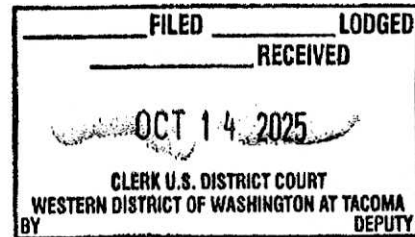


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
(Tacoma Division)

XUAN HAI NGUYEN,)	Case No. <u>2:25-cv-01988-RAJ-SKV</u>
)	
Petitioner,)	
v.)	
)	
BRUCE SCOTT, Warden, Northwest ICE)	
Processing Center; CAMMILLA)	
)	
WAMSLEY, Enforcement and Removal)	
)	
Operations, Seattle Field Office Director,)	
)	
U.S. Immigration and Customs)	
)	
Enforcement; KRISTI NOEM, Secretary,)	
)	
U.S. Department of Homeland Security,)	
)	
Respondents.)	



Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241

(A detainee stands waiting for a door to unlock at the Northwest ICE Processing Center in Tacoma, Washington (November 2024). Many asylum seekers and other noncitizens, like Petitioner, remain in civil detention for prolonged periods while their cases are pending.)

Petitioner Xuan Hai Nguyen respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, seeking immediate release from immigration custody due to his prolonged and unconstitutional detention since November 16, 2024. Mr. Nguyen is a survivor of human trafficking and religious persecution in Vietnam. He entered the United States without inspection in November 2024 as a direct result of being trafficked, and he promptly requested

asylum upon arrival. An Immigration Judge denied his asylum claim and issued a final removal order on August 13, 2025, which Mr. Nguyen has appealed. Despite having no criminal history and posing no flight risk or danger to the community, Mr. Nguyen has now been detained for nearly a year without any bond hearing or meaningful opportunity for release. For the reasons below, his continued detention violates the Due Process Clause, and he asks this Court to order his immediate release.

Jurisdiction and Venue

This Court has jurisdiction under 28 U.S.C. § 2241 to review the lawfulness of Petitioner's detention and order habeas relief. Mr. Nguyen is presently in custody at the Northwest ICE Processing Center in Tacoma, Washington, within the Western District of Washington. He is detained under color of federal immigration authority, rendering his petition cognizable under § 2241. Venue is proper in this District because Petitioner is detained here and the immediate custodian of his detention is located here. Petitioner names as the Respondent Camilla Wamsley, Seattle Field Office Director for U.S. Immigration and Customs Enforcement (ICE), who is the federal official with day-to-day custody over Petitioner at the Tacoma facility.

Petitioner has exhausted any available remedies to the extent required. There is no administrative process by which he can obtain a bond hearing or release given his classification as an "arriving" alien. The Immigration Judge has no jurisdiction to conduct a bond hearing in his case due to governing law, and the Department of Homeland Security (DHS) has thus far declined to grant him parole. Accordingly, Mr. Nguyen has no other avenue of relief and brings this petition as a last resort to secure his liberty. The Suspension Clause and the Fifth

Amendment's Due Process Clause empower this Court to remedy unlawful executive detention in these circumstances.

Factual Background

Petitioner's Story and Detention: Mr. Nguyen is a 37-year-old native of Vietnam and a devout Catholic. In Vietnam, he suffered persecution for [REDACTED]

[REDACTED] Fearing for his safety, he fled the country in 2024. Tragically, during his flight, Mr. Nguyen fell victim to an international human trafficking scheme. Smugglers deceived and coerced him, transporting him through numerous countries (including Dubai, South Africa, Brazil, and Mexico) while holding him captive and extorting his family for ransom. As a *direct result of this trafficking ordeal*, Mr. Nguyen entered the United States without inspection, essentially delivered to the U.S.–Mexico border under the control of traffickers. He was taken into DHS custody immediately upon crossing the border in or around November 16, 2024.

