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THE HONORABLE \_\_\_\_\_

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

MONG TUYEN THI TRAN, )  
)  
*Petitioner,* )  
v. )  
Bruce SCOTT, Warden, Northwest ICE Processing )  
Center; Cammilla WAMSLEY, Enforcement and )  
and Removal Operations, Seattle Field Office )  
Director, U.S. Immigration and Customs )  
Enforcement; Kristi NOEM, Secretary, U.S. )  
Department of Homeland Security; U.S. )  
DEPARTMENT OF HOMELAND SECURITY; )  
Todd LYONS, Acting Director and Senior Official )  
Performing Duties of Director of ICE; )  
U.S. IMMIGRATION AND CUSTOMS )  
ENFORCEMENT, )  
*Respondents.* )  
\_\_\_\_\_ )

Civil Case No.: 25-cv-1886  
**[CORRECTED] COMPLAINT  
AND PETITION FOR WRIT  
OF HABEAS CORPUS  
AND INJUNCTIVE RELIEF**

1 **INTRODUCTION**

2 1. Petitioner Mong (“Melissa”) Tuyen Thi Tran is a 43-year-old national of Vietnam who  
3 was admitted to the United States in 1993 at the age of eleven. She is a beloved pillar of her  
4 community in Hagerstown, Maryland, where she owns a nail salon, is married to a U.S. citizen  
5 and has four children between the ages of seven and twenty. Immigration and Customs  
6 Enforcement (“ICE”) is detaining her at the Northwest ICE Processing Center in Tacoma,  
7 Washington.

8 2. For 21 years, Petitioner Tran has lived under an order of removal to Vietnam that the U.S.  
9 government has been unable to execute because Vietnam has historically not accepted U.S.  
10 deportees who entered the United States before 1995. Nonetheless, for 21 years Ms. Tran has duly  
11 complied with an ICE Order of Supervision and proven she is not a flight risk and detention is  
12 unwarranted. To the contrary, she has built a productive and established life in her community of  
13 more than two decades.

14 3. On May 12, 2025, ICE suddenly and without notice detained Ms. Tran at her annually  
15 scheduled check in. Four and a half months later, ICE has still not provided her any legal  
16 justification for her re-detention, nor is it clear that they are making any efforts to remove her.  
17 Instead, ICE has detained her on the opposite side of the country from her spouse; four children,  
18 two of whom are ages ten and seven; and wide and supportive community.

19 4. ICE has detained Petitioner Tran for a cumulative seven and a half months from the time  
20 an immigration judge ordered her removed until now without being able to effectuate her removal  
21 to Vietnam.

22 5. Removal to Vietnam is not reasonably foreseeable. ICE has not obtained a travel document  
23 from Vietnam, and Vietnam has not agreed to accept Ms. Tran.

24 6. Ms. Tran files this habeas petition to seek her release from custody because ICE unlawfully  
25 arrested and detained her without providing any constitutionally mandated notice and a hearing;  
26 without complying with regulatory standards and procedures for re-detention and revocation of

1 release; and in violation of the detention statute and substantive due process. Ms. Tran also seeks  
2 to enjoin Respondents from removing her to a third country without the notice and opportunity to  
3 be heard that is required by the Constitution and the immigration statute in reopened removal  
4 proceedings, and to enjoin Respondents from removing her to a third country for a punitive purpose  
5 and effect.

### 6 JURISDICTION AND VENUE

7 7. This case arises under the Constitution of the United States, the Immigration and  
8 Nationality Act (“INA”), 8 U.S.C. § 1101, et seq., and the Administrative Procedures Act (“APA”),  
9 5 U.S.C. §§ 500-596, 701-706.

10 8. This Court has subject matter jurisdiction under 28 U.S.C. § 2241, et seq. (habeas corpus),  
11 U.S. Const. art. I, § 9, cl. 2 (Suspension Clause), 28 U.S.C. § 1331 (federal question), 28 U.S.C. §  
12 1346 (United States as Respondent), and 28 U.S.C. § 1651 (All Writs Act). Respondents have  
13 waived sovereign immunity for purposes of this suit. 5 U.S.C. §§ 702, 706.

14 9. The Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241, et seq.; the  
15 Declaratory Judgment Act, 28 U.S.C. § 2201, et seq.; the All Writs Act, 28 U.S.C. § 1651; and the  
16 Court’s inherent equitable powers.

17 10. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e)(1) because Respondents  
18 are agencies or officers of agencies of the United States, Respondents reside in this District,  
19 Petitioner is detained in this District, and a substantial part of the events or omissions giving rise  
20 to Petitioner’s claims occurred in this District.

### 21 PARTIES

22 11. Petitioner Mong Tuyen Thi Tran is a citizen of Vietnam. She has a final order of removal,  
23 with Vietnam as the country designated for removal. Petitioner is detained in the control and  
24 custody of Respondents at the Northwest ICE Processing Center (“NWIPC”) in Tacoma,  
25 Washington. She is a resident of Washington County, Maryland but has been detained at NWIPC  
26 since May 24, 2025.

