his 80s and  
5 cannot drive. Mr. Thang's mother has diabetes and also cannot drive. She is also  
6 handicapped suffering from hip and legs have problems, so she has trouble doing  
7 simple tasks at home. She requires a lot of care and medical visits. Mr. Thang is  
8 the only one who takes them grocery shopping, runs errands, and takes them to  
9 doctor appointments. He also helps them with house chores and picks up his  
10 mother's medication.  
11

12 25. On May, 21, 2025, Mr. Thang presented himself for an ICE check-in and  
13 was told by Officer Lee and Supervisor Casillas that his order of supervision was  
14 going to be revoked. When questioned as to why, Mr. Thang was told that there  
15 was a valid final order of removal. He was not informed that his supervision was  
16 being revoked for violating the order of supervision. Additionally, the ICE  
17 officials indicated that they *had not* contacted the Vietnamese authorities to see if  
18 a travel document could be issued. He was informed that there was a "new policy"  
19 that allowed him to be taken into custody despite the restraints of the applicable  
20 regulations.  
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22 26. This petition followed.  
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**LEGAL ARGUMENT**

27. “In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987). Civil detention violates the Due Process Clause except “in certain special and narrow nonpunitive circumstances, where a special justification, such as harm-threatening mental illness, outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citations omitted).

28. 8 U.S.C. § 1231(a)(6) authorizes the detention of noncitizens who have been issued a final order of removal but the noncitizen’s removal is unlikely. While noncitizens with a final order of removal detained under § 1231 are typically subject to immediate removal, some noncitizens, such as Mr. Thang, cannot be removed because the person’s home country is classified as a recalcitrant country. *See generally Chhoeun v. Marin*, 306 F.Supp.3d 1147 (C.D. Ca. 2019).

29. In this case, the Petitioner was released on an order of supervision from immigration detention, without a hearing conducted by ICE officials, on or about February 17, 2011. His release was not authorized by an immigration judge, instead it was ICE that initiated the release. Once the noncitizen was released from custody, he became subject to the order of supervision regulations. *See 8 C.F.R. § 241.4(l) as cited in Noem v. Abrego Garcia*, -- U.S. --, 145 S.Ct. 1017, 1019 (2025)

1 (SOTOMAYOR, J. statement on the disposition) *and* § 241.13(i).

2 30. In this case, the ICE officials violated 8 C.F.R. § 241.4(l) and 241.13(i).  
3 Failure to follow these procedures offends the basic notions of Due Process under the  
4 Fifth Amendment to the Constitution. *See Mathews v. Eldridge*, 424 U.S. 319 (1976).  
5 Additionally, ICE officials have violated Mr. Thang's rights under the Administrative  
6 Procedures Act (APA). *See 5 U.S.C. § 702*. The APA is in place to prohibit an agency  
7 from taking an unlawful action  
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10 **IRREPARABLE INJURY**

11  
12 31. Mr. Thang will suffer an irreparable injury if he is not released from  
13 custody. Every day in custody; he and his family will suffer further irreparable  
14 injury.  
15

16 32. By applicable analogy, the Northern District of California addressed how a  
17 noncitizen who is released on bond, suffered no violations of any kind and has  
18 complied with the terms of the bond, would be uniquely harmed if he was re-  
19 detained without sufficient notice and hearing to determine the legality of the new  
20 detention. In *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST, 2021 WL 783561,  
21 at \*2 (N.D. Cal. Mar. 1, 2021), the district court granted an emergency temporary  
22 restraining order (TRO) preventing the government from re-detaining the petitioner  
23 without providing sufficient notice and an opportunity for a hearing on the legality  
24 of detention. In reaching its conclusion, the district court relied heavily on the  
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1 reasoning of *Ortiz Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5517277,  
2 at \*2 (N.D. Cal. Sept. 14, 2020) and *Ortega v. Bonnar*, 415 F. Supp. 3d 963 (N.D.  
3 Cal. 2019).

