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

9 Chai Ly,  
10 Petitioner,  
11 vs.

12 Luis Rosa, Jr., Warden, Central Arizona  
13 Florence Correctional Center;

14 John Cantu, Former Phoenix Field Officer  
15 Director, U.S. Immigration and Customs  
Enforcement;

16 Pamela Jo Bondi, Attorney General of the  
17 United States; and

18 Kristi Noem, Secretary of Homeland  
19 Security,


20 Respondents.

No. 2:25-cv-3443-PHX-KML (JZB)

**Second Amended Petition for a Writ of  
Habeas Corpus Under 28 U.S.C. § 2241**

21 Petitioner Chai Ly now files, with the assistance of appointed counsel, this second  
22 amended petition for a writ of habeas corpus under 28 U.S.C. § 2241. This second amended  
23 petition supersedes the *pro se* filings docketed on September 18, 2025 (Dkt. #1), and October 21,  
24 2025 (Dkt. #5). *See Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th  
25 Cir. 1989) (explaining that “an amended pleading supersedes the original”).  
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**Technical Data**

- 1. Mr. Ly is challenging the validity of his detention in immigration custody. His A-number is 
- 2. Mr. Ly is challenging the decision of U.S. Immigration and Customs Enforcement to revoke his release on an order of supervision and order him detained pending removal to Vietnam.
- 3. The decision to detain Mr. Ly beyond the removal period, *see* 8 U.S.C. § 1231(a)(1), (a)(6), is discretionary. As such, there are no administrative remedies available to him to exhaust.

**Parties, Jurisdiction, and Venue**

- 4. Petitioner Chai Ly is a citizen of the Socialist Republic of Vietnam. He was ordered removed to that country in 2000.
- 5. Respondent Luis Rosa, Jr., is the Warden of the Central Arizona Florence Correctional Complex. He is Mr. Ly’s immediate custodian, and thus a proper respondent in this matter. *See Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004).
- 6. Respondent John Cantu is the Former Phoenix Field Office Director for U.S. Immigration and Customs Enforcement. He was removed from this position on October 28, 2025. No replacement has been named, and no acting Field Office Director is publicly known. Mr. Cantu—or his successor under Fed. R. Civ. P. 25(d)—is responsible for Mr. Ly’s detention, and thus a proper respondent in this matter.
- 7. Respondents Pamela Jo Bondi and Kristi Noem are, respectively, the Attorney General of the United States and the Secretary of Homeland Security. As such, they are responsible for maintaining the immigration detention system. They are thus legal custodians of Mr. Ly, and proper respondents in this matter.
- 8. This Court has jurisdiction under 28 U.S.C. §§ 2241 *et seq.*; the Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*; the All Writs Act, 28 U.S.C. § 1651; and the Fifth Amendment to the U.S. Constitution.

1 9. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) and (e)(1)(B) because a  
2 substantial part of the events or omissions giving rise to the claims for relief set forth in  
3 this petition occurred in this district.

### 4 **Background**

5 10. Mr. Ly was born in Vietnam in 1975. He is an orphan. When he was around eight years  
6 old, his aunt brought him to the United States. They initially settled in Bellingham,  
7 Washington, but later moved to Los Angeles. He was later granted lawful permanent  
8 resident status.

9 11. In 2000, he was ordered removed from the United States following a conviction in Los  
10 Angeles County Superior Court for burglary, in violation of Cal. Penal Code § 459. *See* 8  
11 U.S.C. § 1101(a)(43)(F), (G) (crimes of violence and burglary offenses are aggravated  
12 felonies); 8 U.S.C. § 1227(a)(2)(A)(iii) (conviction for an aggravated felony is a  
13 deportable offense).

14 12. Upon information and belief, the INS took Mr. Ly into custody after he was released from  
15 state prison on the burglary conviction. INS was not able to obtain travel documents for  
16 him from the Vietnamese government, and so he was released on an order of supervision.

