

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

DAHN HUE NGUYEN,
a/k/a HUE DAHN NGUYEN

CASE NO.

Petitioner,

JUDGE:

v.

MAGISTRATE JUDGE:

MELISSA B. HARPER, Field Office Director, United States Immigration and Customs Enforcement New Orleans Field Office, Enforcement and Removal Operations; UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, KRISTI NOEM, Secretary, United States Department of Homeland Security; PAMELA BONDI, Attorney General of the United States; TODD M. LYONS, Acting Director, United States Immigration and Customs Enforcement.

Respondents.

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PETITION FOR WRIT OF HABEAS CORPUS
AND ORDER TO SHOW CAUSE

COMES NOW the Petitioner (“Petitioner”), DAHN HUE NGUYEN a/k/a HUE DANH NGUYEN, by and through his undersigned counsel, and petitions this Honorable Court to issue a writ of *habeas corpus* to remedy his unlawful detention by United States Immigration and Customs Enforcement (“ICE”) and in support thereof respectfully alleges as follows:

CUSTODY

1. Petitioner is in the custody of Defendant-Respondent ("Respondent") MELISSA B. HARPER at ICE's Jena/LaSalle Detention Facility, 830 Pine Hill Road, Jena, Louisiana 71342.

See Exhibit No. 1.

2. Petitioner has been detained by Respondents since approximately June 11, 2025. Petitioner was initially detained at the Krome North Service Processing Center in Miami, Florida. On or about June 14, 2025 Petitioner was transferred to the ICE Jena/LaSalle Detention Facility in Jena, Louisiana where he continues to be detained even though the federal government has no significant likelihood of removing him from the United States.

JURISDICTION AND VENUE

3. This action arises under the Constitution of the United States, the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*

4. This Court has jurisdiction under 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 2241 (habeas corpus), and Article I, Section 9, Clause 2 of the U.S. Constitution ("Suspension Clause"), as Petitioner is currently in custody under color of the authority of the United States in violation of the Constitution, laws, or treaties of the United States.

5. Venue for the complaint for injunctive relief is proper under 28 U.S.C. § 1391(e), as Respondents are officers or employees of the United States. Venue for the habeas action is proper under 28 U.S.C. §§ 2241 *et seq.*, as Respondents exercise control over Petitioner's custody.

PARTIES

6. Petitioner is a citizen and national of Vietnam and has been assigned Alien Registration Number A [REDACTED] by the Respondents.

7. Respondent-Defendants (“Respondents”) are government agencies and officials as more fully set forth below.

8. Suit is brought against Respondent MELISSA B. HARPER in her official capacity as the Field Office Director of the ICE office in New Orleans, Louisiana which controls the ICE Jena/La Salle Detention Center in Jena, Louisiana. In that capacity, she is the legal custodian of the Petitioner and has the power or ability to produce or release the Petitioner if directed to do so by this Court.

9. Suit is brought against Respondent UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) as it is the agency responsible for administration of the Immigration and Nationality Act (INA), 8 U.S.C. §1101 *et. seq.*, including, but not limited to, the detention and removal of aliens from the United States.

10. Suit is brought against Respondent KRISTI NOEM in her official capacity as the Secretary of the Department of Homeland Security. In that capacity, she has responsibility for the administration and enforcement of the immigration laws.

11. Suit is brought against Respondent PAMELA BONDI in her official capacity as the Attorney General of the United States. In that capacity she has responsibility for the administration and enforcement of the immigration laws and delegates this responsibility to the Executive Office for Immigration Review (“EOIR”), which is subject to her control and direction. Respondent BONDI is legally responsible for administering the Petitioner’s deportation proceedings.

12. Suit is brought against Respondent TODD M. LYONS in his official capacity as the Acting Director of ICE, an agency of the Department of Homeland Security. In that capacity he is responsible for the administration of ICE and the implementation of the immigration laws of the United States.

STATEMENT OF THE FACTS

13. Petitioner is a 52 year old male citizen and national of Vietnam and has been assigned file number A [REDACTED] by the Respondents.