4  
5 33. In *Ortiz Vargas* and *Ortega*, the district court either temporarily prevented  
6 or enjoined the government from re-detaining a noncitizen who had been released  
7 on bond without providing a notice and opportunity to have a hearing as to whether  
8 revoking the bond was lawful. See *Ortiz Vargas*, 2020 WL 5517277, at \*2 and  
9 *Ortega*, 415 F. Supp. 3d at 970. In *Ortega*, the court observed that the BIA can  
10 revoke parole or bond in only two situations- (1) “where a previous bond  
11 determination has been made by an immigration judge, no change should be made  
12 by [the DHS] absent a change of circumstance,” and “[i]n practice, the DHS re-  
13 arrests individuals only after a ‘material’ change in circumstances,” *id.* at 968  
14 (quoting *Matter of Sugay*, 17 I. & N. Dec. 637, 630 (BIA 1981)), and (2) “the  
15 government's discretion to incarcerate non-citizens is always constrained by the  
16 requirements of due process,” *id.* at 969 (quoting *Hernandez*, 872 F.3d at 981). In  
17 *Ortega* and *Jorge M. F.*, the courts held there was a serious question as to whether  
18 the BIA’s decisions comported with due process. *Id.* and 2021 WL 783561, at \*2-  
19

20 3. Next, the court found that *Ortega* had a liberty interest in remaining un-detained.  
21 *Id.* at 970. And the balance of equities tips strongly towards him in support of the  
22 TRO. *Id.* Likewise, the *Jorge M. F.* court made the same finding in granting the  
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1 TRO despite the BIA revoking bond. 2021 WL 783561 at \*3.

2 34. In this instance, ICE has not provided any legitimate reason why redetention  
3 is justified. To the contrary, it cited a “new policy” that seemingly allowed ICE to  
4 forgo complying with its regulations. Given this violation of the regulations, this  
5 court should be similarly empowered to grant the petition and order release of the  
6 Petitioner or provide him with a constitutionally sufficient custody hearing.  
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8  
9 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

10 35. “On habeas review under § 2241, exhaustion is a prudential rather than a  
11 jurisdictional requirement.” *Singh v. Holder*, 638 F.3d 1196, 1203, n.3 (9th Cir.  
12 2011). However, more importantly, in this case, there are no administrative  
13 remedies available prior to filing the habeas petition. *See generally Zadvydas*, 533  
14 U.S. 678. Mr. Thang was released on an order of supervision as initiated by ICE  
15 under 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13; he has not requested release from  
16 any court prior to this petition. Thus, there are no other procedural remedies for  
17 Mr. Thang to pursue outside of this petition.  
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19  
20 **FIRST CLAIM FOR RELIEF**

21 **Mr. Thang’s order of supervision was revoked in violation of his due process**  
22 **rights because DHS has not provided a valid statutory or regulatory reason**  
23 **for revoking it.**

24 36. Mr. Thang re-alleges and incorporates by reference each and every  
25 allegation contained in the preceding paragraphs as if set forth fully herein.  
26

1 37. If Respondents are allowed to detain Mr. Thang, it will violate her rights  
2 guaranteed by the Due Process Clause of the Fifth Amendment of the U.S.  
3 Constitution.  
4

