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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Long Phi Do,

Petitioner,

vs.

David R. Rivas, et al.,

Respondents.

No. 2:25-cv-1885-PHX-KML (ASB)

**Reply in Support of Motion for Leave to
Conduct Limited Discovery**

Petitioner Long Phi Do now replies to the government's response to his motion for limited discovery. Mr. Do is aware that the government has also responded to his habeas petition and the motion for a preliminary injunction (Dkt. #13). Because what Mr. Do might say in reply to the government's response to those two filings depends on whether this Court will allow him to conduct discovery, Mr. Do is filing simultaneously with this motion a motion for a contingent extension of time to reply to those two filings.

Mr. Do was born in Vietnam in 1967. He contends that his detention in immigration custody pursuant to the 2007 removal order may potentially last forever, because Vietnam revoked his citizenship in 2014, and thus is illegal. *See Zadvydas v. Davis*, 533 U.S. 678 (2001) (holding that the Due Process Clause forbids indefinite detention in immigration custody). The government's rejoinder to this contention and Mr. Do's related discovery request is straightforward. Because Mr. Do was born in Vietnam, and the Vietnamese government is processing his request for travel documents, there is no need to order discovery. (Dkt. #13 at 10-11)

1 The government's rejoinder to Mr. Do's petition suffers from two basic factual flaws. In
2 support of its response to Mr. Do's petition and discovery motion, the government submitted the
3 declaration of Marielle Ceja, a supervisory detention and deportation officer at the Otay Mesa
4 Detention Center in San Diego, California. (Dkt. #13-1) Yet both Ms. Ceja and the government
5 ignore the allegation that the Vietnamese government has cancelled his citizenship, and the
6 government exaggerates Ms. Ceja's statements in order to argue that Mr. Do will soon receive
7 travel documents from the Vietnamese Embassy.

8 The parties agree about certain basic facts of Mr. Do's biography. Mr. Do was born in
9 Vietnam in 1967. (Dkt. #1 at 2 ¶ 10; Dkt. #13-1 at 3 ¶ 6, 4 ¶ 9) He entered the United States in
10 1989 on a visa issued to him by the U.S. government. (Dkt. #1 at 3 ¶ 10b; Dkt. #13-1 at 4 ¶¶ 10–
11 11) In 2006, he was convicted in the Orange County, California, Superior Court of possession of a
12 controlled substance, in violation of Cal. Health & Safety Code § 11377. (Dkt. #1 at 4 ¶ 11c; Dkt.
13 #13-1 at 4 ¶ 12) This conviction led to his being ordered removed from the United States. (Dkt.
14 #1 at 5 ¶ 12; Dkt. #13-1 at 4 ¶ 15) He was released from immigration detention following this
15 removal order, and remained at liberty under an order of supervision until February 11, 2025.
16 (Dkt. #1 at 5 ¶¶ 13, 15; Dkt. #13-1 at 5 ¶¶ 21, 25) On that day, he was taken into ICE custody.
17 (Dkt. #1 at 5 ¶ 15; Dkt. #13-1 at 5 ¶ 25) Recently, Mr. Do cooperated with ICE in its effort to
18 obtain travel documents from the Vietnamese embassy that would facilitate his removal to
19 Vietnam. (Dkt. #1 at 5–6 ¶ 15; Dkt. #13-1 at 5–6 ¶¶ 26–32)

20 Mr. Do has alleged certain facts in his petition that place the two flaws in the
21 government's response in sharp focus—that his Vietnamese citizenship has been revoked, and
22 for that reason there is no reason to believe that Vietnam will issue travel documents as ICE has
23 recently requested. (Dkt. #1 at 5 ¶ 14, 6 ¶ 16) The government has failed to refute those facts,
24 and that failure bolsters Mr. Do's assertion that he has shown good cause to order the
25 government to turn over the seven categories of documents described in his motion. *See Bracy v.*
26 *Gramley*, 520 U.S. 899, 909 (1997) (describing the good cause requirement).

1 First, the government insists that there is no evidence that Mr. Do's Vietnamese
2 citizenship has been revoked. (Dkt. #13 at 10) It says, "Indeed, all of Do's relevant immigration
3 documentation including his visa indicate he is a native *and citizen* of Vietnam." (Dkt. #13 at 10
4 (emphasis added)) But according to Ms. Ceja, that visa was issued in 1989 (Dkt. #13-1 at 4 ¶ 10),
5 25 years before Mr. Do alleges that the Vietnamese government revoked his citizenship due to his
6 failure to timely register with the Vietnamese Embassy before July 1, 2014. Mr. Do is not
7 inventing this registration requirement; rather, as shown in his petition, information about the
8 registration requirement and the automatic cancellation of citizenship on July 1, 2014, comes
9 directly from the Vietnamese Embassy's website. (Dkt. #1 at 5 ¶ 14) The government makes no
10 effort to dispute this information on the Vietnamese Embassy's website. It simply pretends that
11 this information does not exist. Mr. Do may have been a citizen of Vietnam when he was issued
12 an immigrant visa in 1989. But, in light of the registration requirement described on a website that
13 presumably accurately reflects the citizenship laws of the Socialist Republic of Vietnam, the fact
14 that a visa issued in 1989 says nothing about whether Mr. Do retains his Vietnamese citizenship
15 in 2025.