14. On or about August 31, 1988, at the age of 15 years old, Petitioner was admitted to the United States as a refugee. *See Exhibit No. 2.*

15. On or about June 27, 1990, Petitioner's status was adjusted to that of a lawful permanent resident as of August 31, 1988 by the former Immigration and Naturalization Service ("INS").¹ *See Exhibit No. 3.*

16. On or about September 23, 1993, Petitioner was convicted of Burglary (Conveyance) in violation of Fla. Stat. § 810.02 (1992) and Possession of Burglary Tools in violation of Fla. Stat. § 810.06 (1992). Petitioner was sentenced to a term of imprisonment of 30 months to be served concurrently. *See Exhibit No. 4.*

17. On or about September 29, 1993, Petitioner was convicted of two counts of aggravated assault (firearm) in violation of Fla. Stat. § 784.021 (1993) and Fla. Stat. § 775.087(2) (1993). Petitioner was sentenced to a term of imprisonment of 3 years to be served concurrently with his September 23, 1993 convictions. *See Exhibit No. 5.*

18. On or about November 10, 1993, the Immigration and Naturalization Service placed a "detainer" with the State of Florida Department of Corrections requesting that the Petitioner be remanded to its custody upon his release from custody by the State of Florida. *See Exhibit No. 6.*

¹ Effective March 1, 2003, the Immigration and Naturalization Service ceased to exist. The Service's functions relating to adjudication of immigration benefit applications were transferred to the jurisdiction of United States Citizenship and Immigration Services ("USCIS"). The Service's functions relating to enforcement and removal operations were transferred to United States Immigration and Customs Enforcement ("ICE"), both newly created divisions of the Department of Homeland Security. *See Homeland Security Act, Pub. L. 107-296, Title IV, Subtitle E, section 451; 116 Stat. 2135, 2195 (Nov. 25, 2002).*

19. On or about April 11, 1994, Petitioner was ordered deported² from the United States to Vietnam by the Immigration Court in Miami, Florida. *See Exhibit No. 7.*

20. Prior to July 12, 1995, the United States and the Socialist Republic of Vietnam did not have diplomatic relations. As such, Vietnam refused to accept any deportees from the United States. During this period INS was unable to obtain any travel documents from the Embassy of the Socialist Republic of Vietnam.

21. On or about July 12, 1995, the United States and the Socialist Republic of Vietnam commenced diplomatic relations. As part of the agreements between the two countries, Vietnam agreed to commence accepting deportees who were ordered deported on or after April 1, 1995. Notwithstanding, Vietnam retains complete discretion regarding the issuance of passports and/or travel documents.

22. On or about April 18, 1996, Petitioner completed his criminal sentences and was further detained by the Florida Department of Corrections pursuant to the INS detainer request until on or about April 29, 1996 when he was released by the State of Florida to the custody of the former Immigration and Naturalization Service. *See Exhibit No. 8.*

23. Petitioner was subsequently detained by the Immigration and Naturalization Service while it unsuccessfully attempted to obtain a travel document for the Petitioner from the Socialist Republic of Vietnam and deport him to Vietnam. *See Exhibit No. 9.*

² Beginning with proceedings commenced on April 1, 1997, deportation and exclusion proceedings were replaced by a combined proceeding known as “removal proceedings.” *See generally* 8 U.S.C. §§ 1239, 1240, 8 C.F.R. §§ 1003.12 *et seq.*, 1240.1 *et seq.* Notwithstanding, Immigration Judges continue to conduct deportation and exclusion proceedings in certain cases that began before April 1, 1997. The procedures in deportation and exclusion proceedings are generally similar to the procedures in removal proceedings. However, deportation and exclusion proceedings are significantly different from removal proceedings in areas such as burden of proof, forms of relief available, and custody Aliens who are subject to deportation proceedings and subject to an order directing their departure from the county are ordered “deported” while aliens who are subject to removal proceedings and subject to an order directing their departure are ordered “removed.” The terms “deported” and “removed” are synonymous as an administratively final order of deportation or removal has the same effect.

24. As Mr. Nguyen was ordered deported on April 11, 1994, he was not subject to the July 12, 1995 agreement between the United States and Vietnam.