Asylum Proceedings: After expressing a fear of return, Mr. Nguyen was placed in removal proceedings under INA § 240 to seek protection. He applied for asylum, withholding of removal, and protection under the Convention Against Torture, citing the severe religious persecution he endured in Vietnam and the fact that he had been trafficked en route to the U.S.. An Immigration Judge in Tacoma (Hon. Susana Reyes) conducted merits hearings on his case and, on August 13, 2025, issued a decision denying relief and ordering Mr. Nguyen removed to Vietnam. Petitioner timely appealed that final removal order to the Board of Immigration Appeals (BIA), and his appeal remains pending. Thus, his removal is not imminent while the appeal is unresolved.

Lack of Bond or Parole: From the outset of his detention, Mr. Nguyen has been denied any chance at release. On December 11, 2024 – shortly after he passed his credible fear interview

– ICE refused to set a bond, stating “No bond available at this time” and thereby denying the bond request without a hearing. Because Mr. Nguyen entered without inspection and was treated as an applicant for admission, DHS took the position (as discussed below) that he was ineligible for a bond hearing before an Immigration Judge. To date, DHS has not granted Petitioner parole under 8 U.S.C. § 1182(d)(5) either, despite his traumatic circumstances. Mr. Nguyen has remained continuously detained at the Northwest ICE Processing Center since November 16, 2024, now approaching one full year in custody without any individualized determination that his continued confinement is necessary.

Personal Factors Demonstrating Release is Warranted: Mr. Nguyen’s continued detention is especially unjustified given his personal circumstances:

- **No Danger to the Community:** Petitioner has no criminal record whatsoever, and his conduct in detention has been non-violent and compliant. He is a victim of persecution and trafficking, not a perpetrator of any crime. There is no evidence that he poses any threat to public safety.
- **No Flight Risk:** Petitioner has every incentive to appear for all immigration proceedings. He is actively pursuing relief through legal channels (as evidenced by his appeal) and *wants* to resolve his case on the merits. He fled to the U.S. to seek refuge, not to abscond; given the chance, he will continue to obey all legal requirements.
- **Strong Family and Community Support:** Mr. Nguyen has close family members in the United States (including in Washington State) who are committed to supporting him. For example, his cousin, Lang Thi Tran, has detailed the extraordinary lengths to which the family went to save him from traffickers. Petitioner’s family is ready to provide housing, moral support, and financial assistance upon his release.

- **Willingness to Post Bond and Comply with Conditions:** Petitioner’s family is willing and able to post a reasonable bond to secure his release. They have already expended substantial resources (over \$135,000) to protect him from harm during his journey. Petitioner will abide by any conditions the Court or DHS deems appropriate – including electronic monitoring or check-ins – to ensure he remains available for all proceedings.

In short, Mr. Nguyen’s detention has lasted far longer than reasonably necessary to achieve any legitimate governmental purpose, especially since he is neither dangerous nor a flight risk. Yet under the government’s interpretation of the law, he cannot obtain a bond hearing at all through the immigration court system. The combination of prolonged confinement and lack of recourse makes his continued detention unconstitutional, as explained below.

Legal Argument

1. Statutory Framework: No Bond Hearing Is Available to Petitioner Under INA §§ 235 and 236

Mr. Nguyen’s inability to secure a bond hearing is a direct consequence of the statutory classification of his case. Because he entered without inspection and was apprehended at the border (i.e. an “applicant for admission” under the INA), his detention is governed by 8 U.S.C. § 1225(b) (INA § 235(b)). This provision mandates that certain noncitizens seeking admission “shall be detained” during their immigration proceedings. In particular, INA § 235(b)(2)(A) provides that if an immigration officer determines an arriving alien is not clearly entitled to admission, “the alien shall be detained for a proceeding under section 240” (removal proceedings). The Supreme Court has recognized the “plain meaning” of § 235(b) is that applicants for admission must be kept in custody until their proceedings conclude. In *Jennings v. Rodriguez* (2018), the Court noted that §§ 235(b)(1) and 235(b)(2) “mandate detention of

applicants for admission until certain proceedings have concluded.” Congress thus intended mandatory detention in these scenarios, unlike other immigration statuses where bond might be available.

