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10 **UNITED STATES DISTRICT COURT FOR THE**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 Long TON,

13 Petitioner,

14 v.

15 Kristi NOEM, Secretary, Department of
16 Homeland Security; Todd LYONS, in his
17 official capacity as Acting Director of U.S.
18 Immigration and Customs Enforcement; Pam
19 BONDI, Attorney General of the United
20 States; Ernesto SANTACRUZ Jr., Acting
21 Director, Los Angeles ICE Field Office; and
22 Fereti SEMAIA, Warden, Adelanto ICE
23 Processing Center.

24 Respondents.

No.

**Petition for Writ of Habeas
Corpus**

Immigration Case

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INTRODUCTION

1. Petitioner Long Ton files this petition for writ of habeas corpus seeking his release from the custody of the Department of Homeland Security (DHS). Petitioner is detained at the Adelanto Immigration and Customs Enforcement (ICE) processing center.

2. Petitioner is a Vietnamese citizen who has resided in the United States since 1980, when he was admitted as a refugee when he was under the age of two. He is married to a United States citizen and has United States citizen children.

3. On July 19, 2007, Petitioner was ordered removed by an immigration judge due to a conviction. He was released from custody in December 2007, just shy of the six month mark, because the government was unable to remove him from the United States.

4. Petitioner reported regularly to DHS on an order of supervision but was taken into custody on May 2, 2025, and has been held since that time.

5. Petitioner's detention violates the Immigration and Nationality Act, its implementing detention regulations, and his right to Due Process.

JURISDICTION AND VENUE

6. This Court has jurisdiction over the present action based on 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1331 (Federal Question), and 28 U.S.C. § 1346(b) (Federal Respondent).

7. Venue is proper with this Court pursuant to 28 U.S.C. § 1391(e)(1) because this is a civil action in which Respondents are employees or officers of the United States, acting in their official capacity; and a substantial part of the events or omissions giving rise to the claim occurred within the Central District of California, and there is no real property involved in this action.

8. Further, pursuant to Braden v. 30th Judicial Circuit Court of Kentucky,

1 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the
2 Central District of California, the judicial district in which Petitioner is currently
3 detained.

4 **PARTIES**

5 9. Petitioner Long Ton was born in Hong Kong in a refugee camp and is a
6 citizen of Vietnam. He is currently detained at the Adelanto ICE Processing Center.

7 10. Respondent Kristi Noem is the Secretary of the Department of Homeland
8 Security. She is responsible for the implementation and enforcement of the
9 Immigration and Nationality Act and oversees ICE, which is responsible for
10 Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner.
11 She is sued in her official capacity.

12 11. Respondent Todd Lyons is the Acting Director of ICE and has authority
13 over the operations of ICE. In that capacity and through his agents, Respondent
14 Lyons has broad authority over the operation and enforcement of the immigration
15 laws. Respondent Lyons is sued in his official capacity.

16 12. Respondent Pam Bondi is the Attorney General of the United States. She
17 is responsible for the Department of Justice and is sued in her official capacity.

18 13. Respondent Ernesto Santacruz Jr. is the Acting Director of the Los
19 Angeles Field Office of ICE's Enforcement and Removal Operations division. As
20 such, he is the custodian of all persons held at the ICE facilities in the Los Angeles
21 Field Office. He is Petitioner's immediate custodian and is responsible for his
22 detention. He is sued in his official capacity.

23 14. Respondent Fereti Semaia is the Warden of the of the Adelanto ICE
24 Processing Center, Adelanto, California, where Petitioner is detained. He has
25 immediate physical custody of Petitioner and is sued in his official capacity.

26 **FACTUAL ALLEGATIONS**

27 15. Petitioner was born in 1979 in a refugee camp in Hong Kong to parents
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1 who were Vietnamese citizens. He is a citizen of Vietnam.

2 16. He was admitted to the United States on December 17, 1980 as a refugee
3 when he was under the age of two.

4 17. Petitioner has resided in the United States for almost 45 years.

5 18. Petitioner got in with the wrong crowd when he was growing up and was
6 friends with gang members. In 2000, at the age of 22, he was in a shopping mall in
7 Orange, California when his friends got involved in a fight. At that time, a gang
8 injunction was in place.

9 19. One of the friends used a knife in the fight and punctured the lung of
10 another person, who died as a result.

11 20. Petitioner was not present during the fight and did not witness the events,
12 but was convicted on April 8, 2002 of voluntary manslaughter as a result of the
13 underlying gang injunction and felony murder rule.

14 21. Petitioner was sentenced to six years in custody for voluntary
15 manslaughter and eight months in custody for the gang offense. He served six years
16 and then was transferred to immigration detention.