1 12. Respondent Bruce Scott is the Warden of the NWIPC, oversees the day-to-day functioning  
2 of the NWIPC, and has immediate physical custody of Petitioner, pursuant to a contract with ICE  
3 to detain noncitizens. Mr. Scott is sued in his official capacity as the Warden of a federal detention  
4 facility. *See Juarez v. Asher*, No. C20-700, 2021 WL 1946222, at \*3-5 (W.D. Wash. May 14,  
5 2021).

6 13. Respondent Cammilla Wamsley is the Field Office Director for ICE Enforcement and  
7 Removal Operations (“ERO”) in Seattle, Washington. As the ERO Seattle Field Office Director,  
8 he is Petitioner’s immediate custodian, responsible for her detention at NWIPC, and the person  
9 with the authority to authorize detention or release. Respondent Bostock is sued in his official  
10 capacity.

11 14. Respondent Kristi Noem is the Secretary of the Department of Homeland Security  
12 (“DHS”). In this capacity, Respondent Noem is the legal custodian of Petitioner. Respondent  
13 Noem is sued in her official capacity.

14 15. Respondent Department of Homeland Security (DHS) is a federal executive agency  
15 responsible for, among other things, enforcing federal immigration laws and overseeing lawful  
16 immigration to the United States. Respondent DHS is a legal custodian of Petitioner.

17 16. Respondent Todd Lyons is Acting Director and Senior Official Performing the Duties of  
18 the Director of ICE. Respondent Lyons is responsible for ICE’s policies, practices, and  
19 procedures, including those relating to removal procedures and the detention of immigrants  
20 during their removal procedures. Respondent Lyons is a legal custodian of Petitioner.  
21 Respondent Lyons is sued in his official capacity.

22 17. Respondent ICE is the federal executive agency responsible for the enforcement of  
23 immigration laws, including the arrest, detention, and removal of noncitizens. Respondent ICE  
24 is a legal custodian of Petitioner.

1 **STATEMENT OF FACTS**

2 **Petitioner's Facts**

3 18. Petitioner Mong ("Melissa") Tuyen Thi Tran is a 43-year-old woman born in South  
4 Vietnam in 1981. She was 11 years old when she was admitted as a lawful permanent resident to  
5 the United States in 1993.

6 19. Petitioner Tran resides in Hagerstown, Maryland with her U.S. citizen husband, Dong  
7 Hoang, and their four U.S. citizen children, ages 20, 18, 10 and 7. One child is on the autism  
8 spectrum, and another is diagnosed with Functional Neurological Symptom Disorder with Speech  
9 Symptoms and with Weakness and Paralysis.

10 20. Petitioner and her husband have successfully owned and operated a nail salon in  
11 Washington County, Maryland since 2003. They are well-respected in their community and own  
12 their own home. She is described by those who know her as a pillar of her community.

13 21. In 2001, when Petitioner was 20 years old, she was convicted in Fairfax County, Virginia  
14 for Uttering a Forged Check, Obtaining Money by False Pretense, and Grand Larceny by check  
15 and sentenced to three years with two years and eight months suspended. At that time, she was  
16 dating a man who was abusive and manipulative. During the summer of 2001, she was working as  
17 a receptionist at a physician's office. Her boyfriend was not working and in need of money. He  
18 pressured her into taking checks from her employer for his own individual use. Soon thereafter,  
19 realizing that what she did was wrong, she confessed to her employer that she took funds from the  
20 business. Her employer asked her to return the funds, but she was unable to recover the funds from  
21 her boyfriend. Uncertain what to do next, she went to a police officer she knew and learned the  
22 employer had filed charges against her. She turned herself in, pled guilty, and completed her  
23 sentence.

24 22. On December 16, 2003, the Immigration and Naturalization Service ("INS") detained her  
25 and charged her with being removable for having an "aggravated felony" and two crimes involving  
26 moral turpitude.

1 23. On April 16, 2004, an immigration judge ordered her removed to Vietnam, and denied her  
2 applications for withholding of removal and protection under the Convention Against Torture.

3 24. Petitioner did not appeal.

4 25. On June 7, 2004, Vietnam informed her that there was no repatriation agreement between  
5 the United States and Vietnam and that it would not be issuing her a travel document.

6 26. She remained in immigration custody until July 24, 2004, when she was released on an  
7 Order of Supervision.

8 27. For 21 years, she dutifully complied with the Order of Supervision, never missing a check  
9 in. She has had no further interaction with the criminal legal system.

10 28. Rather, in that time she has dedicated herself to building a productive and meaningful  
11 life. She married her husband in 2003 and together they opened their nail salon business and started  
12 a family of four children. The oldest are now in college at Penn State and University of Maryland  
13 – Baltimore, and the youngest, ages 7 and 10, live at home. She pursued her own education, earning  
14 a B.S. in Health Sciences with honors from George Washington University in 2012. The faculty  
15 selected her as the most “outstanding” undergraduate student that year and elected her to give the  
16 student commencement address at her graduation.

17 29. On May 12, 2025, Petitioner appeared at the ICE office in Baltimore for her annual check  
18 in. At that time, ICE suddenly and without notice detained her. ICE did not give her any reasons  
19 for her re-detention.