5 38. The Petitioner does not dispute that, if certain conditions are present, he is  
6 subject to revocation of his order of supervision and redetainment. *See* 8 C.F.R. §  
7 241.4(l) and 241.13(i)(1), (2). The thrust of these regulations allow detainment if the  
8 noncitizen violates the terms of the supervised release or if there is “a significant  
9 likelihood that the alien may be removed in the reasonably foreseeable future.” *Id.*  
10 The applicable regulations require ICE to provide notice of the purported change in  
11 circumstance and provide the noncitizen an opportunity to challenge his redetention  
12 under 8 C.F.R. § 241.4(l) and 241.13(i)(1), (2). The failure to do so violates the  
13 noncitizen’s right to due process under *Matthews v. Eldridge*, 424 U.S. 319 (1976).  
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16 39. In *Matthews*, the Supreme Court held that the adjudicator must consider three  
17 distinct factors: “First, the private interest that will be affected by the official action;  
18 second, the risk of erroneous deprivation of such interest through the procedures used,  
19 and the probable value, if any, of additional or substitute procedural safeguards; and  
20 finally, the Government’s interest, including the function involved and the fiscal and  
21 administrative burdens that the additional or substitute procedural requirements would  
22 entail.” 424 U.S. at 334.  
23  
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25 40. In addressing the first factor, “[f]reedom from imprisonment—from  
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1 government custody, detention, or other forms of physical restraint—lies at the  
2 heart of the liberty [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.  
3 Additionally, the Ninth Circuit agrees that the noncitizen’s “private interest at issue  
4 here is ‘fundamental’: freedom from imprisonment is at the ‘core of the liberty  
5 protected by the Due Process Clause.’” *Hernandez v. Sessions*, 872 F.3d 976, 993  
6 (9th Cir. 2017) (internal citation omitted). Historical precedent is quite strong in  
7 recognizing that the Petitioner has a significant private liberty interest. While not  
8 dispositive, this factor weight heavily in the Petitioner’s favor.  
9

10  
11 41. Second, the Petitioner is at significant risk of an erroneous deprivation of  
12 rights. Both the Central District of California and the Ninth Circuit agree that the  
13 administrative remedies available in the prolonged detention regulations fall short  
14 of the procedural protections needed for this circumstance. *See Diouf v. Napolitano*  
15 (*Diouf II*), 634 F.3d 1081 (9th Cir. 2011) *overruled on other grounds by Jennings*  
16 *v. Rodriguez*, 583 U.S. 281 (2018) *and Jensen v. Garland*, No.  
17 521CV01195CASA FM, 2023 WL 3246522, at \*6 (C.D. Cal. May 3, 2023); *c.f.*  
18 *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1209-10 (9th Cir. 2022) (holding the  
19 Petitioner subject to 8 U.S.C. 1226(a), nonmandatory detention had a plethora of  
20 procedural protections including an individualized bond hearing before a neutral  
21 judge).  
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25 42. Here, there is no dispute that Mr. Thang was released from ICE custody after  
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1 he was in detention for six months. ICE, not the immigration court, initiated this  
2 release because failure to do so could raise constitutional concerns. No parties  
3 dispute that Mr. Thang has had no other problems with the law or failure to appear  
4 at his ICE check-ins. Further, he has not been supplied with any information that  
5 removal is foreseeable in the near future. Thus, he has not run afoul of either 8  
6 C.F.R. § 241.4(l) or 241.13(i)(1), (2). When revoking the order of supervision, the  
7 service gives noncitizens little due process protections: “(3) Revocation procedures.  
8 Upon revocation, the alien will be notified of the reasons for revocation of his or  
9 her release. *The Service will conduct an initial informal interview promptly after*  
10 *his or her return to Service custody to afford the alien an opportunity to respond to*  
11 *the reasons for revocation stated in the notification.* The alien may submit any  
12 evidence or information that he or she believes shows there is no significant  
13 likelihood he or she be removed in the reasonably foreseeable future, or that he or  
14 she has not violated the order of supervision. The revocation custody review will  
15 include an evaluation of any contested facts relevant to the revocation and a  
16 determination whether the facts as determined warrant revocation and further denial  
17 of release.” 8 C.F.R. § 241.13(i)(3) (similar language in 8 C.F.R. § 241.4(l)(3)  
18 (emphasis added)). As was done here, ICE will revoke the supervision of the  
19 noncitizen, detain him, *and then* inquire about a rebuttal. Given that the decision to  
20 redetain a noncitizen was already taken, it seems unlikely the foreign national will  
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1 receive an unbiased adjudication.