17 a. “After the Vietnam War, the North Vietnamese government established the  
18 current Socialist Republic of Vietnam. Around that time, waves of people from the  
19 former Republic of Vietnam (South Vietnam) fled the country to escape political  
20 persecution. Under various humanitarian programs, the United States accepted  
21 hundreds of thousands of Vietnamese refugees.” *Trinh v. Homan*, 466 F. Supp. 3d  
22 1077, 1083 (C.D. Cal. 2020) (cleaned up and citations to court filings omitted).

23 b. “Between the end of the Vietnam War and 2008, Vietnam refused to repatriate  
24 any Vietnamese immigrants who had been ordered removed from the United  
25 States. Before a Vietnamese immigrant without a passport or other travel  
26 document can be repatriated, Vietnam must issue a passport or other travel  
27 document in response to a request from ICE. In 2008, the United States and  
28

1 Vietnam reached a diplomatic agreement pursuant to which Vietnam agreed to  
2 start considering repatriation requests for certain Vietnamese immigrants.  
3 Specifically, the agreement obligated Vietnam to consider repatriation requests for  
4 Vietnamese immigrants who had arrived in the United States after July 12, 1995.  
5 The agreement also provided that Vietnamese citizens are not subject to return to  
6 Vietnam under this agreement if they arrived in the United States before July 12,  
7 1995. Relying on this provision, Vietnam maintained its policy of nonrepatriation  
8 for pre-1995 Vietnamese immigrants after signing the 2008 agreement.” *Id.*  
9 (cleaned up and citations to court filings omitted).

- 10 c. Mr. Ly was not eligible for the 2008 repatriation program because he arrived in  
11 the United States in approximately 1984, well before July 12, 1995.
- 12 d. “Prior to 2017, U.S. Immigration and Customs Enforcement (“ICE”) maintained  
13 that the removal of pre-1995 Vietnamese immigrants was unlikely given Vietnam’s  
14 consistent refusal to repatriate them. Accordingly, ICE adopted a policy of  
15 detaining pre-1995 Vietnamese immigrants for no longer than ninety days after  
16 their removal orders became final. After ninety days, ICE generally released them  
17 into the community on orders of supervision.” *Id.* (cleaned up and citations to  
18 court filings omitted).
- 19 e. “In 2017, ICE entered into negotiations with Vietnam that were aimed at  
20 amending the 2008 Agreement and developing a new policy that would allow for  
21 pre-1995 Vietnamese immigrants to be repatriated. These negotiations were  
22 somewhat successful. Although the 2008 agreement was not officially amended,  
23 Vietnamese officials verbally committed to begin considering ICE travel  
24 document requests for pre-1995 Vietnamese immigrants on a case-by-case basis,  
25 without explicitly committing to accept any of them.” *Id.* (cleaned up and  
26 citations to court filings omitted).

- 1 f. “After receiving this verbal commitment in 2017, ICE departed from its  
2 longstanding practice of releasing pre-1995 Vietnamese immigrants with final  
3 orders of removal after ninety days of detention. Instead, it began detaining them  
4 for more than ninety days based on the possibility that Vietnam might issue the  
5 requisite travel documents. ICE also began redetaining some pre-1995 Vietnamese  
6 immigrants who had previously been released on orders of supervision.” *Id.* at  
7 1183–84 (cleaned up and citations to court filings omitted).
- 8 g. “On August 6, 2018, ICE met with Vietnamese officials again to continue  
9 discussions about the status of pre-1995 Vietnamese immigrants. After that  
10 meeting, ICE reversed its position again. ICE conceded that, despite Vietnam’s  
11 verbal commitment to consider travel document requests for pre-1995  
12 immigrants, in general, the removal of these individuals was still not significantly  
13 likely. In October 2018, ICE instructed field offices to resume the practice of  
14 releasing pre-1995 Vietnamese immigrants within 90 days of a final order of  
15 removal. That policy” remained in place as of June 11, 2020, the date of the  
16 court’s order in *Trinh*. 466 F. Supp. 3d at 1084.
- 17 h. On November 21, 2020, the Department of Homeland Security and the Ministry  
18 of Public Security of the Socialist Republic of Vietnam (which is responsible for  
19 immigration matters in that country) reached a memorandum of understanding  
20 regarding the repatriation of Vietnamese citizens who had entered the United  
21 States before July 12, 1995, and who had been ordered removed from the United  
22 States.
- 23 i. The Vietnamese government agreed to issue travel documents for, and accept the  
24 removal of, Vietnamese citizens who meet all of the following criteria:
- 25 i. The person “has Vietnamese citizenship and does not have citizenship of  
26 any other country at the same time.” (MOU at 2, § 4)<sup>1</sup>