20 30. ICE bounced her around the country until eventually bringing her to the NWIPC in  
21 Tacoma. ICE has detained her there since May 24, 2025.

22 31. On July 1, 2025, ICE Deportation Officer Daniel Strzelczyk pulled her out of her pod and  
23 handed her the Notice of Revocation of Release. The Notice was dated May 12, 2025, and states  
24 that “ICE has determined that you can be expeditiously removed from the United States pursuant  
25 to the outstanding order of removal against you.” It further states “Your case is under review by  
26 the Government of Vietnam for the issuance of a travel document to facilitate your removal from

1 the United States.” The Officer asked Petitioner to read it and sign the proof of service. The proof  
2 of service stated that an officer named Delkino Pinkston in Baltimore, MD served the Notice on  
3 Petitioner on May 12, 2025. On the signature line for “Detainee Signature,” a pre-printed date  
4 read “5/12/2025.” The Officer acknowledged to Petitioner that he was not the officer mentioned  
5 in the notice, nor was it May 12, 2025. But he stated that if she did not sign, it would “re-set the  
6 time clock.” Fearing it could mean extended detention, she went ahead and signed.

7 32. This encounter on July 1, 2025, is the last time an ICE officer has discussed her case with  
8 her.

9 33. At no time since her re-detention on May 12, 2025, has any ICE officer conducted an initial  
10 interview to explain to her the reasons why her release on supervision was revoked or provide her  
11 an opportunity to explain why her removal to Vietnam is not likely or foreseeable. ICE has not  
12 conducted a revocation custody review.

13 34. ICE did not have a travel document for Petitioner at the time of her re-detention.

14 35. ICE has never asked Petitioner to complete the Self-Declaration Form for Vietnam that is  
15 required for Vietnam to process a request by the United States for a travel document.

16 36. Petitioner does not have a Vietnamese passport. She does not have a birth certificate from  
17 Vietnam. She was born at home and does not know if there is any official record of her birth in  
18 Vietnam.

19 37. Petitioner’s removal to Vietnam is not reasonably foreseeable.

20 **Repatriation to Vietnam History**

21 38. Before a Vietnamese immigrant without a passport or other travel document can be  
22 repatriated, Vietnam must issue a passport or other travel document in response to a request from  
23 ICE. *See Trinh v. Homan*, 466 F.Supp.3d 1077, 1083 (C.D. Cal. 2020).

24 39. Between the end of the Vietnam War and 2008, Vietnam refused to repatriate any  
25 Vietnamese immigrant who had been ordered removed from the United States. *See id.*

26

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

9 41. Prior to 2017, ICE maintained that the removal of pre-1995 Vietnamese immigrants was  
10 unlikely given Vietnam’s consistent refusal to repatriate them. *See id.* ICE adopted a policy of  
11 detaining pre-1995 Vietnamese immigrants for no longer than ninety days after their removal  
12 orders became final. *See id.* After ninety days, ICE generally released them into the community on  
13 orders of supervision. *See id.* In 2017, after some negotiations with Vietnam led ICE to believe

14 42. Vietnamese officials would begin considering travel documents for pre-1995 Vietnamese  
15 immigrants, ICE began re-detaining some Vietnamese individuals who had previously been  
16 released on supervision and detaining individuals for longer than 90 days based on a possibility  
17 that Vietnam would issue the requisite travel documents. *Id.* That possibility did not materialize.

18 43. After renewed discussions with Vietnam in August 2018, ICE reversed its position again  
19 and acknowledged that the removal of pre-1995 immigrants to Vietnam was not significantly  
20 likely. *Id.* In October 2018, ICE instructed field offices to resume the practice of releasing pre-  
21 1995 Vietnamese immigrants within 90 days of a final order of removal. *Id.*

22 44. Between 2017 and 2019, ICE requested travel documents for pre-1995 Vietnamese  
23 immigrants 251 times. Vietnam granted those requests only 18 times.

24 45. In November 2020, the United States and Vietnam signed a Memorandum of  
25 Understanding that creates a process for deporting pre-1995 immigrants. Section 4 of the MOU  
26 obliges the United States and Vietnam to consider specific factors prior to deciding to remove a

1 Vietnamese citizen and prior to deciding to accept for repatriation a Vietnamese citizen. *Id.* These  
2 factors are not publicly known because the U.S. government redacted them in Freedom of  
3 Information Act (FOIA) disclosures of the MOU, yet they appear to dictate which categories of  
4 people may be deported to Vietnam. *Id.* Under Section 8 of the MOU, if a person meets the  
5 designated criteria, ICE is expected to put together a documentation package for Vietnam to  
6 include, inter alia, a self-declaration form of the individual to be removed (using a form attached  
7 to the MOU), copies of identity and citizenship documents, and copies of the final order of removal  
8 and any criminal records. *Id.* The MOU states that Vietnam intends to issue the travel document  
9 within 30 calendar days of receiving the information package when the individual meets the  
10 eligibility criteria. *Id.*

11 46. Between September 2021 to September 2023, the U.S. government deported only four pre-  
12 1995 Vietnamese immigrants. *Id.*

### 13 **Punitive Banishment to Third Countries**

14 47. Since January 2025, Respondents have developed and implemented a policy and practice  
15 of removing individuals to third countries, without first following the procedures in the INA for  
16 designation and removal to a third country and without providing fair notice and an opportunity to  
17 contest the removal in immigration court.