2 43. Moreover, in this matter, the Petitioner presented himself at an ICE check-  
3 in. Officer Lee and Supervisor Casillas revoked Mr. Thang's order of supervision.  
4 When questioned as to why Mr. Thang was being redetained, the officers responded  
5 that the noncitizen is subject to a final removal order. When questioned about ICE  
6 has a travel document for the Petitioner, the officer and supervisor indicated that  
7 ICE was not in possession of a travel document *and had not made the request for a*  
8 *travel document*. Surely, this conduct violated the statute and is evidence that Mr.  
9 Thang stands to have an erroneous deprivation of his rights given that ICE failed to  
10 follow its own procedures when detaining him.  
11

12 44. Finally, with respect to the third *Matthews* fact, the Petitioner recognizes  
13 that "the government clearly has a strong interest in preventing aliens from  
14 remain[ing] in the United States in violation of our law" and "has an obvious  
15 interest in protecting the public from dangerous criminal aliens." *Rodriguez Diaz*,  
16 53 F.4th at 1208 (citation and internal quotations omitted). However, it is important  
17 to note that the government's interest in detaining a noncitizen that has not violated  
18 his order of supervision and there is no evidence he will be removed to his home  
19 country is surely quite low. *See Zerezghi v. U.S. Citizenship & Immigr. Servs.*, 955  
20 F.3d 802, 810 (9th Cir. 2020) (noting that "the question [under the third Mathews  
21 factor] is *not* the government's interest in immigration enforcement" "in general"  
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(emphasis added)); *Henriquez v. Garland*, No. 5:22-cv-00869-EJD, 2022 WL 2132919, at \*5 (N.D. Cal. June 14, 2022) (“Although the Government has a strong interest in enforcing the immigration laws and in ensuring that lawfully issued removal orders are promptly executed, the Government’s interest in detaining Petitioner without providing an individualized bond hearing is low.”).

45. Moreover, courts have held that the cost of conducting a bond hearing is low and ICE has not argued that the cost of holding a bond hearing is a significant drain on agency resources. *Singh v. Barr*, 400 F. Supp. 3d 1005, 1021 (S.D. Cal. 2019) (noting in the context of § 1226(a) detention that “[t]he government has not offered any indication that a [ ] bond hearing would have outside effects on its coffers”).

46. Consequently, this factor also weighs heavily in the Petitioner’s favor given the fact that despite his conviction, Mr. Thang has lived in the United States for over 15 years without committing another crime. The Petitioner has engrained himself in his local community, is a family man, and a home health caretaker. It can hardly be said that he continues to be a danger to the community. Further, ICE has not identified any evidence that it is *likely* Mr. Thang’s recalcitrant country will accept him. Surely, it is very little burden for this court or an independent immigration judge to conduct a hearing to determine whether ICE officials followed their own regulations prior to detaining him.

47. In sum, all factors weigh heavily in Mr. Thang’s favor and support release

up until ICE proves there is good cause to detain him.

## **SECOND CLAIM FOR RELIEF**

### **ICE violated the Petitioner's rights under the APA**

48. Mr. Thang re-alleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

49. The APA was enacted to ensure that a person “suffering [a] legal wrong because of agency action,” or “adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review.” 5 U.S.C. 702. 702 subsections “hold unlawful and set aside agency actions, findings and conclusions” that meet one or more of six standards: (1) Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (2) Contrary to constitutional right, power, privilege or immunity; (3) In excess of statutory jurisdiction, authority, or limitations, or short of statutory right; (4) Without observance of procedures required by law; (5) Unsupported by substantial evidence in a case subject to [5 U.S.C. §§ 556 and 557] or otherwise reviewed on the record of an agency hearing provided by statute or rule; or (6) Unwarranted by the facts to the extent that facts are subject to trial de novo by the reviewing court. 5 U.S.C. § 702(2)(A)-(F), and see also *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 413-14 (1971) (citing 5 U.S.C. § 706(2)(A)-(D)) (“In all cases agency action must be set aside if the action was ‘arbitrary, capricious, an abuse of

1 discretion or otherwise not in accordance with law’ or if the action failed to meet  
2 statutory, procedural, or constitutional requirements.”).

