

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BOA NHAT DOAN THAI,

Petitioner,

v.

KRISTI NOEM, et al.,

Respondent.

Civil Action No. 3:25-CV-02221-X-BN

SUR-REPLY

In response to this Court's Order directing the Respondent to file a sur-reply addressing a claim in Petitioner's reply, Respondent would show the Court as follows:

Background

Petitioner, a native and citizen of Vietnam who has been charged as removable due to a criminal conviction, was taken into custody by Immigration and Customs Enforcement ("ICE") on July 26, 2025. He subsequently filed an emergency habeas petition and emergency motion for a temporary restraining order challenging his detention, arguing that there was no reasonable likelihood of his removal to Vietnam. *See generally* ECF. 2, 4. In response, Respondent explained that ICE had reasonable grounds to believe that Petitioner could in fact be removed to Vietnam. ECF. 7.

On September 3, 2025, the Court ordered respondents to file a sur-reply to petitioner's reply explaining (1) whether respondents abided by the procedural requirements contained in the regulations at 8 C.F.R. § 241.13(i)(3) and (2) the current status of requesting travel documents for Petitioner. ECF 15.

Argument

The petition for a writ of habeas corpus should be denied. As set forth below, Respondents did abide by the regulatory requirements located at section 241.13(i)(3) of the Code of Federal Regulations by (1) notifying petitioner of the reason for his revocation and (2) conducting an "informal" interview of the petitioner. Petitioner's travel documents have been gathered, and the package is ready to be submitted to Vietnam. Respondents have not yet submitted this package to Vietnam, however, based on the proscription in the August 19, 2025, order from this Court.

A. Respondents notified petitioner of the reason for the revocation and conducted an informal interview as required by regulation.

The Code of Federal Regulations contains specific provisions regarding the release and revocation of release of a noncitizen with a final order of removal. Revocation of a prior release is governed by 8 C.F.R. § 241.13(i), which authorizes ICE to revoke a noncitizen's release for purposes of removal. The regulation provides that a noncitizen's release may be revoked "if, on account of changed circumstances," it is determined that "there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2). At that point: "[T]he alien will be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal

interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification.” *Id.* § 241.13(i)(3).

Respondents complied with this procedural requirement. Petitioner was taken into custody on July 25, 2025, by Deportation Officer Shelton. App. p.3, ¶5. DO Shelton does not specifically remember the Petitioner but based upon his review of Petitioner’s arrest narrative and his standard practice in every arrest of this kind, believes that Petitioner was notified of the reason for the revocation of his release (namely, a significant likelihood of removal to Vietnam) and it was explained the exact time frame for removal was not known. App. p.3, ¶7. After this informal interview, Petitioner was then given the opportunity to respond. App. p.7, ¶8. Petitioner was not entitled to additional process under the regulations.¹

B. Status of Petitioner’s travel documents.

Travel document request forms are required for removals to Vietnam. All documents required for this form are completed for Petitioner and have been sent to ICE headquarters. ECF 10, p. 6, at ¶13. Typically, once ICE headquarters has the completed form it is sent to Vietnam and the travel document request is complete. *Id.* On August 19, 2025, this Court entered an Order stating Respondents “SHALL NOT take any further

¹ Notably, when petitioner initiated this action last month, his petition made no argument about allegedly not having received an “informal interview” after he was returned to ICE custody—instead, Petitioner alleged only that he “was not interviewed by ICE *before* being detained.” (Pet. ¶ 65 (emphasis added).) Petitioner did not cite any authority for the apparent premise of this allegation that a pre-detention interview was somehow required. It was not, because as discussed above, the regulation instead provides for an interview of the alien “after his or her return to [the agency’s] custody.” 8 C.F.R. § 241.13(i)(3).

action or steps to deport or remove Petitioner from the United States to another country, territory or foreign territory or to circumvent the provisions of this Order until September 18, 2025, . . .” ECF 6. To ensure compliance with this Court’s Order, the completed travel document request form has not been sent by ICE headquarters to Vietnam. App. p.3, ¶10. ICE headquarters intends to send the request form to Vietnam as soon as allowed. Once the form is sent, Respondents believe travel papers will be issued for Petitioner. App. p.3, ¶11. Vietnam has issued travel papers and ICE continues to regularly remove people to Vietnam on charter flights. App. p. 3, ¶9.

Respectfully submitted.

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CERTIFICATE OF SERVICE

On September 6, 2025, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Ann E. Cruce-Haag
ANN E. CRUCE-HAAG
Assistant United States Attorney