25. On or about February 20, 1997, INS was advised by the Consulate of the Socialist Republic of Vietnam that it would not issue a travel document for the Petitioner. It was clear to INS at that time that there was no reasonable likelihood in the foreseeable future that it would be able to remove the Petitioner from the United States, yet the agency continued to detain the Petitioner. *See Exhibit No. 10.*

26. Petitioner was detained by INS for more than 2½ years before being released in approximately October, 1998 on an Order of Supervision.

27. Petitioner has been accorded employment authorization on a continuous basis by Respondents since being released from custody.

28. Since his release from custody, Petitioner has not engaged in, nor been convicted of, any criminal or recidivist behavior. In fact, Petitioner married a U.S. citizen, has three U.S. citizen children, and owns two businesses which employ U.S. workers. Additionally, Petitioner has raised his U.S. citizen spouse's child from a prior relationship as if the child were his own.

29. On or about December 6, 1999, INS amended Petitioner's Order of Supervision so that he was only required to report annually. *See Exhibit No. 11.*

30. On or about December 17, 2001, Respondents issued Petitioner a superseding Order of Supervision which required him to report annually. *See Exhibit No. 12.*

31. On or about October 20, 2009, Respondents issued Petitioner a superseding Order of Supervision which required him to report annually. *See Exhibit No. 13.* Petitioner has complied with this order up and until he was taken into custody by ICE.

32. Upon being redetained in June 2025, ICE failed to provide (1) an individualized determination (2) by ICE that, (3) based on changed circumstances, (4) removal has become significantly likely in the reasonable foreseeable future. *See Kong v. United States*, 62 F.4th 609, 619-20 (1st Cir. 2023); 8 C.F.R. § 241.13(i)(2).

33. Upon being redetained in June, 2025, ICE failed to notify the Petitioner of the reasons for the revocation of his release or conduct an interview to afford the Petitioner the opportunity to respond for the reasons for the revocation of his release as required by 8 C.F.R. § 241.13(i)(3).

34. Since Petitioner's last release from custody, ICE has failed to procure travel documents from the Embassy of the Socialist Republic of Vietnam or effect his deportation to Vietnam.

35. Subsequent to being taken into custody, at the request of Respondents, Petitioner executed documents requesting issuance of a travel document from the Socialist Republic of Vietnam even though ICE has no indication that the Government of Vietnam has found Petitioner eligible for repatriation.

36. Upon information and belief, ICE has never issued a notice revoking Petitioner's release.

37. Petitioner is not a danger to the community and is not a flight risk.

38. Petitioner's deportation from the United States is not reasonably foreseeable in the immediate future.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

39. Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this action.

40. There has been no prior judicial review of this matter.

IRREPARABLE INJURY

41. Petitioner has suffered, is suffering, and will continue to suffer irreparable injury unless equitable relief is ordered by this Honorable Court. Respondents' conduct is depriving Petitioner of his liberty without providing him due process of law. The deprivation of his liberty is, in and of itself, irreparable harm.

42. Pursuant to 28 U.S.C § 2243, this Court can order the Respondents to file a response within three days, unless they can show cause for additional time. ("The writ or order to show cause shall be directed to the person having custody of the person detained. It shall be returned within three days unless for good cause additional time, not exceeding twenty days is allowed.").

CLAIMS FOR RELIEF

COUNT I

43. Petitioner repeats and realleges each of the allegations in paragraphs 1 through 42 as if the same were incorporated herein in full.

44. Petitioner is currently in the custody of Respondents under or by color of the authority of the United States based on his detainment at the Jena/LaSalle Detention Facility in Jena, Louisiana.

45. Petitioner's detention violates 8 U.S.C. 1231.

46. Petitioner is being detained for immigration purposes when Respondents know that they cannot effect his prompt deportation from the United States in the reasonably foreseeable

future, that Petitioner is neither a flight risk nor a danger to the community, and has not violated the terms and/or conditions of his Order of Supervision.

47. Respondents have no permissible basis for depriving Petitioner of his liberty in violation of 8 U.S.C. § 1231(a) as well as their respective implementing regulations. A judicial order requiring Petitioner's release from custody would remedy Respondents' unlawful conduct.

