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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
PHOENIX DIVISION

Chi Thien Bui,

Petitioner,

v.

Gregory J. Archambeault, *in his official
capacity as Field Office Director, San Diego
Field Office, U.S. Immigration and Customs
Enforcement,*

David R. Rivas, *in his official capacity as
Warden, San Luis Regional Detention Center,*

United States Department of Homeland
Security,

United States Immigration and Customs
Enforcement,

Respondents.

Case No. CV-25-03774-PHX-KML (JFM)

**PETITIONER'S REPLY TO
RESPONDENTS' RESPONSE TO
ORDER TO SHOW CAUSE**

**I. RESPONDENTS DO NOT DISPUTE THAT ICE UNLAWFULLY
DETAINED PETITIONER**

"The Fifth Amendment's Due Process Clause forbids the Government to 'depriv[e]' any 'person ... of ... liberty ... without due process of law.' Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S. Ct. 2491 (2001). At its core, Respondents' position is that ICE unlawfully deprived Petitioner, Chi Thien Bui ("Mr. Bui" or PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO ORDER TO SHOW CAUSE - 1

1 “Petitioner”), of his liberty on April 17, 2025, but that Mr. Bui should not be released because
2 ICE provided him with a vague, blanket notice of revocation on October 20, 2025, following this
3 Court’s Order To Show Cause (Doc 5), and might remove him if Vietnam issues a travel
4 document in the future. Doc 7.

5 Because Respondents do not dispute that ICE failed to comply with both 8 C.F.R. § 241.4
6 and 8 C.F.R. § 241.13 at the time of Mr. Bui’s detention, Doc 7, this Court should order
7 Respondents to immediately release Mr. Bui from custody, subject to his preexisting Order of
8 Supervision. Petitioner filed his Petition for Writ of Habeas Corpus Pursuant to § 2241 and
9 Motion for Emergency Temporary Restraining Order (Docs. 1-2.), on October 14, 2025. The
10 Court issued an Order to Show Cause the next day. Doc 5.

11 On October 10, 2025, the United States District Court for the Southern District of
12 California, *Minh Nhat Phan v. Noem*, 3:25-cv-02422-RBM-MSB, 2025 U.S. Dist. LEXIS
13 201411, *13-14 (S.D. Cal. Oct. 10, 2025), joined the district courts to grant habeas petitions and
14 orders the immediate release of a Vietnamese nationals detained while under an order of
15 supervised release. “The Court’s research indicate[d] that every district court, except one,¹ to
16 consider the issue has ‘determined that where ICE fails to follow its own regulations in revoking
17 release, the detention is unlawful, and the petitioner’s release must be ordered.’” *Minh Nhat Phan*,
18 2025 U.S. Dist. LEXIS 201411, *13-14 (*quoting Rokhfirooz v. Larose et al.*, Case No.: 25-cv-
19 2053-RSH-VET, 2025 U.S. Dist. LEXIS 180605, 2025 WL 2646165, *4 (S.D. Cal. Sept. 15,
20 2025) (and *citing Rombot v. Souza*, 296 F. Supp. 3d 383, 387-88 (D. Mass. 2017) (ordering the
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24 ¹ See *Medina v. Noem*, Case No. 25-cv-1768-ABA, 2025 U.S. Dist. LEXIS 154052, 2025 WL
25 2306274, at *12 (D. Md. Aug. 11, 2025). “But even in *Medina*, the petition was denied without
26 prejudice because the petitioner ‘has not pointed to authority showing that the remedy for a
27 violation of [§ 241.4] (if such a violation has occurred) is release from detention.’” *Minh Nhat*
28 *Phan*, 2025 U.S. Dist. LEXIS 201411, *13 (*quoting Medina*, 2025 U.S. Dist. LEXIS 154052, at
*11. Here, as in *Minh Nhat Phan*, 2025 U.S. Dist. LEXIS 201411, *13, Petitioner has pointed to
Ninth Circuit authority that the proper remedy is release from detention.

petitioner released where, “[b]ased on ICE’s violations of its own regulations, the Court concludes [the petitioner’s] detention was unlawful”); *K.E.O. v. Woosley*, Civil Action No. 4:25-cv-74-RGJ, 2025 U.S. Dist. LEXIS 172361, 2025 WL 2553394, at *7 (W.D. Ky. Sept. 4, 2025) (noting “courts across the country have ordered the release of individuals” in ICE custody where ICE “violated their own regulations”); *Grigorian v. Bondi*, CASE NO. 25-cv-22914-RAR, 2025 U.S. Dist. LEXIS 175489, 2025 WL 2604573, at *10 (S.D. Fla. Sept. 9, 2025) (“The failure to provide [the petitioner] with an informal interview promptly after his detention or to otherwise provide a meaningful opportunity to contest the reasons for revocation violates both ICE’s own regulations and the Fifth Amendment Due Process Clause. This compels [the petitioner’s] release.”).