By contrast, *INA* § 236(a), 8 U.S.C. § 1226(a), is the general custody provision that allows the government to arrest and detain aliens “pending a decision on whether the alien is to be removed,” and it authorizes release on bond for those *detained under* § 236(a) in the discretion of the Attorney General. Crucially, however, § 236 applies to aliens already present in the U.S. who were either lawfully admitted or are being detained on warrants in removal proceedings (subject to exceptions for certain criminal aliens in § 236(c)). Section 236(a) does not apply to aliens *treated as applicants for admission* at the border, and it does not override the specific detention mandate in § 235(b). In other words, arriving aliens and others deemed applicants for admission under § 235 remain in mandatory custody, not eligible for IJ bond, notwithstanding the general bond authority in § 236(a).

Recent precedents confirm this interpretation. In *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019), the Attorney General held that an asylum seeker who entered without inspection and was initially placed in expedited removal (and then transferred to full removal proceedings after a positive credible fear finding) has no right to a bond hearing before an Immigration Judge. The BIA has since expanded and clarified this principle. In *Matter of Q. Li*, 28 I&N Dec. 728 (BIA 2025), the Board held that *any* noncitizen who entered the U.S. unlawfully (EWI) and was apprehended near the border is to be treated as “an alien who arrives in the United States” and detained under § 235(b), rendering them ineligible for bond under § 236(a). It makes no difference whether such a person was placed in expedited removal or directly into regular removal proceedings – what matters is that the individual is an applicant for admission under the

INA's broad definition (since they never made a lawful entry). Once classified under § 235(b), immigration judges have no authority to release the person on bond. The only potential avenue for release in these circumstances is the Secretary's discretionary parole authority under 8 U.S.C. § 1182(d)(5)(A), which lies solely with DHS. In short, *Matter of Q. Li* "sharply limits" bond access: individuals who entered without inspection – even if initially paroled or later placed in full proceedings – cannot get a bond hearing because their detention is governed by § 235(b). The BIA reiterated this in a September 2025 decision, emphasizing that § 236(a) bond authority does not extend to aliens detained under § 235(b)'s mandatory provisions.

Application to Petitioner: Mr. Nguyen squarely falls into this category. He entered without inspection (as an asylum-seeker who was brought to the border by traffickers) and was apprehended immediately upon entry. He was charged as an inadmissible arriving alien (under INA § 212(a)(6)(A)(i), "present without admission or parole") in his Notice to Appear, making him an applicant for admission in removal proceedings. Under the above statutory scheme and agency precedent, Mr. Nguyen's detention is governed by INA § 235(b), not § 236. Consequently, the immigration court had no jurisdiction to hold a bond hearing for him. This explains why his December 2024 request for bond was summarily denied by ICE – the agency took the position that no bond was available in his case. It also means Mr. Nguyen cannot file a motion for bond redetermination with an Immigration Judge; any such motion would be denied for lack of authority. Unless DHS itself chooses to parole him, he is locked in mandatory detention until his case is fully resolved, however long that takes.

2. Prolonged Detention Without a Bond Hearing Violates the Due Process Clause

Although the immigration statutes, as interpreted by the BIA, preclude an administrative bond hearing for Mr. Nguyen, the Constitution imposes limits on how long the government may

detain a civil immigrant under these circumstances. Fifth Amendment Due Process guarantees that no person shall be deprived of liberty without due process of law – at minimum, this requires that civil detention be reasonably related to its purpose and not indefinite or arbitrary. *Even where Congress has authorized mandatory detention for a period of time, there comes a point at which continued detention without individualized review violates due process.* Mr. Nguyen’s case has far exceeded that point.