48. Petitioner has been forced to retain undersigned counsel to pursue the instant action and is indebted for a reasonable attorney's fee.

COUNT II

49. Petitioner repeats and re-alleges each of the allegations in paragraphs 1 through 42 as if the same were incorporated herein in full.

50. Petitioner is currently in the custody of Respondents under or by color of the authority of the United States based on his detainment at the Jena/LaSalle Detention Facility in Jena, Louisiana.

51. Petitioner's continued detention violates the Constitution of the United States.

52. Petitioner is being detained for immigration purposes when Respondents know that they cannot effect his prompt deportation from the United States, that Petitioner is neither a flight risk nor a danger to the community, and has not violated the terms and/or conditions of his Order of Supervision.

53. Respondents have no permissible basis for depriving Petitioner of his liberty in violation of 8 U.S.C. § 1231(a) as well as their respective implementing regulations. A judicial order requiring Petitioner's release from custody would remedy Respondents' unlawful conduct.

54. Other than as punishment for a crime, due process permits the government to take away liberty only "in certain special and narrow nonpunitive circumstances . . . where a special

justification . . . outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (quotations omitted). Such special justification exists only where a restraint on liberty bears a "reasonable relation" to permissible purposes. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *see also Foucha v. Louisiana*, 504 U.S. 71, 79 (1992); *Zadvydas*, 533 U.S. at 690. In the immigration context, those purposes are "ensuring the appearance of aliens at future immigration proceedings and preventing danger to the community." *Zadvydas*, 533 U.S. at 690 (quotations omitted).

55. Those substantive limitations on detention are closely intertwined with procedural due process protections. *Foucha v. Louisiana*, 504 U.S. 71, 78-80 (1992). Noncitizens have a right to adequate procedures to determine whether their detention in fact serves the purposes of ensuring their appearance or protecting the community. *Id.* at 79; *Zadvydas*, 533 U.S. 692; *Casas-Castrillon v. Dep't of Homeland Sec.*, 535 F.3d 942, 949 (9th Cir. 2008). Where laws and regulations fail to provide such procedures, the habeas court must assess whether the noncitizen's immigration detention is reasonably related to the purposes of ensuring his appearance or protecting the community. *Zadvydas*, 533 U.S. at 699.

56. Because Petitioner was detained without any determination that he poses a danger or flight risk, and because he in fact poses no danger or flight risk, his detention violates due process.

57. Petitioner has been forced to retain undersigned counsel to pursue the instant action and is indebted for a reasonable attorney's fee.

RELIEF REQUESTED

WHEREFORE, Petitioner, HUE DAHN NGUYEN, prays that this Honorable Court grant him the following relief:

1. Accept jurisdiction over this action.
2. Immediately issue an order directing Respondents to show cause why the writ should not be granted.
3. Issue a writ of *habeas corpus*, directed to Respondents, ordering Petitioner's immediate release from custody.
4. Order that Respondent immediately release Petitioner if he is subsequently transferred from his current detention to any other facility and continuing thereafter.
5. Order Respondents to provide this Honorable Court and counsel for the Petitioner with at least three days' notice prior any attempt to deport the Petitioner from the United States.
6. Declare as unlawful and unconstitutional Respondents' conduct because it violates Petitioner's substantive due process rights under the Due Process Clause of the Fifth Amendment of the United States Constitution.
7. Declare as unlawful and unconstitutional Respondents' conduct because it violates Petitioner's procedural due process rights under the Due Process Clause of the Fifth Amendment of the United States Constitution.
8. Declare as unlawful and unconstitutional Respondents' conduct because it violates Petitioner's rights against unreasonable search and seizure under the Fourth Amendment of the United States Constitution.
9. Award Petitioner his suit money, costs and attorney's fees incurred as a result of bringing this action.

10. Grant such further relief as Petitioner may request and/or this Honorable Court deems just and proper under the circumstances.

Respectfully submitted,

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VERIFICATION

Pursuant to 28 U.S.C. § 2242 I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney and I have discussed with the Petitioner the facts and events described in this Petition. Based on those discussions, I hereby verify that the statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

By: s/ Jeffrey A. Devore
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