18 48. Respondents reportedly have negotiated with at least 58 countries to accept deportees from  
19 other nations. On June 25, 2025, the *New York Times* reported that seven countries—Costa Rica,  
20 El Salvador, Guatemala, Kosovo, Mexico, Panama, and Rwanda—had agreed to accept deportees  
21 who are not their own citizens.<sup>1</sup> Since then, ICE has carried out highly publicized third country  
22 deportations to South Sudan, Eswatini, Rwanda, Uganda, and Ghana.

23 49. Punishment and deterrence appear to be the point of the Administration's third country  
24 removal scheme. The Administration has reportedly negotiated with countries to have deportees  
25 imprisoned in prisons, camps, or other facilities. The government paid El Salvador about \$5

26 <sup>1</sup> Edward Wong et al, *Inside the Global Deal-Making Behind Trump's Mass Deportations*, N.Y. Times, June 25, 2025.

1 million to arbitrarily and indefinitely imprison more than 200 deported Venezuelans in a  
2 maximum-security prison notorious for gross human rights abuses, known as CECOT. In  
3 February, Panama and Costa Rica took in hundreds of deportees from countries in Africa and  
4 Central Asia and imprisoned them in hotels, a jungle camp, and a detention center. On July 4,  
5 2025, ICE deported eight men, including one Vietnamese man, to South Sudan. The men have  
6 been detained incommunicado ever since. On July 15, ICE deported five men to the African nation  
7 of Eswatini, including one man from Vietnam, where they are reportedly being held in solitary  
8 confinement.

9 50. The Administration has hand selected countries known for human rights abuses and  
10 instability for these third country deportation agreements to frighten people in the United States  
11 into self-deporting or to accept removal to their home countries. Indeed, conditions in South Sudan  
12 are so extreme that the U.S. State Department website warns Americans not to travel there, and if  
13 they do, to prepare their will, make funeral arrangements, and appoint a hostage-taker negotiator  
14 first.

15 51. On July 9, 2025, ICE issued a new memo to staff instructing that when seeking to remove  
16 an individual to a country not designated on that person's removal order, that ICE may deport that  
17 person without any procedures for notice or an opportunity to be heard if the State Department  
18 confirms that it has received diplomatic assurances that individuals will not be persecuted or  
19 tortured. If no diplomatic assurances are received, the ICE memo instructs officers to serve on the  
20 individual a Notice of Removal that includes the intended country of removal. It instructs officers  
21 not to ask whether the individual is afraid of removal to that country. It states that officers should  
22 "generally wait at least 24 hours following service of the Notice of Removal before effectuating  
23 removal," but that "[i]n exigent circumstances, [ICE] may execute a removal order six (6) or more  
24 hours after service of the Notice of Removal as long as the [noncitizen] is provided reasonable  
25 means and opportunity to speak with an attorney prior to removal."

26

1 52. The memo further instructs that if the noncitizen “does not affirmatively state a fear of  
2 persecution or torture if removed to the country of removal listed on the Notice of Removal within  
3 24 hours, [ICE] may proceed with removal to the country identified on the notice.” If the  
4 noncitizen “does affirmatively state a fear if removed to the country of removal” then ICE will  
5 refer the case to U.S. Citizenship and Immigration Services (“USCIS”) for a screening for  
6 eligibility for withholding of removal and protection under the Convention Against Torture  
7 (“CAT”). “USCIS will generally screen within 24 hours.” If USCIS determines that the noncitizen  
8 does not meet the standard, the individual will be removed. If USCIS determines that the  
9 noncitizen has met the standard, then the policy directs ICE to either move to reopen removal  
10 proceedings “for the sole purpose of determining eligibility for [withholding of removal  
11 protection] and CAT” or designate another country for removal.

12 53. The government has now carried out numerous third country removals without notice or  
13 opportunity to contact family or counsel or make any meaningful fear-based claim. The eight men  
14 who were ultimately deported to South Sudan all claimed fear of removal to South Sudan. None  
15 of those men were provided a fear screening by a USCIS officer or otherwise, even though they  
16 were held by ICE for six weeks on a U.S. military base in Djibouti before their final removal to  
17 South Sudan. In a recent third country removal to Ghana, individuals were rounded up by ICE  
18 officials in the middle of the night on September 5, 2025, shackled, straightjacketed and put on a  
19 U.S. military cargo plane without any notice. They were reportedly not informed where they were  
20 being taken until the plane was already in flight.

## 21 LEGAL FRAMEWORK

### 22 Post-Removal Order Detention and Re-Detention

23 54. The INA provides that after a removal order becomes final, the government “shall remove  
24 the alien from the United States within a period of 90 days.” 8 U.S.C. § 1231(a)(1)(A). This 90-  
25 day period is often referred to as the “initial removal period,” and during it, the government “shall  
26 detain the alien.” *Id.* § 1231(a)(2). In some circumstances, federal immigration authorities can

1 continue to detain an alien beyond the initial removal period. Specifically, section 1231(a)(6)  
2 allows the government to detain certain enumerated classes of immigrants—including those  
3 ordered removed due to criminal convictions—for more than 90 days. *Id.* § 1231(a)(6).  
4 In *Zadvydas*, 533 U.S. 678, the Court addressed the question of how long the government can  
5 detain an immigrant pursuant to section 1231(a)(6).