This Court joined the cacophony of judicial decisions on October 20, 2025. Exhibit E. Petitioner respectfully requests this Court to reach the same conclusion and order the immediate release of Mr. Bui. *Id.*; *Minh Nhat Phan*, 2025 U.S. Dist. LEXIS 201411, *14. The record demonstrates ICE failed to comply with both 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13 in violation of law and Mr. Bui’s due process rights. *Id.* (citing *Diaz v. Wofford*, 1:25-CV-01079 JLT EPG 2025 U.S. Dist. LEXIS 173666, 2025 WL 2581575, at *7 (“DHS’s failure to follow its own procedural regulations may constitute a due process violation.”); *see also M.S.L. v. Bostock*, No. 6:25-CV-01204-AA, 2025 U.S. Dist. LEXIS 162519, 2025 WL 2430267, at *11 (D. Or. Aug. 21, 2025) (“ICE’s failure to provide Petitioner with a timely Notice of Revocation or conduct an informal interview until nearly a month after taking her into custody is a grave violation of Petitioner’s due process rights in that they deprived her both of meaningful notice and an opportunity to be heard.”).

II. ICE’S VIOLATIONS OF THE REGULATIONS AND PETITIONER’S CONSTITUTIONAL RIGHTS ARE NOT HARMLESS

ICE’s failure to provide Mr. Bui with an interview and opportunity to respond to the Notice of Revocation and Release (Doc 7-2), issued on October 20, 2025, the eve of filing its response to the Court’s Order to Show Cause (Docs 4, 7), shows Petitioner’s detention since April

1 17, 2025, is unlawful. The constitutional deprivation of Petitioner's liberty is anything but
2 "harmless," as Respondents claim. Doc 7 at 6 & n1.

3 **1. Respondents Did Not Comply 8 C.F.R. § 241.4**

4 Release of a foreign national following a removal order may be revoked under 8 C.F.R. §
5 241.4, when the Executive Associate Commissioner or a district director believes revocation "is
6 appropriate to enforce a removal order or to commence removal proceedings against [a
7 noncitizen]." 8 C.F.R. § 241.4(l)(2)(iii). "Upon revocation," the noncitizen "will be notified of
8 the reasons for revocation of his or her release or parole" and "will be afforded an initial informal
9 interview promptly after his or her return" to be given "an opportunity to respond to the reasons
10 for revocation stated in the notification." § 241.4(l)(1).

11 At the time of his re-detention, ICE provided Petitioner with no notice, no basis of his re-
12 detention, and no interview and opportunity to respond to the reasons for the revocation of his
13 supervised release. (Doc 1 at ¶¶ 27-28.); Doc 7-1. In fact, ICE admits it detained Petitioner without
14 first revoking his supervised release. Doc 7-2. ICE abruptly detained Petitioner on April 17, 2025,
15 after inviting him to make an appearance at the local office. Doc 1 ¶31. Mr. Bui had complied
16 with the terms of his supervised release for ten years, and ICE arrested him without revoking his
17 order of supervised release. Doc 1 ¶¶ 24. At no point from the time of his detention until he filed
18 the petition for habeas corpus on October 14, 2025, did ICE revoke his release, provide Petitioner
19 with the required notice, an interview, or an opportunity to respond. *Id.*; Docs. 8-1, 8-2.

21 Respondents represent, without citing to any supporting authority, that § 241.4(l)(1) does
22 not apply where, as here, ICE revoked under § 241.13(i)(3). Doc 7 at 6. This proves, however,
23 that ICE never notified Petitioner why it re-detained him in the first place, and only did so in
24 response to Mr. Bui's present petition raising serious credibility concerns about whether ICE's
25 position is strictly a litigation position or based in fact. *Id.* This Court should not credit
26 Respondents post-hoc attempts to rationalize violations of the regulations that govern the re-
27 detention and revocation of a person's supervised release. *See M.S.L.*, 2025 U.S. Dist. LEXIS

