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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
Portland Division

LAM, Son Hoang

Petitioner,

v.

CAMILLA WAMSLEY, Seattle Field Office
Director, Immigration and Customs
Enforcement and Removal Operations
("ICE/ERO"), TODD LYONS, Acting
Director of Immigration Customs
Enforcement ("ICE"), U.S. IMMIGRATION
AND CUSTOMS ENFORCEMENT, KRISTI
NOEM, Secretary of the Department of
Homeland Security ("DHS"), U.S.
DEPARTMENT OF HOMELAND
SECURITY, and PAMELA BONDI, Attorney
General of the United States.

Respondents.

Case No.

Agency No. A025-072-676

PETITION FOR WRIT OF HABEAS
CORPUS

ORAL ARGUMENT REQUESTED

Expedited Hearing Requested

INTRODUCTION

1. Petitioner, Mr. Son Hoang Lam, is a fifty-one-year-old native of Vietnam who has lived in the United States for more than forty-five years, since entering as a refugee child in 1980.

2. He is married to a U.S. citizen, Ms. Camduyen Thi Tay, and together they have two U.S. citizen sons, including one who currently serves on active duty in the U.S. Marine Corps.

3. Although Mr. Lam has been under an ICE order of supervision since 1999 and has fully complied with all requirements, Respondents now seek to re-detain him at his next check-in on October 8, 2025, and to deport him despite the fact that removal to Vietnam is not reasonably foreseeable and that he is eligible for lawful permanent residence through his approved I-130 petition filed by his U.S. citizen wife.

4. Detention and removal would be arbitrary and capricious, would serve no lawful purpose, and would violate the Immigration and Nationality Act, the Due Process Clause of the Fifth Amendment, and long-standing Supreme Court precedent. Accordingly, this Court should grant the writ of habeas corpus, enjoin Respondents from detaining Mr. Lam at his upcoming ICE check-in, and allow him to remain under supervised release while he pursues adjustment of status.

JURISDICTION

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

6. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

7. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

8. Venue is proper in the District of Oregon because Mr. Lam resides in Portland, Oregon, and his ICE check-ins occur in Portland, within this District.

9. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondent's constructive custody. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

10. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

11. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and

imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

12. Petitioner is “in custody” for habeas purposes, even though not physically detained, because ICE’s Order of Supervision imposes significant restraints on his liberty, including restrictions on travel, mandatory check-ins, and the constant threat of re-detention and deportation. “[T]he Supreme Court has repeatedly held that the in-custody requirement [of 28 U.S.C. § 2241] is met where the Government restricts a petitioner’s freedom of action or movement,” including through an immigration order of supervision. *See Doe v. Barr*, 479 F. Supp. 3d 20, 26 (S.D.N.Y. 2020), *citing Jones v. Cunningham*, 371 U.S. 236 (1963) and *Spencer v. Kemna*, 523 U.S. 1, 7 (1998); *see also, e.g., Devitri v. Cronen*, 290 F. Supp. 3d 86, 90 (D. Mass. 2017) (finding the same); *Alvarez v. Holder*, 454 F. App’x 769, 772-72 (11th Cir. 2011) (same).

PARTIES

13. Mr. Son Hoang Lam is a citizen of Vietnam. He was admitted to the U.S. as a refugee in 1980 at the age of seven. He resides in Portland, Oregon, with his U.S. citizen wife and their two U.S. citizen children.

14. Respondent Camilla Wamsley is the Field Office Director for the Seattle Field Office, Immigration and Customs Enforcement and Removal Operations (“ICE”). The Seattle Field Office is responsible for local custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens. The Seattle Field Office’s area of responsibility includes Alaska, Oregon, and Washington. Respondent Wamsley is a legal custodian of Petitioner.

15. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of Respondent Camilla Wamsley and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

16. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

17. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

18. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

19. Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE and all other DHS Respondents.

20. This action is commenced against all Respondents in their official capacities.

FACTUAL BACKGROUND

21. Mr. Lam has lived in the United States continuously for forty-five years. He has never returned to Vietnam and has no passport from that country. After his 1990 conviction as a teenager, he was ordered removed in 1997.

22. Since 1999, ICE has supervised Mr. Lam under an order of supervision. For over two decades, he has never violated the terms of his release, has no new criminal history, and has supported his family.

23. In 2022, Mr. Lam married his long-time partner, a naturalized U.S. citizen, and she filed an I-130 petition on his behalf. USCIS approved the petition on August 29, 2023. He is now prima facie eligible to adjust status with a § 212(h) waiver, as clarified by *Matter of N-V-G-*, 28 I&N Dec. 380 (BIA 2021). Mr. Lam filed a motion to reopen and terminate his removal proceedings to allow him to apply for adjustment of status with U.S. Citizenship and Immigration Service. Despite this, Mr. Lam reasonably fears ICE will detain him and transfer him out of state at his ICE check-in on October 8, 2025.