6 55. The *Zadvydas* Court began by rejecting the government’s position that section 1231(a)(6)  
7 permitted indefinite detention following the initial removal period. *See id.* It held that “[a] statute  
8 [that] permit[ed] indefinite detention of an alien would raise a serious constitutional problem,” *id.*  
9 at 690, and instead determined that section 1231(a)(6) “implicitly limits an alien’s detention to a  
10 period reasonably necessary to bring about that alien’s removal,” *id.* at 679. Thus, “once removal  
11 is no longer reasonably foreseeable, continued detention is no longer authorized by [section  
12 1231(a)(6)].” *Id.* at 699.

13 56. The Court went on to institute a framework that would govern future challenges to section  
14 1231(a)(6) detention. “[F]or the sake of uniform administration in the federal courts,” the Court  
15 found that post-removal detention was “presumptively reasonable” for the first six months. *Id.* at  
16 700-01. When that “presumptively reasonable” six-month period ends, aliens seeking release  
17 from custody bear the initial burden of providing “good reason to believe that there is no  
18 significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701. Once that initial  
19 showing is made, the burden shifts to the government to respond with evidence sufficient to rebut  
20 it. *See id.*

21 57. Upon release from custody, a noncitizen subject to a final order of removal must comply  
22 with certain conditions of release. 8 U.S.C. § 1231(a)(3), (6). The revocation of that release is  
23 governed by 8 C.F.R. § 241.13(i), which authorizes ICE to revoke a noncitizen’s release for  
24 purposes of removal.

25 58. ICE may revoke a noncitizen’s release and return them to ICE custody due to failure to  
26 comply with any of the conditions of release, 8 C.F.R. § 241.13(i)(1), or if, “on account of changed

1 circumstances, the Service determines that there is a significant likelihood that the [noncitizen]  
2 may be removed in the reasonably foreseeable future.” *Id.* § 241.13(i)(2).

3 59. Upon such a determination by ICE to re-detain, “the alien will be notified of the reasons  
4 for revocation of his or her release. [ICE] will conduct an initial informal interview promptly after  
5 his or her return to [ICE] custody to afford the alien an opportunity to respond to the reasons for  
6 revocation stated in the notification. The [noncitizen] may submit any evidence or information that  
7 he or she believes shows there is no significant likelihood he or she be removed in the reasonably  
8 foreseeable future, or that he or she has not violated the order of supervision. The revocation  
9 custody review will include an evaluation of any contested facts relevant to the revocation and a  
10 determination whether the facts as determined warrant revocation and further denial of release.”  
11 *Id.* § 241.13(i)(3).

12 60. In addition to the regulatory framework, procedural due process does not permit ICE to  
13 re-detain an individual it has released on an order of supervision without providing a pre-  
14 deprivation hearing on the reasons for re-detention. Individuals released on orders of supervision  
15 have a protected liberty interest in remaining in the community on supervision that cannot be taken  
16 away without notice and a pre-deprivation hearing. *See, e.g., Zakzouk v. Becerra*, No. 25-cv-  
17 06254, 2025 WL 2097470, at \*3 (N.D. Cal. July 26, 2025) (“Courts have previously found that  
18 individuals released from immigration custody. . . have a protectable liberty interest in remaining  
19 out of custody.”) (citing cases); *Romero v. Kaiser*, No. 22-cv-02508-TSH, 2022 WL 1443250, at  
20 \*2 (N.D. Cal. May 6, 2022).

21 61. “[C]ivil immigration detention is permissible only to prevent flight or protect against  
22 danger to the community.” *Zadvydas*, 533 U.S. at 690. Once a person has been ordered released  
23 and is complying with the conditions of supervision, ICE has no legitimate interest in re-detaining  
24 the individual. In the event a travel document is obtained, ICE can notify the individual and  
25 facilitate their orderly departure without detention, consistent with ICE’s standard notice of release  
26 and order of supervision. The language of ICE’s standard “Release Notification” reads “Once a

1 travel document is obtained, you will be required to surrender to the ICE for removal. You will, at  
2 that time, be given an opportunity to prepare for an orderly departure.”

3 **Third Country Removals**

4 62. The immigration laws delineate the proper procedures by which a country may be  
5 designated for removal. See 8 U.S.C. § 1231(b). These procedures move in incremental steps.

6 63. First, an individual with a removal order may designate the country to which they want to  
7 be removed, and the government *shall* remove the alien to that country. *Id.* § 1231(b)(2)(A). The  
8 government may disregard that designation if (1) the individual fails to designate a country  
9 promptly; (2) the government of that country does not inform the U.S. government finally, within  
10 30 days after the date the U.S. government first inquires, whether the government will accept the  
11 individual into that country; (3) the government of the country is not willing to accept the alien  
12 into the country; or (4) the government decides that removing the individual to that country is  
13 prejudicial to the United States. *Id.* § 1231(b)(2)(C).