1 162519, 2025 WL 2430267, at *11 (“Courts have found that when ICE fails to follow its own
 2 regulations in revoking release, the detention is unlawful, and the petitioner’s release must be
 3 ordered.”). Petitioner’s detention was unlawful, and the remedy is his immediate release. *See*
 4 *M.S.L.*, 2025 U.S. Dist. LEXIS 162519, 2025 WL 2430267, at *11 (finding an informal interview
 5 given 27 days after petitioner was taken into ICE custody “cannot reasonably be construed as . .
 6 . prompt” and granting habeas petition); *Quoc Chi Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP,
 7 2025 U.S. Dist. LEXIS 136002, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025) (finding
 8 petitioner likely to succeed on his claim that his detention was unlawful “[b]ecause there is no
 9 indication that an informal interview was provided”); *Wing Nuen Liu v. Carter*, Case No. 25-
 10 03036-JWL, 2025 U.S. Dist. LEXIS 115275, 2025 WL 1696526, at *2 (D. Kan. June 17, 2025)
 11 (finding “that officials did not properly revoke petitioner’s release” because “most obviously . . .
 12 petitioner was not granted the required interview upon the revocation of his release”).

13 2. Respondents Did Not Comply With 8 C.F.R. § 241.13

14 Section 241.13 provides “special review procedures” that apply where, among other
 15 conditions, a noncitizen “has provided good reason to believe there is no significant likelihood of
 16 removal to the country to which he or she was ordered removed, or to a third country, in the
 17 reasonably foreseeable future e.” 8 C.F.R. § 241.13(a). “The Service may revoke [a noncitizen’s]
 18 release under this section and **return the [noncitizen] to custody** if, on account of changed
 19 circumstances, the Service determines that there is a significant likelihood that the [noncitizen]
 20 may be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2) (emphasis added).
 21 Contrary to Respondents’ claim, 241.13(a) did not allow ICE to detain Petitioner without first
 22 revoking his order of supervised release. Doc 7 at 6. At the time ICE “return[ed]” Petitioner “to
 23 custody,” it admittedly failed to make the necessary determinations in compliance with 8 C.F.R.
 24 §§ 241.13(a), (i)(2). Doc 7-2. Respondents cannot detain Petitioner first and keep him in
 25 detention, (Doc 7 at 6-7), because “this section has the same requirements as 8 C.F.R. § 241.4 in
 26 that, ‘[u]pon revocation,’ the noncitizen ‘will be notified of the reasons for revocation of his or
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1 her release' and 'will be afforded an initial informal interview promptly after his or her return' to
2 be given 'an opportunity to respond to the reasons for revocation stated in the notification.' §
3 241.13(i)(3)." *Minh Nhat Phan*, 2025 U.S. Dist. LEXIS 201411, *10. "ICE's failure to provide
4 [Mr. Bui with] an interview and opportunity to respond is reason enough to find Petitioner's
5 detention unlawful." *Id.* Respondents must follow the regulations, and did not do so at the time it
6 returned him to custody. Doc 7-2.

7 In addition to the October 20, 2025 notice of revocation presented to this Court (Doc 7-
8 2), Respondents' evidence submitted evidence includes the sworn declaration of Supervisory
9 Detention & Deportation Officer, San Diego Field Office, Lamont Tillery (Doc 7-1), who does
10 not dispute that ICE did not revoke Petitioner's Order on Supervised Release at the time of
11 Petitioner's re-detention *Id.* at ¶ 22. See 8 C.F.R. § 241.13(i)(2). Respondents did not contact the
12 Vietnamese government until after August 5, 2025, and have not received a response from
13 Vietnam. Doc 7-1 at ¶¶ 15-16. Respondents do not dispute that Mr. Bui had complied with his
14 OSUP conditions of release which were set years ago. Doc 7, 7-1. Respondents also do not allege
15 that Mr. Bui is a flight risk. *Id.*

16 Instead, Respondents assert a change in circumstances *following his return to custody and*
17 *filing of the habeas petition* show that there is now a significant likelihood that Mr. Bui will be
18 removed to Vietnam in the reasonably foreseeable future pursuant to 8 C.F.R. § 241.13(i)(2). Doc
19 7-1, 7-2. But, again, "ICE's decision to re-detain a noncitizen like [Mr. Bui] who has been granted
20 supervised release is governed by ICE's own regulation requiring (1) an individualized
21 determination (2) by ICE that, (3) based on changed circumstances, (4) removal has become
22 significantly likely in the reasonably foreseeable future." *Kong v. United States*, 62 F.4th 608,
23 619-20 (1st Cir. 2023) (*citing* 8 C.F.R. § 241.13(i)(2)). This finding is a condition precedent to
24 re-detention. *Id.* The plain language of the regulation, however, does not allow a court in the first
25 instance to make the required individualized finding, or allow Respondents to arrest and detain a
26 person first and present justifications if the Petitioner seeks habeas relief. *Id.* Respondents' actions
27

1 to detain Mr. Bui in violation of law are inexcusable and require his immediate release. *See*
2 Exhibit E.