3  
4 50. Here, ICE violated the Petitioner’s rights under the APA under subsections  
5 A-F because both 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13 require the service to  
6 provide some rationale to revoke the order of supervision. That did not happen  
7 here. Specifically, under 8 C.F.R. § 241.4(l) ICE must demonstrate some rationale  
8 for redetaining the noncitizen such as the person violated a law, was engaged in  
9 some derogative conduct, or he violated a condition of release. Similarly, 8 C.F.R.  
10 § 241.13(i)(2) requires “the Service [to] determine[] that there is a *significant*  
11 *likelihood* that the alien may be removed in the reasonably foreseeable future.”  
12  
13 (emphasis added).

14  
15 51. When detaining Mr. Thang, Officer Lee and Supervisor Casillas both  
16 indicated that the service had not secured a travel document for Mr. Thang and  
17 more importantly, were going to contact the Vietnamese authorities *after* he was  
18 detained. Mr. Thang was not informed there was a likelihood of removal, only that  
19 he had a pervious order of removal and ICE was choosing to enforce it now. If he  
20 was not informed of any evidence that demonstrates a “significant likelihood” of  
21 removal, he is not put in a position to rebut this evidence.  
22  
23

24 52. ICE’s conduct in this case exceeds its statutory and regulatory authority  
25 afforded by Congress. It is clear, the agency did not follow its own procedures,  
26



1 did and not afford Mr. Thang the procedural due process rights guaranteed to him  
2 by the Constitution. In sum, ICE exceeded its authority when it redetained Mr.  
3 Thang because “he is subject to a valid removal order” and it ignored the regulatory  
4 requirements to provide notice and an opportunity to rebut the agency’s findings.  
5 Put differently, Mr. Thang was released from custody because there was no  
6 foreseeable likelihood of removal and because the Constitution forbids indefinite  
7 civil detention. Now, without demonstrating any changed circumstances, ICE  
8 seeks to redetain Mr. Thang indefinitely without any indication that he violated a  
9 term of release or that there is a “significant likelihood” the noncitizen will be  
10 removed in the near future.  
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### 13 **REQUEST FOR RELIEF**

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15 Mr. Thang herein respectfully requests that this Court enter the following findings  
16 and order the following relief:  
17

- 18 1) Assume jurisdiction over this matter;
- 19  
20 2) Prohibit ICE from transferring the Petitioner to another detention center  
21 outside the court’s jurisdiction until a decision has been rendered;
- 22 3) Declare Mr. Thang’s detention by the Respondents to be unconstitutional  
23 and in violation of the Immigration and Nationality Act;
- 24 4) Order Mr. Thang’s Immigration and Customs Enforcement to release him  
25 from custody. If the government chooses to redetain Mr. Thng, provide  
26 advance notice and an opportunity to have a hearing before an IJ or another

1 independent jurist to determine the lawfulness of re-detention prior to taking  
2 the Petitioner into custody;

3 5) Grant Mr. Thang attorney's fees pursuant to the Equal Access to Justice Act,  
4 28 U.S.C. § 2412; and

5 6) Grant any other and further relief that this Court may deem fit and proper.  
6  
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8 DATED: May 22, 2025  
9 Long Beach, CA  
10

11 Respectfully submitted,  
12

13 /s/ Andres Ortiz  
14 Andres Ortiz, Esq.  
15 Attorney for the Petitioner  
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**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing Petition for Writ of Habeas Corpus in *Dabong Thang v. Garland et. al*, with the Clerk of the Court for the Central District of California by using the appellate CM/ECF May 22, 2025, for filing and transmittal of Notice of Electronic Filing

**/s/ Andres Ortiz**  
Andres Ortiz, Esq.  
Attorney for Petitioner