14 64. Second, if the individual is not removed to the country they designated under section  
15 1231(b)(2)(A), the government shall remove the individual to the country of which the individual  
16 is a “subject, national, or citizen” unless the government of that country does not inform the U.S.  
17 government or the individual within 30 days after first inquiry or within another reasonable period  
18 of time whether the government will accept the individual into the country or the country is not  
19 willing to accept the individual into the country. *Id.* § 1231(b)(2)(D).

20 65. Third, if the individual is not removed to either the country of their designation or the  
21 country of which they are a subject, national, or citizen then the government shall remove them to  
22 any of the following options: (1) the country from which the individual was admitted to the United  
23 States; (2) the country in which is located the foreign port from which the individual left for the  
24 United States or for a foreign territory contiguous to the United States; (3) the country in which  
25 the individual resided before the individual entered the United States and from which the  
26 individual entered the United States; (4) the country in which the individual was born; or (5) the

1 country in which the individual's birthplace is located when the individual was ordered removed.  
2 *Id.* § 1231(b)(2)(E). Only "[i]f impracticable, inadvisable, or impossible" to remove the individual  
3 to any of these countries may the government remove the individual to "another country whose  
4 government will accept [them] into that country." *Id.* § 1231(b)(2)(E)(vii).

5 66. Notwithstanding any of these procedures, the statute prohibits removal to a third country  
6 where a person may be persecuted or tortured, a form of protection known as withholding of  
7 removal. See *id.* § 1231(b)(3)(A). The government "may not remove [a noncitizen] to a country if  
8 the Attorney General decides that the [noncitizen's] life or freedom would be threatened in that  
9 country because of the [noncitizen's] race, religion, nationality, membership in a particular social  
10 group, or political opinion." *Id.*; see also 8 C.F.R. §§ 208.16, 1208.16. Withholding of removal is  
11 a mandatory protection.

12 67. Similarly, Congress codified protections enshrined in the CAT prohibiting the government  
13 from removing a person to a country where they would be tortured. See FARRA 2681-822  
14 (codified as 8 U.S.C. § 1231 note) ("It shall be the policy of the United States not to expel,  
15 extradite, or otherwise effect the involuntary return of any person to a country in which there are  
16 substantial grounds for believing the person would be in danger of being subjected to torture,  
17 regardless of whether the person is physically present in the United States."); 28 C.F.R. § 200.1;  
18 *id.* §§ 208.16-208.18, 1208.16-1208.18. CAT protection is also mandatory.

19 68. To comport with the requirements of due process, the government must provide notice of  
20 the third country removal and an opportunity to respond. Due process requires "written notice of  
21 the country being designated" and "the statutory basis for the designation, i.e., the applicable  
22 subsection of § 1231(b)(2)." *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1019 (W.D. Wash. 2019); see  
23 also *D.V.D. v. U.S. Dep't of Homeland Sec.*, No. 25-cv-10676-BEM, 2025 WL 1453640, at \*1 (D.  
24 Mass. May 21, 2025) ("All removals to third countries, i.e., removal to a country other than the  
25 country or countries designated during immigration proceedings as the country of removal on the  
26 non-citizen's order of removal, must be preceded by written notice to both the non-citizen and the

1 non-citizen’s counsel in a language the non-citizen can understand.” (citation omitted));  
2 *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (due process requires notice to the  
3 noncitizen of the right to apply for asylum and withholding to the country where they will be  
4 removed). The government must be able to show evidence that the third country will accept the  
5 individual into that country. *See Himri v. Ashcroft*, 378 F.3d 932, 939 (9th Cir. 2004) (when “at  
6 the time the government proposes a country of removal pursuant to § 1231(b)(2)(E)(vii), the  
7 government must be able to show that the proposed country will accept the [individual]”).

8 69. Due process also demands that the government “ask the noncitizen whether he or she fears  
9 persecution or harm upon removal to the designated country and memorialize in writing the  
10 noncitizen’s response. This requirement ensures DHS will obtain the necessary information from  
11 the noncitizen to comply with section 1231(b)(3) and avoids [a dispute about what the officer and  
12 noncitizen said].” *Aden*, 409 F. Supp. 3d at 1019; *cf. D.V.D.*, 2025 WL 1453640, at \*1 (“Following  
13 notice, the individual must be given a meaningful opportunity, and a minimum of ten days, to raise  
14 a fear-based claim for CAT protection prior to removal.” (emphasis omitted)).

15 70. If the noncitizen claims fear, measures must be taken to ensure that the noncitizen can seek  
16 asylum, withholding, and relief under CAT before an immigration judge in reopened removal  
17 proceedings. *Cf. D.V.D.*, 2025 WL 1453640, at \*1 (requiring the government to move to reopen  
18 the noncitizen’s immigration proceedings if the individual demonstrates “reasonable fear” and to  
19 provide “a meaningful opportunity, and a minimum of fifteen days, for the non-citizen to seek  
20 reopening of their immigration proceedings” if the noncitizen is found to not have demonstrated  
21 “reasonable fear”); *Aden*, 409 F. Supp. 3d at 1019 (requiring notice and time for a respondent to  
22 file a motion to reopen and seek relief).