3 Even if the Court were tempted to excuse Respondents' unlawful detention of Petitioner
4 and last-minute attempt to paper over their actions, the vague, unsupported assertions in Officer
5 Tillery's declaration and the Notice of Revocation of Release do not provide evidence that ICE
6 is significantly likely to secure a travel document for Petitioner. *Kong*, 62 F.4th at 620 (citing 8
7 C.F.R. §§ 241.13(f), (i)(2)); Doc 7-1, 7-2. It is undisputed that ICE has not secured a travel
8 document in the intervening ten year period since Mr. Bui was ordered removed, but have
9 personally threatened him with deportation to a third country. Doc 2-1, Exhibit A ¶27
10 (Declaration of Linh Ha-Bui). In support of his motion for a temporary restraining order,
11 Petitioner submitted a sworn declaration from attorney, Tin Nguyen, who has personal knowledge
12 of the government's lack of progress on a travel document for Mr. Bui. Doc 2-1, Exhibit B at
13 ¶¶13.

14 Without refuting Attorney Nguyen, Officer Tillery states an application for a travel
15 document for Mr. Bui was filed by ICE, to the Vietnam Embassy on September 15, 2025, and has
16 not received a response from Vietnam. Doc 7-1 ¶16. Officer Tillery claims that "[d]uring fiscal
17 year 2025, ICE removed at least 587 Vietnamese citizens to Vietnam. Of the 587, 324 of those
18 were Vietnamese citizens who, like Mr. Ho, had immigrated to the United prior to July 12, 1995."
19 Doc 7-1 at ¶18. Officer Tillery also claims, "ICE removed Vietnamese to Vietnam as recently as
20 September 2025." Doc 7-1 at ¶19.

21 However, the record lacks some "very pertinent information[.]" including the total number
22 of requests that were made to Vietnam, the number of applications rejected, and the factors
23 Vietnam considers in denying or approving a request. *See Nguyen v. Hyde*, No. 25-CV-11470-
24 MJJ, 2025 U.S. Dist. LEXIS 117495, *14-15 2025 WL 1725791 (D. Mass. June 20, 2025). Officer
25 Tillery also does not address the fact that Vietnam has already denied Mr. Bui's own July 2025
26 request for a travel document. Doc 2-1, Exhibit A at ¶26.

1 In 2020, the United States and Vietnam signed a Memorandum of Understanding
2 (“MOU”) to create a process for deporting pre-1995 Vietnamese immigrants. *See generally Mong*
3 *Tuyen Thi Tran v. Scott*, 2:25-cv-01886-TMC-BAT, 2025 U.S. Dist. LEXIS 201561 *7, 2025 WL
4 2898638 (W.D. Wash. Oct. 12, 2025). “Under Section 4 of the MOU, Vietnam affirmed that it
5 ‘intends to issue travel documents where needed, and otherwise to accept the removal of an
6 individual subject to a final order of removal from the United States’ if the individual meets four
7 conditions”² *Id.* “First, the individual must have Vietnamese citizenship (and only Vietnamese
8 citizenship).” *Id.* “Second, the individual must have violated U.S. law, been ordered removed by
9 a U.S. authority, and completed any sentence of imprisonment.” *Id.* “Third, the individual must
10 have resided in Vietnam prior to arriving in the United States and have no right to reside in any
11 other country or territory.” *Id.* The fourth condition has been redacted from the publicly disclosed
12 version of the MOU filed by Petitioner, and Respondents have not offered any explanation of
13 what it might be. Exhibit F at pg. 2.

14 Respondents have not provided any of the underlying documents that might support the
15 assertions in Officer Valenzuela’s declaration. Doc 7-1. Although Officer Tillery claims that
16 “once ICE receives a travel document for Petitioner, his removal can be effectuated promptly,”
17 that has been true for the last decade. Doc 7-1 at ¶21; *Mong Tuyen Thi Tran*, 2025 U.S. Dist.
18 LEXIS 201561 *15-16, *citing Chun Yat Ma v. Asher*, No. C11-1797 MJP, 2012 U.S. Dist. LEXIS
19 58082, 2012 WL 1432229, at *4 (W.D. Wash. Apr. 25, 2012) (“conflicting statements concerning
20 removal” indicate removal is unlikely); *Nguyen*, 2025 WL 1725791, at *4 (D. Mass. June 20,
21 2025) (lack of data on recent removal rates of pre-1995 Vietnamese immigrants undermined
22 argument that removal was likely). Petitioner has shown, and Respondents have failed to rebut,
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27 ² Originally included in Doc. 2-1, Exhibit C (pages 21-26), a more legible copy of the redacted
28 Memorandum of Understanding is attached as Exhibit F.