LEGAL FRAMEWORK

24. Noncitizens in immigration proceedings are entitled to due process under the Fifth Amendment of the United States Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993). Immigration detention is civil in nature, not criminal, and therefore its purpose is limited to ensuring appearance at proceedings and effectuating removal. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1038 (1984). As the Supreme Court explained in *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001), immigration detention must remain “reasonably related” to its permissible purpose. Detention that is arbitrary, punitive, or not tied to a legitimate governmental objective violates the Constitution.

25. Congress codified limits on detention following a final order of removal in 8 U.S.C. § 1231. The statute authorizes mandatory detention only during the “removal period,” which is defined as the 90 days immediately following the final order. 8 U.S.C. §

1231(a)(1)(A), (a)(2). After that period, the statute directs DHS to release noncitizens under an order of supervision. 8 U.S.C. § 1231(a)(3). Although § 1231(a)(6) allows continued detention in limited cases, the Supreme Court has held that detention beyond six months is presumptively unreasonable where removal is not reasonably foreseeable. *Zadvydas*, 533 U.S. at 699–701; *Clark v. Martinez*, 543 U.S. 371, 378 (2005).

26. The Court in *Zadvydas* emphasized that civil detention cannot become a mechanism for punishment or deterrence. Rather, detention is lawful only so long as it serves the narrow purpose of effectuating removal. Where removal is not practically attainable, detention “no longer bears a reasonable relation to the purpose for which the individual was committed.” *Id.* at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). In such circumstances, indefinite or speculative detention raises grave constitutional concerns.

27. The Supreme Court has also made clear that substantive due process prohibits civil detention that is not justified by special circumstances and subject to strong procedural protections. *See Kansas v. Crane*, 534 U.S. 407, 412 (2002) (citing *Kansas v. Hendricks*, 521 U.S. 346, 372–74 (1997)); *see also R.I.L-R v. Johnson*, 80 F. Supp. 3d 164, 189–90 (D.D.C. 2015) (immigration detention cannot be used for general deterrence purposes).

CLAIMS FOR RELIEF
COUNT ONE
Administrative Procedure Act, 5 U.S.C. § 706(2)(A), (C)

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

29. The APA entitles “a person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action . . . to judicial review.” 5 U.S.C. § 702.

30. The APA compels a reviewing court to “hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary [or] capricious, . . . otherwise not in accordance with law,” *id.* § 706(2)(A), or “short of statutory right,” *id.* § 706(2)(C).

31. Respondents’ decision to re-detain Mr. Lam without an individualized custody determination and despite his approved visa petition and his pending motion to reopen and terminate is arbitrary and capricious, not in accordance with law, and contrary to 5 U.S.C. § 706(2)(A), (C).

COUNT TWO
Violation of the Fifth Amendment Due Process Clause

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

33. Re-detention of Mr. Lam after decades of compliance would violate procedural due process. Courts have recognized that the “in custody” requirement for habeas is satisfied where noncitizens live under orders of supervision that impose restraints on liberty, such as mandatory check-ins and the constant threat of re-detention. *Doe v. Barr*, 479 F. Supp. 3d 20, 26 (S.D.N.Y. 2020) (citing *Jones v. Cunningham*, 371 U.S. 236 (1963)).

34. Individuals in Mr. Lam’s position are entitled to an individualized custody determination before their liberty may be further curtailed. Absent such process, detention is unlawful.

COUNT THREE
Violation of 8 U.S.C. § 1231(a) and Implementing Regulations

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

36. The INA requires mandatory detention of individuals with final removal orders only during the 90-day removal period. 8 U.S.C. § 1231(a)(2). A noncitizen who is not removed

within that period “shall be subject to supervision under regulations prescribed by the Attorney General.” 8 U.S.C. § 1231(a)(3).

37. While § 1231(a)(6) permits detention beyond the removal period in certain situations, “once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” *Zadvydas*, 533 U.S. at 699.

38. No statute permits Respondents to re-detain an individual who has been released under § 1231(a)(3) without evidence that removal is now reasonably foreseeable or that the individual has violated the conditions of their release.

39. Mr. Lam has been on supervised release since 1999, faithfully complying with all conditions. For more than two decades, ICE has been unable to effectuate his removal to Vietnam. The Vietnamese government has not issued travel documents for him, and he lacks a passport. His removal is therefore not reasonably foreseeable, and his re-detention would contravene *Zadvydas* and § 1231.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

1. Assume jurisdiction over this matter.
2. Issue an order to show cause requiring Respondents to justify any detention of Mr. Lam.
3. Declare that Respondents’ detention of Mr. Lam without an individualized determination violates the INA and the Fifth Amendment.
4. Issue a writ of habeas corpus prohibiting Respondents from detaining Mr. Lam at his upcoming ICE check-in and requiring that he remain under his current order of supervision.

5. Prohibit Respondents from transferring Mr. Lam outside of this District without Court approval.
6. Award attorneys' fees and costs under the Equal Access to Justice Act and any other applicable law.
7. Grant such further relief as this Court deems just and proper.

Dated: October 7, 2025.

/s/ John J. Marandas

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