23 71. Finally, notice of the country to which the noncitizen will be removed must not be “last  
24 minute” because that would deprive an individual of a meaningful opportunity to apply for fear-  
25 based protection from removal. *Andriasian*, 180 F.3d at 1041. They must have time to prepare and  
26 present relevant arguments and evidence and to seek reopening of their removal case.

1 **Punitive Removal Practices**

2 72. It is bedrock law that the U.S. government may not impose or inflict an infamous  
3 punishment for violations of civil immigration law. In 1896, the U.S. Supreme Court ruled that  
4 while deportation itself was not a punishment, the government could not attach punitive conditions  
5 to deportation—in that case, imprisonment at hard labor—absent a criminal charge, trial in a court  
6 of law, and the protections of the Fifth, Sixth, and Eighth Amendments. *Wong Wing v. United*  
7 *States*, 163 U.S. 228, 237 (1896).

8 73. Importantly, the Court drew a distinction between deportation, which the Court  
9 reasoned is “not a ‘banishment,’ in the sense in which that word is often applied to the expulsion  
10 of a citizen from [her] country by way of punishment,” and government actions aimed at  
11 punishment, such as imprisonment at hard labor in addition to deportation. *Id.* at 236. The Court  
12 explained that deportation “is but a method of enforcing the return to [her] own country of an  
13 alien who has not complied with the conditions upon the performance of which the government  
14 of the nation, acting within its constitutional authority and through the proper departments, has  
15 determined that [her] continuing to reside here shall depend.” *Id.* (quoting *Fong Yue Ting v.*  
16 *United States*, 149 U.S. 730 (1893)). But the Court admonished that the government may not  
17 “declare unlawful residence within the country to be an infamous crime, punishable by  
18 deprivation of liberty and property . . . unless provision were made that the fact of guilt should  
19 first be established by a judicial trial.” *Id.* at 237.

20 74. Deportation of individuals to third countries to be imprisoned or harmed is unquestionably  
21 punishment.

1 **CLAIMS FOR RELIEF**

2 **COUNT ONE**

3 **Unlawful Re-Detention**

4 **Violation of the Fifth Amendment Due Process Clause, Immigration and Nationality**  
5 **Act (“INA”), 8 U.S.C. § 1231(a), 8 C.F.R. § 241.13, and the Administrative Procedures**  
6 **Act (“APA”)**

7 75. The allegations in the above paragraphs are realleged and incorporated herein.

8 76. Respondents’ re-detention of Petitioner Mong Tuyen Thi Tran violates her rights  
9 guaranteed by the Due Process Clause of the Fifth Amendment of the U.S. Constitution; the INA,  
10 8 U.S.C. § 1231(a); implementing regulations, 8 C.F.R. § 241.13; and the APA.

11 77. Neither the statute nor the Constitution authorizes ICE’s sudden re-detention of Ms. Tran,  
12 nor does it authorize her continued detention.

13 78. Respondents were required to provide Petitioner pre-deprivation notice and a hearing  
14 before re-detaining her, given that she has remained fully compliant with her order of supervision  
15 and release conditions.

16 79. Respondents violated governing regulations for revoking Petitioner’s conditions of release.  
17 Petitioner has duly complied with the conditions of her supervised release, including attending  
18 check-ins and providing the information and documentation requested of her. Her release may be  
19 revoked only if changed circumstances make her removal reasonably foreseeable. 8 C.F.R. §  
20 241.13(i)(2). Upon such a determination, several procedural steps are required to revoke release,  
21 *id.* § 241.13(i)(3), none of which were followed here. Respondents are required to follow their own  
22 regulations. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954).

23 80. Petitioner’s removal to Vietnam is not significantly likely to occur in the reasonably  
24 foreseeable future. Petitioner has already spent cumulatively seven and a half months in  
25 immigration custody during which time the government has been unable to remove her. As the  
26 reasonably presumptive period of six months for post-order detention has elapsed, ICE has no

1 authority under the detention statute or the Constitution to continue detaining Ms. Tran. Moreover,  
2 civil immigration detention is only authorized if a person is a flight risk or a danger to the  
3 community. Ms. Tran is neither.

4 81. Upon information and belief, Respondents do not have agreement from Vietnam to  
5 repatriate Petitioner and have not secured her travel documents. There is no evidence that Vietnam  
6 will issue a travel document.

7 82. For all these reasons, the Court should order Ms. Tran's immediate release.

8 **COUNT TWO**

9 **Third Country Removal**

10 **Violation of the Fifth Amendment, 8 U.S.C. § 1231, Convention Against Torture,**

11 **Implementing Regulations, and the APA**

12 83. The allegations in the above paragraphs are realleged and incorporated herein.

13 84. The Fifth Amendment, the INA, the CAT, and implementing regulations mandate  
14 meaningful notice and opportunity to respond to any attempt to remove Petitioner to a third country  
15 in reopened removal proceedings. They also require an opportunity for Petitioner to make a fear-  
16 based claim against removal to a third country in reopened removal proceedings. Respondents'  
17 policy for third country removals violates all of these laws because it directs ICE agents to remove  
18 individuals to third countries without any notice or process at all where diplomatic assurances are  
19 received and, where no diplomatic assurances are received, to provide flagrantly insufficient notice  
20 (6-24 hours) and opportunity to respond, in violation of the statute, regulations, and Fifth  
21 Amendment.