Length of Detention: Petitioner has been detained since November 16, 2024, which is roughly 305 (nearly one year) in custody with no end in sight. His BIA appeal is pending and may take additional months to resolve; if the appeal is denied, he may seek judicial review, potentially extending his detention further. This length of time in immigration custody, approaching or exceeding one year, is far beyond the “brief” period that the Supreme Court has previously considered acceptable for mandatory detention. For example, in *Demore v. Kim*, 538 U.S. 510 (2003), the Court upheld detention of a deportable alien for the “limited period” of his removal proceedings, noting the average duration was about 6 months and emphasizing the temporary nature of the confinement. Mr. Nguyen’s detention is now substantially longer, and unlike in *Demore*, there is no definite timeline for his release or removal. Absent judicial intervention, he could remain locked up for many more months or even years during appeals – a truly indefinite detention given the uncertainty of when proceedings will conclude.

Lack of Hearing or Neutral Review: Crucially, throughout this lengthy confinement, Mr. Nguyen has never received a bond hearing or any individualized assessment of whether his continued detention is justified. He has had no chance to present evidence of his low flight risk or absence of danger, nor to argue for alternatives to detention. The government has never been put to the test of justifying his detention before a neutral decision-maker. This complete denial of

factors as a trafficking victim and an asylum seeker in lengthy detention. Thus, habeas corpus is the only mechanism through which he can seek judicial review of his detention. The Supreme Court has long held that federal courts retain the power to remedy unlawful executive detentions via habeas, especially where no other judicial review is available (see, e.g., *Harris v. Nelson*, 394 U.S. 286 (1969)). Without court intervention, Petitioner faces continued indefinite incarceration in a civil facility even though he has never been convicted of any offense and poses no threat.

Given the totality of circumstances, this Court should exercise its habeas authority to order Mr. Nguyen's immediate release. Where detention has become unreasonable and unjustified, outright release is an appropriate remedy. Courts have, in similar cases, ordered immigration detainees freed (with appropriate conditions if needed) when their due process rights were violated by prolonged detention. Mr. Nguyen respectfully requests the same relief here. Every additional day of detention exacerbates his trauma and violates his constitutional rights. He is ready to live with his family in Washington, comply with any conditions, and continue pursuing his asylum appeal as a free man.

If the Court is disinclined to order outright release, Petitioner alternatively requests an order directing the government to provide him with a prompt individualized bond hearing before an impartial adjudicator (such as an immigration judge or magistrate), at which the government bears the burden to prove by clear and convincing evidence that further detention is justified. However, given the extensive record of his suitability for release and the lengthy period he has already endured, Petitioner submits that the most appropriate and just course is to grant his immediate release under reasonable supervision.

Conclusion and Prayer for Relief

For the foregoing reasons, Petitioner Xuan Hai Nguyen respectfully prays that this Court:

1. **Grant the Petition for Writ of Habeas Corpus** and order Respondent to immediately release Mr. Nguyen from custody. The Court may impose reasonable conditions of supervision as deemed appropriate (such as reporting requirements or bond), but Petitioner requests that any such conditions be the least restrictive necessary to mitigate any flight risk or danger (of which there is little to none in this case).
2. **Alternatively**, order that Petitioner be provided a bond hearing at which the Government must justify his continued detention. Such hearing should occur within 7 days of the Court's order (to prevent further unconstitutional delay), and the Immigration Judge (or other designated arbiter) should be instructed to assess Petitioner's flight risk and danger based on current evidence, with the Government bearing the burden of proof by clear and convincing evidence that no conditions of release can suffice.
3. **Award any further relief** that the Court deems just and proper, including costs or other remedies as allowed by law.

Petitioner thanks the Court for its prompt attention to this urgent matter. He remains detained and separated from his loved ones every day that this case is pending, and thus he respectfully requests expedited consideration. Petitioner asserts that his continued detention without a bond hearing is unconstitutional, and each additional day compounds the harm. He prays that the writ will issue and that he will soon be reunited with his family while he continues to lawfully fight his removal case.

Respectfully submitted,



Xuan Hai Nguyen, Pro Se
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Tacoma, Washington