

JUDGE LEON SCHYDLOWER

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the
Western District of Texas

Trinh Anh Hieu Nguyen

Petitioner

v.

Todd Lyons, Acting Director Immigration Customs and
Enforcement, Mary De Anda-Ybarra, Field Office
Director for Enforcement and Removal Operations,
Kristy Noem, Secretary of Department of Homeland
Security, in their official capacities

Case No.

2025 SEP -8 AM 10:46

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY

DEPUTY

EP 25 CV 0371

(Supplied by Clerk of Court)

Respondent

(name of warden or authorized person having custody of petitioner)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Trinh Hieu Anh Nguyen
(b) Other names you have used: None
2. Place of confinement:
(a) Name of institution: El Paso Processing Center
(b) Address: 8915 Montana Ave.
El Paso, Texas 79925
(c) Your identification number: 025-159-058
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain:
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you:
(b) Docket number of criminal case:
(c) Date of sentencing:
☒ Being held on an immigration charge
☐ Other (explain):

Decision or Action You Are Challenging

5. What are you challenging in this petition:

- ☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)
- ☐ Pretrial detention
- ☒ Immigration detention
- ☐ Detainer
- ☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- ☐ Disciplinary proceedings
- ☐ Other (explain):

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: El Paso Processing Center, El Paso, Texas

(b) Docket number, case number, or opinion number:

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

Mr. Nguyen was ordered removed on March 7, 2002. On June 14, 2002, pursuant to 8 CFR 241.3, former INS, released Mr. Nguyen on an order of supervision due to inability to effect removal. On July 27, 2025, Mr. Nguyen was detained by ICE and has been in detention contrary to 8 CFR 241.4 (I-I) and Matter of Zavadayas.

(d) Date of the decision or action: 07/27/2025

Your Earlier Challenges of the Decision or Action

7. First appeal

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☒ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: U.S. Immigration Customs Enforcement (ICE)

(2) Date of filing: 09/02/2025

(3) Docket number, case number, or opinion number: N/A

(4) Result: Form I-246- Application for a Stay of Deportation or Removal

(5) Date of result: 09/05/2025

(6) Issues raised: On September 2, 2025, Mr. Nguyen attempted to file Form I-246, Application for a Stay of Removal with ICE to request Mr. Nguyen's release. On September, 5, 2025, ICE refused to accept and process the stay because of Mr. Nguyen's inability to provide a Vietnamese passport. Mr. Nguyen raised the issue of the agency's inability to obtain travel documents to effectuate removal

for 28 years and Mr. Nguyen's inability to apply for a passport due to his entry as a refugee.
There is no appeal process for rejection of Form I-246.

(b) If you answered "No," explain why you did not appeal:

8. Second appeal

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court:

(2) Date of filing:

(3) Docket number, case number, or opinion number:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) If you answered "No," explain why you did not file a second appeal:

See above, there is no appeal process for a rejected Form I-246.

9. Third appeal

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court:

(2) Date of filing:

(3) Docket number, case number, or opinion number:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) If you answered "No," explain why you did not file a third appeal:

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☐ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence:

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☒ Yes ☐ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: 07/27/2025
(b) Date of the removal or reinstatement order: 03/07/2002
(c) Did you file an appeal with the Board of Immigration Appeals?
☐ Yes ☒ No

If "Yes," provide:

- (1) Date of filing:
(2) Case number:
(3) Result:
(4) Date of result:
(5) Issues raised:

- (d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes ☒ No

If "Yes," provide:

- (1) Name of court:
(2) Date of filing:
(3) Case number:

- (4) Result:
- (5) Date of result:
- (6) Issues raised:

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes ☒ No

If "Yes," provide:

- (a) Kind of petition, motion, or application:
- (b) Name of the authority, agency, or court:
- (c) Date of filing:
- (d) Docket number, case number, or opinion number:
- (e) Result:
- (f) Date of result:
- (g) Issues raised:

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: 8 USC § 1231 (a)(1)(A) provides: "Except as otherwise provided in this section, the [Secretary] shall remove the alien from the United States within a period of 90 days. Pursuant to § 1231 (a)(1)(B), the removal period starts on the latest of the following: 1) the date the removal order becomes administratively final; 2) if the removal order is judicially reviewed and a stay is issued, the date of court's final order; 3) if detained (except under Immigration process), the date the noncitizen is released from detention.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