22 85. Prior to any third country removal, Petitioner must be provided with constitutionally and  
23 statutorily compliant notice and an opportunity to respond and contest that removal if she has a  
24 fear of persecution or torture in that country in reopened removal proceedings.

25 **COUNT THREE**

26 **Punitive Third Country Banishment**

1 **Violation of Fifth and Eighth Amendments**

2 86. The allegations in the above paragraphs are realleged and incorporated herein.

3 87. Under the Fifth Amendment of the U.S. Constitution, no person shall “be held to answer  
4 for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury;”  
5 “be subject for the same offence to be twice put in jeopardy of life or limb;” or “be deprived of  
6 life, liberty, or property, without due process of law.”

7 88. The Eighth Amendment provides that no “cruel and unusual punishments” may be  
8 inflicted.

9 89. The U.S. Supreme Court long ago held that the government may not inflict upon  
10 individuals an “infamous punishment” in addition to deportation, as a penalty for an immigration  
11 violation, absent criminal charges, a judicial trial, and attendant constitutional protections. *Wong*  
12 *Wing*, 163 U.S. at 236-38.

13 90. Petitioner was convicted and completed her sentence decades ago. Her convictions made  
14 her removable from the United States, but her convictions do not authorize the government to  
15 inflict, as a matter of executive policy and discretion, additional punishment on her. Respondents’  
16 third country removal program is punitive in nature and execution. The government has arranged  
17 for third countries to receive deportees and imprison them on arrival, possibly indefinitely and  
18 often in abhorrent conditions. It has selected countries notorious for human rights abuses and  
19 instability for third country removal arrangements. It has targeted individuals with criminal  
20 convictions for third country removals where they will be imprisoned and harmed and publicly  
21 broadcast those removals to demonize and dehumanize the individuals subjected to these practices  
22 and strike fear in the immigrant community to send a message of retribution and deterrence.  
23 Respondents’ third country removal program is more than a publicity stunt. The hundreds of  
24 individuals who have already been subjected to it have been banished in foreign prisons upon  
25 arrival without charge and often without communication with the outside world, including their  
26 families and lawyers.

1 91. Respondents may not subject Petitioner to its third country removal program designed to  
2 impose a severe punishment on its subjects. *See id.* Such conduct “shocks the conscience” under  
3 Fifth Amendment substantive due process, is cruel and unusual punishment, and may not be  
4 imposed without charge and a judicial trial.

5 92. Respondents may not seek to remove Petitioner to a third country under their punitive  
6 banishment policy and practices.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Petitioner respectfully requests that this Honorable Court:

9 A. Assume jurisdiction over this action;

10 B. Order Respondents to immediately release Petitioner from custody;

11 C. Order that Respondents may not re-detain Petitioner without first following the  
12 statutory and regulatory procedures for revocation of release and without first obtaining agreement  
13 from Vietnam to repatriate her, obtaining her travel documents, and securing a travel date;

14 D. Order that Respondents may not remove or seek to remove Petitioner to a third country  
15 without notice and meaningful opportunity to respond in compliance with the statute and due  
16 process in reopened removal proceedings;

17 E. Order that Respondents may not remove Petitioner to any third country because  
18 Respondents’ third country removal program seeks to impose unconstitutional punishment on its  
19 subjects, including imprisonment and other forms of harm;

20 F. Award costs and reasonable attorney fees under the Equal Access to Justice Act, 28  
21 U.S.C. § 2412; and

22 G. Order all other relief that the Court deems just and proper.

1 Dated: September 30th, 2025.

2 Respectfully submitted,

3 /s/ Jennifer Pasquarella

4 Jennifer Pasquarella (WA Bar No. 62205)  
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16 Facsimile: 301.733.3912  
17 State of MD (Bar # 0512150173)  
18 U.S. District Court for the District of Maryland (Bar # 28413)  
19 State of FL (Bar # 1036234 ).

20 \*Pro hac vice application forthcoming

21 *Attorneys for Petitioner*

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**VERIFICATION**

Pursuant to Local Court Rule 100(e), I, Jennifer Pasquarella, verify that the facts set forth therein are true and correct to the best of my knowledge. I make this verification on behalf of Petitioner, MONG TUYEN THI TRAN, who is unable to make this verification herself while she is detained at the Northwest Immigration and Customs Enforcement Processing Center in Tacoma, Washington.

DATED: September 30th, 2025.

/s/ Jennifer Pasquarella

Jennifer Pasquarella

**CERTIFICATE OF SERVICE**

I hereby certify that on September 30th, 2025, I caused a true and correct copy of the foregoing document to be filed with the Clerk of the Court for the United States District Court – Western District of Washington by using the CM/ECF system. All participants in this case are registered CM/ECF users and will be served by the CM/ECF system.

/s/ Jennifer Pasquarella

Jennifer Pasquarella

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