16 Second, the government has not shown that the Vietnamese Embassy will issue the travel
17 documents that ICE, with Mr. Do's authorization, has requested. According to Ms. Ceja, in
18 2007, even before the Vietnamese government imposed the registration requirement on
19 Vietnamese-born persons living abroad, ICE tried to obtain travel documents. (Dkt. #13-1 at 5
20 ¶ 20) That effort was apparently unsuccessful, because according to Ms. Ceja ICE released Mr.
21 Do from custody three months after requesting the travel documents. (Dkt. #13-1 at 5 ¶ 21)

22 The government relies exclusively on Ms. Ceja's declaration in order to argue that travel
23 documents will be forthcoming now, notwithstanding the unsuccessful attempt in 2007 and the
24 revocation of his Vietnamese citizenship in 2014. But Ms. Ceja's declaration contains obvious
25 gaps. In particular, Ms. Ceja's declaration does not (as the government argues) describe any
26 "documented successful attempts to secure travel documents" for Mr. Do (Dkt. #13 at 11)—or
27 indeed for any other Vietnamese-born detainee. As just noted, the 2007 attempt for Mr. Do was
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1 not successful. Given that reality, Ms. Ceja can only speculate about whether the recent attempt
2 to obtain those documents will be successful. To be sure, she does say that her “experience”
3 with requesting travel documents for Vietnamese-born detainees is that the Embassy provides
4 those documents within 30 days of ICE’s submission of a complete request. (Dkt. #13-1 at 6
5 ¶¶ 33–34) But she does not give any detail about that “experience.” She does not count the
6 number of other Vietnamese-born detainees for whom she has succeeded in obtaining travel
7 documents. She does not say why the 2007 request for travel documents was unsuccessful. She
8 does not explain whether she has requested travel documents for Vietnamese-born detainees
9 whose citizenship was revoked in 2014 by virtue of failing to register with the Embassy. And she
10 admits that her declaration is based in part on “information provided to me as an SDDO for the
11 Otay Mesa suboffice of the ICE ERO San Diego Field Office.” (Dkt. #13-1 at 3 ¶ 4) The
12 government thus has given this Court no reason to believe that Ms. Ceja has any “experience” in
13 obtaining travel documents for people like Mr. Do.

14 The government complains that Mr. Do’s discovery request arises from “mere
15 speculation” and “pure hypothesis.” (Dkt. #13 at 10 (quoting *Arthur v. Allen*, 459 F.3d 1310, 1311
16 (11th Cir. 2006))) But Mr. Do and his counsel have by necessity had to draw on inferences from
17 Mr. Do’s own memory about the events of his own life in order to prepare his petition and
18 supporting documents. As Mr. Do pointed out, by virtue of his status as a detainee, he does not
19 have any documentation necessary to support the assertions in his petition. (Dkt. #4 at 2) The
20 government, for its part, has this documentation in its sole and exclusive possession. The
21 government has not offered any reason to believe that Mr. Do’s reliance on information provided
22 on the Vietnamese Embassy’s own website in particular amounts to speculation or conjecture.
23 Rather, Mr. Do’s discovery request is “narrowly tailored to the *Zadvydas* inquiry.” Order at 3,
24 *Ishmuratov v. Rivas*, No. 2:25-cv-1366-PHX-JAT (ESW) (D. Ariz. Jun. 5, 2025) (Dkt. #31) (citing
25 *Batyuchenko v. Reno*, 56 F. Supp. 2d 1163, 1164 (W.D. Wash. 1999)).

26 The government says that it “expects travel documents from Vietnam to issue soon.”
27 (Dkt. #13 at 11) If the government has information in its sole and exclusive possession that bears
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1 on the validity of this expectation, Mr. Do should be allowed to see it. If the government has
2 other information in its possession that was relevant to Ms. Ceja as she put together her
3 declaration, Mr. Do should be allowed to review it. And if there is additional information in the
4 government's possession that bears on Mr. Do's claim or the accuracy of Ms. Ceja's declaration,
5 this Court should order the government to produce it.

6 One final point relating to timing. In his discovery motion—filed as part of the package of
7 case-initiating documents in this matter—Mr. Do asked the Court to order disclosure of the
8 documents he seeks by the close of business on Friday, June 6, 2025. That date has come and
9 gone. Notwithstanding Mr. Do's proposed short-fuse deadline, the Court ordered the
10 government to respond to the discovery motion in a relatively prompt manner, and the
11 government has done so. If Ms. Ceja's experience is to be credited, then the government should
12 have some responsive communication from the Vietnamese attaché by July 5, 2025. (*Cf.* Dkt.
13 #13-1 at 6 ¶ 33) Mr. Do thus requests that if the Court should grant his motion for discovery, the
14 Court should order the government to produce the requested documents on or before July 21,
15 2025, two business weeks after Ms. Ceja expects to hear back from the Vietnamese Embassy.

16 Respectfully submitted:

June 18, 2025.

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