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27 <sup>1</sup> This memorandum of understanding is attached to this filing as an exhibit.  
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- 1                   ii.       The person has “violated U.S. law,” been ordered removed by a
- 2                               “competent authority,” and has been released from prison by virtue of
- 3                               either the completion of a penal sentence or the reduction of such sentence
- 4                               that allowed for the person’s release. (MOU at 2–3, § 4)
- 5                   iii.       The person resided in Vietnam “prior to arriving in the United States and
- 6                               currently has no right to reside in any other country.” (MOU at 3, § 4)
- 7                   iv.       There is a fourth criterion, but it was redacted from the copy of the MOU
- 8                               submitted with this petition as authorized by 5 U.S.C. § 552(b)(7)(E)
- 9                               (permitting redaction from documents provided under the Freedom of
- 10                              Information Act when failing to redact “would disclose techniques and
- 11                              procedures for law enforcement investigations or prosecutions, or would
- 12                              disclose guidelines for law enforcement investigations or prosecutions if
- 13                              such disclosure could reasonably be expected to risk circumvention of the
- 14                              law”). For this reason, the accompanying motion for limited discovery
- 15                              includes a request for an unredacted copy of the memorandum of
- 16                              understanding.
- 17            j.       The parties to the memorandum of understanding agreed on the following
- 18                              procedure for verification and issuance of travel documents:
- 19                    i.       DHS will only request travel documents for individuals who meet all four
- 20                              of the criteria set forth above. (MOU at 4, § 8)
- 21                    ii.       The request for travel documents was expected to include:
- 22                              1.       a cover letter that requests MPS to accept the return of one of its
- 23                                      citizens;
- 24                              2.       a self-declaration form of the individual to be removed (the form
- 25                                      provided in the annex to the MOU);
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- 1 3. a copy of the final order or removal, sentence imposed, copies or
- 2 summary of criminal judgment and conviction documents if the
- 3 crimes were the basis for removal;
- 4 4. decision of discharge from prison or reduction or sentence; and
- 5 5. copies of other identity or citizenship documents as appropriate
- 6 and available. (MOU at 4, § 8)
- 7 6. Documents in English must be translated into Vietnamese and
- 8 certified by a competent authority. (MOU at 4, § 8)
- 9 iii. The Vietnamese government reserved the right to “request additional
- 10 information derived from official records to confirm an individual’s
- 11 identity and citizenship.” (MOU at 4, § 8) DHS agreed to respond to such
- 12 requests in a manner “consistent with U.S. law, regulation, and policy.”
- 13 (MOU at 4, § 8)
- 14 iv. “When the individual for whom the travel document has been requested
- 15 does not meet these eligibility criteria, [the Vietnamese government]
- 16 intends to notify DHS of the eligibility criteria that have not been met,
- 17 and/or if any additional information is needed to determine eligibility.”
- 18 (MOU at 4, § 8)
- 19 k. The memorandum of understanding could be suspended or cancelled upon 60
- 20 days’ notice by either party. (MOU at 6, § 13)
- 21 13. After Mr. Ly was released from state prison and ICE custody on an order of supervision,
- 22 he reported regularly to ICE as required under the terms of the supervision order. The
- 23 following criminal history is derived from publicly available court records to which Mr. Ly
- 24 drew counsel’s attention during his intake interview.
- 25 a. On March 29, 2005, a felony criminal complaint was filed against Mr. Ly in Santa
- 26 Clara County, California, Superior Court. He was accused at least of one count of
- 27 attempted possession of a controlled substance. He entered a guilty plea on
- 28