1 that Petitioner's removal to Vietnam after forty years since arriving in the United States (10 spent
2 after receiving an order of removal) is not reasonably foreseeable. Doc 2-1, Exhibit A at ¶¶ 6-9.

3 On April 17, 2025, Respondents unlawfully detained Petitioner. Doc 2-1, Exhibit A. Mr.
4 Bui was sent to Arizona, away from his family, with no notice and no ability to arrange his affairs
5 which the MOU plainly anticipates Vietnamese nationals will have prior to any accepted return.
6 Exhibit F. Respondents have held Mr. Bui in detention without complying with the procedural
7 regulations since April 17, 2025, and they did not provide him with notice or a "prompt
8 interview." *Hoac*, 2025 U.S. Dist. LEXIS 13600, 2025 WL 1993771, at *4 (finding "Respondents'
9 intent to eventually complete a travel document request for Petitioner does not constitute a
10 changed circumstance" such that "there is now a significant likelihood Petitioner will be removed
11 to Vietnam in the reasonably foreseeable future"). The ability of Respondents to effectuate the
12 removal of a small number of Vietnamese nationals does not excuse Respondent's unlawful
13 conduct, or otherwise demonstrates "a significant likelihood" that Petitioner "may be removed in
14 the reasonably foreseeable future" on account of "changed circumstances." *See* 8 C.F.R. §
15 241.13(i)(2).
16

17 Government agencies are required to follow their own regulations. *United States ex rel.*
18 *Accardi v. Shaughnessy*, 347 U.S. 260, 268, 74 S. Ct. 499, 98 L. Ed. 681 (1954); *United States v.*
19 *Ramos*, 623 F.3d 672, 683 (9th Cir. 2010) ("It is a well-known maxim that agencies must comply
20 with their own regulations.") (*quoting Ramon-Sepulveda v. INS*, 743 F.2d 1307, 1310 (9th Cir.
21 1984)). ICE admitted to its own failure to comply with both 8 C.F.R. § 241.4 and 8 C.F.R. §
22 241.13, in violation of Petitioner's due process rights. Doc 7-1, 7-2; *Minh Nhat Phan*, 2025 U.S.
23 Dist. LEXIS 201411, *10 *See Diaz*, 2025 U.S. Dist. LEXIS 173666, 2025 WL 2581575, at *7
24 ("DHS's failure to follow its own procedural regulations may constitute a due process violation.");
25 *M.S.L.*, 2025 U.S. Dist. LEXIS 136002, 2025 WL 2430267, at *11 ("ICE's failure to provide
26 Petitioner with a timely Notice of Revocation or conduct an informal interview until nearly a
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1 month after taking her into custody is a grave violation of Petitioner's due process rights in that
2 they deprived her both of meaningful notice and an opportunity to be heard.”).

3 As a final matter, Respondents’ reliance on state habeas cases to claim Petitioner has
4 suffered no prejudicial harm is misplaced. Doc 7 at 7. “In a petition brought under § 2241, there
5 is no harmless error analysis; Respondents were required to comply with the applicable
6 regulations, and they concede they did not. Their failure to comply with their own regulations is
7 the very harm at issue.” Exhibit E at 2. Regardless, Respondents’ claim that arresting human
8 beings, threatening them with removal to third countries, and keeping them detained for months
9 without due process is somehow harmless just speaks to the gravity of the tragic situation and
10 why relief is necessary: deprivation of one’s liberty is never harmless. *M.S.L.*, 2025 U.S. Dist.
11 LEXIS 136002, 2025 WL 2430267, at *11, Respondents and all their officers, agents, employees,
12 attorneys, and persons acting on their behalf or in concert with them should be ORDERED to
13 immediately release Petitioner from custody under the conditions of his most recent order of
14 supervision. Should they seek to remove Petitioner to Vietnam or a third country, they must first
15 afford him with notice and a meaningful opportunity to respond.
16

17 III. CONCLUSION

18 For the foregoing reasons, the Court should immediately grant Mr. Bui’s Petition for Writ
19 of Habeas Corpus pursuant to § 2241, and order Mr. Bui’s immediate release from custody.

20 October 23, 2025

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I, Jesse M. Bless, hereby certify that on October 23, 2025, I served the above and foregoing, by causing a true and accurate copy of such papers to be filed and served on all counsel of record via the CM/ECF electronic filing system.

/s/ Jesse M. Bless

Jesse M. Bless