The Immigration Judge ordered Mr. Nguyen removed on 3/2/2007. Mr. Nguyen did not file an appeal; the order became final on March 2, 2007. Unable to remove Mr. Nguyen, former INS, released Mr. Nguyen and placed him on an Order of Supervision on 6/13/2002. Mr. Nguyen reported to INS and then its predecessor, ICE, for 28 yrs. On 7/27/2025, Mr. Nguyen, while crossing an ICE checkpoint, was taken into custody. His order of supervision was revoked without any notice or opportunity for a hearing. More than 180 days have passed since the removal order. Continued detention beyond the 90-day removal period is not authorized when removal is not foreseeable.

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes

☐ No

GROUND TWO: Pursuant to 8 CFR 241.4(i)-(l), an order of supervision cannot be rescinded without providing the foreign national with a written explanation of how the order of supervision was violated and why it is being rescinded and as to give the foreign national an opportunity to respond and show that they did not violate the terms and conditions of the order of supervision.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Mr. Nguyen was ordered removed on March 2, 2007. Unable to remove Mr. Nguyen, former INS, released Mr. Nguyen and placed him on an Order of Supervision on June 13, 2002. Mr. Nguyen reported to INS and then predecessor, ICE, for 28 years. On July 27, 2025, Mr. Nguyen was detained and taken into ICE custody while crossing an ICE checkpoint in Las Cruces, NM. Mr. Nguyen's order of supervision was rescinded without a written explanation of how the order was violated and why it is being rescinded. Mr. Nguyen was not given an opportunity to respond and show that he did not violate the terms and conditions of the order of supervision. The revocation of the Order of Supervision was improper and violated § 241.4(l), and it must be set aside.

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☐ No

GROUND THREE: Violation of the Fifth Amendment because Mr. Nguyen was arrested and detained without due process.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Mr. Nguyen has been under ICE custody on an order of supervision since June 13, 2002. On July 27, 2025, his order of supervision was revoked without any notice or opportunity to respond to the reasons for revocation. Mr. Nguyen did not violate conditions of release, ICE has not and cannot obtain a travel document for Mr. Nguyen, and Mr. Nguyen has not engaged in any conduct to indicate that release is no longer appropriate. Mr. Nguyen had been under an order of supervision for 28 years before his detention. Continued detention without foreseeable end is not reasonably related to government's purpose of effectuating removal and is therefore a due process violation.

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☐ No

GROUND FOUR: Arbitrary and Capricious Agency Action Under the Administrative Procedure Act, 5 U.S.C. § 706(2)(A).

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Mr. Nguyen has been under an order of supervision for 28 years. Mr. Nguyen did not violation terms and conditions of his order of supervision. He was detained on July 27, 2025, without any written notice of the reasons for revocation and he was not given an opportunity to respond. ICE has deviated from its own policy in detaining Mr. Nguyen without grounds for revocation of his order of supervision and in violation of § 241.4(I). This is arbitrary, capricious, and contrary to law in violation of the APA.

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: Assume jurisdiction over this matter; order Mr. Nguyen's immediate release; declare that Mr. Nguyen's continued detention violates 8 USC §1231, 8 CFR §1241, the Due Process Clause of the Fifth Amendment to the U.S. Constitution, and the Administrative Procedure Act; prohibit removal or transfer of Mr. Nguyen; grant any other further relief this Court deems just and proper.

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Declaration Under Penalty Of Perjury

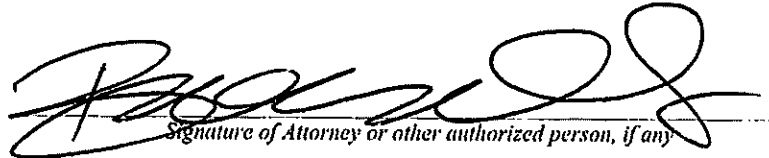
If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 09/08/2025



Signature of Petitioner



Signature of Attorney or other authorized person, if any