1 September 12, 2005, and was sentenced on December 2, 2005. The court records  
2 that are publicly available over the internet do not confirm the nature of the charge  
3 or the sentence imposed.

4 b. On March 25, 2025, a criminal complaint was filed in Orange County, California,  
5 Superior Court that accused Mr. Ly of three misdemeanor counts—possession of  
6 drug paraphernalia, in violation of Cal. Health & Safety Code § 11364(a);  
7 possession of a controlled substance, in violation of Cal. Health & Safety Code  
8 § 11377(a); and possession of a controlled substance, in violation of Cal. Health &  
9 Safety Code § 11350(a). He pleaded guilty to all three counts on May 9, 2025, and  
10 was sentenced to a total of 20 days in jail.

11 c. On April 1, 2025, a criminal complaint was filed in Orange County Superior Court  
12 that accused Mr. Ly of two felony counts—grand theft, in violation of Cal. Penal  
13 Code § 487(a); and shoplifting, in violation of Cal. Penal Code § 459.5(a) with a  
14 sentence enhancement for a prior theft or shoplifting conviction, as set forth in  
15 Cal. Penal Code § 666.1(a). He pleaded to these charges on May 9, 2025, as well,  
16 and was sentenced to 90 days in jail followed by two years of probation.

17 14. It appears that, based on the dates of offenses and convictions for these 2025 cases in  
18 Orange County, Mr. Ly may have served the total time in jail imposed by these two cases  
19 by the time he pleaded guilty on May 9, 2025. Upon information and belief, he was  
20 transferred to ICE custody at that time.

21 15. He was ultimately transferred to the Central Arizona Florence Correctional Center in  
22 Florence, Arizona. He remains detained there to this day.

23 16. Upon information and belief, Mr. Ly has cooperated with ICE's efforts to obtain travel  
24 documents by filling in the form described and attached to the November 2020  
25 memorandum of understanding (*see* MOU at 7–8). As of the time of filing, no travel  
26 documents have been produced by the Vietnamese Embassy.

1 17. ICE has deported some Vietnamese citizens to Eswatini earlier this year. *See* John Eligon  
2 & Hamed Aleaziz, *African Nation Says It Will Repatriate Migrants Deported by U.S.*, N.Y.  
3 Times (Jul. 16, 2025). There is no reason to believe that, if ICE chooses, it may also try to  
4 remove Mr. Ly to that country.

### 5 **Grounds for Relief**

6 **Ground One: Mr. Ly’s detention in immigration custody violates the Due Process Clause**  
7 **of the Fifth Amendment because he does not have satisfactory documentation**  
8 **for the Vietnamese Embassy to issue travel documents pursuant to the**  
9 **November 2020 memorandum of understanding.**

10 18. Mr. Ly cannot be removed to Vietnam. He was ordered removed in 2000, when Vietnam  
11 was regularly refusing to repatriate Vietnamese citizens who departed that country before  
12 July 12, 1995. As alleged above, Vietnam would have refused to issue travel documents  
13 any time ICE may have asked before November 2020. Even now, ICE does not have  
14 documentation that would satisfy the Vietnamese Embassy under the criteria laid out in  
15 the November 2020 memorandum of understanding. Travel documents are not  
16 immediately available for Mr. Ly. *See* 8 C.F.R. § 241.4(e)(1).