17 22. Petitioner was placed into removal proceedings and was ordered removed
18 by an immigration judge on July 19, 2007.

19 23. Petitioner was released just prior to six months later because he could not
20 be removed.

21 24. Petitioner was regularly reporting to ICE since 2007 on an order of
22 supervision.

23 25. Petitioner married his wife on December 4, 2013. His wife became a U.S.
24 citizen in 2006 and they have three U.S. citizen children, ages 4, 7 and 9.

25 26. They are also guardians for Petitioner's brother's two children, ages 8 and
26 12, because his brother died in 2015 and he has been raising the children since then.

27 27. Petitioner works steadily and has not had any other convictions since the
28 2002 conviction.

1 28. Further, Petitioner was granted a certificate of rehabilitation on September
2 10, 2021 from the criminal court. On May 7, 2025, Petitioner's conviction was
3 vacated and he was resentenced to a conviction under California Penal Code § 245
4 for assault, with a sentence of 364 days.¹

5 29. On May 2, 2025, Petitioner went to report to immigration and was
6 detained. He is currently in immigration detention in Adelanto, CA, and has been
7 detained for more than 90 days.

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9 **CAUSES OF ACTION**

10 **COUNT ONE**

11 **(VIOLATION OF 8 U.S.C. § 1231(a)(6))**

12 **(Detention in Excess of Six Months)**

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14 30. Petitioner incorporates the allegations in the paragraphs above as though
15 fully set forth here.

16 31. The Administrative Procedure Act (APA) provides that a court shall hold
17 unlawful and set aside an agency action that is "in excess of statutory jurisdiction,
18 authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(C).

19 32. The Immigration and Nationality Act authorizes a post-removal-period
20 detention of six months to allow the United States to effectuate removal. 8 U.S.C. §
21 1231(a)(6). Zadvydas v. Davis, 533 U.S. 678 (2001).

22 33. The six month removal period does not start again unless the government
23 demonstrates that a substantial likelihood of removal is now reasonably foreseeable.

24 34. Petitioner was released in December 2007 because he could not be
25 removed from the United States.

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¹ A motion to reopen was filed with the immigration judge which was denied, and
28 that case is currently on appeal at the Board of Immigration Appeals.

35. He was detained again on May 2, 2025 and has now been detained more than an additional 90 days, in violation of the Immigration and Nationality Act and Zadvydas.

36. Respondents cannot demonstrate that a substantial likelihood of removal is now reasonably foreseeable and, therefore, Petitioner is being held in violation of 8 U.S.C. § 1231(a)(6), Zadvydas v. Davis, 533 U.S. 678 (2001), and the APA.

COUNT TWO

(Violation of Revocation of Release Regulation, 8 C.F.R. § 241.13(i))

37. Petitioner incorporates the allegations in the paragraphs above as though fully set forth here.

38. The APA provides that a court shall hold unlawful and set aside an agency action that is “without observance of procedure required by law.” 5 U.S.C. § 706(2)(D).

39. DHS regulations authorize the revocation of an order of release only when “if, on account of changed circumstances, the Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i).

40. Petitioner was detained on May 2, 2025, and continues to be detained, without evidence of changed circumstances that he may be removed in the reasonably foreseeable future, in violation of 8 C.F.R. § 241.13(i) and the APA.

COUNT THREE

(Due Process)

41. Petitioner incorporates the allegations in the paragraphs above as though fully set forth here.

42. In *Zadvydas v. Davis*, 533 U.S. at 682, 689, the Supreme Court held that

1 the post-removal-period detention scheme contains “an implicit ‘reasonable time’
2 limitation” and does not permit indefinite detention. The Court reasoned that “[a]
3 statute permitting indefinite detention of an [noncitizen] would raise a serious
4 constitutional problem,” because “[t]he Fifth Amendment’s Due Process Clause
5 forbids the Government to ‘depriv[e]’ any ‘person ... of ... liberty ... without due
6 process of law.’ ” *Id.* at 690.

7 43. Petitioner’s detention has exceeded the presumptively reasonable six-
8 month period, and there is no significant likelihood of his removal in the reasonably
9 foreseeable future.

10 44. Petitioner is being held in violation of his right to Due Process.

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12 **PRAYER FOR RELIEF**

13 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 14 (1) Assume jurisdiction over this matter;
15 (2) Declare that Petitioner’s detention is unlawful;
16 (3) Order that Petitioner be released from detention;
17 (4) Award reasonable costs and attorneys’ fees; and
18 (5) Grant such further relief as the Court deems just and proper.

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20 Dated: August 5, 2025

Respectfully submitted,

21 By: /s/ Stacy Tolchin

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