17 19. Mr. Ly was ordered removed from the United States in 2000. That order triggered a  
18 statutory 90-day period (the “removal period”) within which the government had to  
19 remove him from the United States. *See* 8 U.S.C. § 1231(a)(1)(A), (B)(i). He was not  
20 removed during that time; rather, he was later released from immigration detention. He  
21 remained at liberty under ICE supervision until his arrest by ICE officials on or about  
22 May 9, 2025.

23 20. The Due Process Clause of the Fifth Amendment limits “an alien’s post-removal-period  
24 detention to a period reasonably necessary to bring about that alien’s removal from the  
25 United States.” *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). Because of this  
26 constitutional limitation, § 1231 “does not permit indefinite detention.” *Id.*

27 21. Detention following the removal period is presumptively limited to six months. “After  
28 this 6-month period, once the alien provides good reason to believe that there is no

1 significant likelihood of removal in the reasonably foreseeable future, the Government  
2 must respond with evidence sufficient to rebut that showing.” *Id.* at 701.

- 3 22. Even though Mr. Ly has not been in ICE custody for six months since his arrest on May 9,  
4 2025, this petition is not premature. Mr. Ly cannot be returned to his country of origin,  
5 because ICE does not have documentation that would satisfy the Vietnamese government  
6 under the terms of the November 2020 memorandum of understanding. For that reason,  
7 the Vietnamese Embassy will continue to refuse to issue him a passport or other travel  
8 documents. His continued detention in immigration custody thus violates the Due  
9 Process Clause of the Fifth Amendment.

10 **Ground Two: Mr. Ly’s detention in immigration custody pending removal to any third**  
11 **country violates the Due Process Clause of the Fifth Amendment because**  
12 **ICE has not given him sufficient notice of the proposed third country and an**  
13 **opportunity to request relief from removal to that country, either from an**  
14 **immigration officer, an immigration judge, or a federal court.**

- 15 23. “It is well established that the Fifth Amendment entitles aliens to due process of law in  
16 the context of removal proceedings.” *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025) (per  
17 curiam) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). Mr. Dang thus is entitled to  
18 “notice and an opportunity to be heard appropriate to the nature of the case.” *Id.*  
19 (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950)). As  
20 relevant here, this means that Mr. Ly is entitled to notice that he is to be removed to a  
21 third country “within a reasonable time and in such a manner as will allow [him] to  
22 actually seek habeas relief in the proper venue before such removal occurs.” *Id.*
- 23 24. Mr. Ly has not been formally ordered removed to any country other than Vietnam. As  
24 such, he has never had an opportunity to contest removal to any third country on the  
25 ground that he may face persecution or torture if he is removed to that country.
- 26 25. To the extent that Mr. Ly’s detention is meant to facilitate his removal to a third country,  
27 *see generally Zadvydas*, 533 U.S. at 690 (suggesting that detention following a removal  
28 order is intended to facilitate removal), if such a removal is accomplished in violation of  
his due-process rights, then his detention is illegal. This due-process claim “necessarily

1 impl[ies] the invalidity of [his] confinement and removal” to a third country not yet  
2 named in any removal order. *J.G.G.*, 145 S. Ct. at 1005. Thus his due-process claim is  
3 properly brought in a habeas petition, and a court order that he be released from detention  
4 is a proper remedy for such a violation.

5 **Prayer for Relief**

6 26. Mr. Ly is being illegally detained, in violation of the Fifth Amendment to the U.S.

7 Constitution. He respectfully asks the Court to:

- 8 a. order the respondents to answer this petition;  
9 b. permit him to file a reply in support of the petition;  
10 c. allow him to conduct discovery in order to support the allegations in his petition;  
11 d. convene an evidentiary hearing, if necessary to resolve disputed facts;  
12 e. order him released from respondents’ custody under the same terms as he was  
13 released prior to May 9, 2025; and  
14 f. grant him any other relief that is just and practicable.

15 Respectfully submitted:

November 6, 2025.

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19 KEITH J. HILZENDEGER  
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