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

Minh Khac Nguyen,

Petitioner,

v.

Fred Figueroa, Eloy Detention Center; John

Cantu, Field Office Director, Phoenix ICE;

Todd Lyons, Director, U.S. Immigration and

Customs Enforcement (ICE), Kristi Noem,

Secretary of Homeland Security; Pamela

Bondi, U.S. Attorney General,

Respondents.

Case No:

**Petition for Writ of Habeas Corpus and
Complaint for Injunctive Relief
(Immigration Detention)**

Introduction

Petitioner Minh Khac Nguyen is a longtime lawful resident who is currently detained by U.S. Immigration and Customs Enforcement (ICE) at the Eloy Detention Center in Arizona under a final order of removal. He petitions this Court for a writ of habeas corpus under 28

U.S.C. § 2241 and moves for a Temporary Restraining Order (TRO) and preliminary injunctive relief to prevent his imminent removal. Petitioner asserts that his detention and removal are unlawful because he is in fact a United States citizen by operation of former Immigration and Nationality Act (INA) § 320 (as in effect before 2001). Specifically, Petitioner was legally adopted as a child by a U.S. citizen family and automatically derived U.S. citizenship on July 3, 1979, when his adoptive mother, Mrs. Lisa “Net” Clapp, naturalized while Petitioner was a minor under her custody and residing in the United States. By virtue of these facts and the law in effect at that time, Petitioner became a U.S. citizen as a matter of law on July 3, 1979. He now asks this Court to recognize his citizenship status, declare his ongoing ICE detention unlawful, and order his immediate release. He further seeks injunctive relief to stay his removal and prevent any transfer or deportation during the pendency of this action, so that the Court can adjudicate his nationality claim before irreparable harm occurs.



Jurisdiction and Venue

This Court has jurisdiction over the habeas corpus petition pursuant to 28 U.S.C. § 2241 because Petitioner is in custody under color of the authority of the United States, and he is detained within the District of Arizona. Venue is proper in this District as Petitioner is confined at the Eloy Detention Center in Eloy, Arizona, which lies within this Court’s jurisdiction. No other adequate remedy exists to secure judicial review of Petitioner’s citizenship claim or to obtain release from unlawful detention. Although 8 U.S.C. § 1252 generally channels review of removal orders to the courts of appeals, that provision cannot bar habeas review here because Petitioner asserts he is a U.S. citizen and thus not properly subject to any removal order. It is well established that the exclusive review provisions of § 1252 do not apply, and indeed cannot constitutionally apply, to foreclose habeas relief for a person with a colorable claim to U.S.

citizenship. The writ of habeas corpus remains available to challenge executive detention that is unconstitutional or ultra vires. Moreover, the Suspension Clause guarantees Petitioner an opportunity for a court to review the legality of his detention. Petitioner's claim to citizenship is far from frivolous – it is supported by substantial evidence – and it invokes this Court's fundamental duty to ensure that no U.S. citizen is unlawfully detained or banished without judicial recourse.

This Court also has authority under the All Writs Act, 28 U.S.C. § 1651, to issue orders necessary to protect its jurisdiction and to prevent actions that could defeat the Court's ability to grant effective relief. Petitioner invokes this Court's authority under § 1651 and Federal Rule of Civil Procedure 65 to stay his removal and prevent any transfer outside this District while the Court considers his claims. As explained below, Petitioner meets the requirements for emergency injunctive relief: his claim is likely to succeed on the merits, and removing him (or otherwise curtailing the Court's jurisdiction over his person) would cause irreparable harm and undermine the Court's ability to adjudicate this serious citizenship dispute.

Factual Background

Background and Adoption: Petitioner Minh Khac Nguyen was born in Vietnam on   1961. In April 1975, as the Vietnam War drew to a close, Petitioner and several of his siblings were legally adopted by Mrs. Lisa “Net” Nguyen (now Clapp) and her husband Larry J. Clapp, a U.S. Navy servicemember. The adoptions were finalized in Vietnam, and the children were evacuated from Saigon as part of the U.S. military's Operation New Life in 1975. Petitioner (along with his adoptive parents and siblings) traveled on a U.S. military transport to the Territory of Guam, where they were processed and resettled in the immediate aftermath of the war. From 1975 to 1977, the Clapp family resided in Guam while Mr. Clapp was stationed there

on active duty with the Navy. Petitioner lived with his adoptive parents in U.S. Navy housing on Guam for approximately two years. In 1977, Mr. Clapp was reassigned to California, and the family relocated to San Diego, California, where Petitioner continued to reside in his adoptive parents' household and was raised as part of the Clapp family. Petitioner has lived in the United States (initially in Guam and then in California) continuously since 1975 under the care and custody of his adoptive parents.

Lawful Permanent Residency: As a result of the adoption and wartime evacuation, Petitioner was granted lawful permanent resident (LPR) status in the United States. The Clapp family's resettlement process included immigration approvals for the adopted children. By the late 1970s, Petitioner was documented as a lawful permanent resident based on his adoption and entry under Operation New Life. In fact, Petitioner was treated as a dependent of Mr. Clapp for U.S. military and immigration purposes. Mr. Clapp formally submitted dependency applications to the Navy on behalf of Petitioner and one of his younger brothers, seeking to have them recognized as his legal dependents (wards). While an initial claim required additional documentation and was delayed, the U.S. Navy's Family Allowance Activity ultimately confirmed Petitioner's status as a dependent "ward" of Mr. Clapp by around 1979–1980. Navy records reflect this dependency determination, underscoring that Petitioner was legally in the custody and care of his U.S. citizen adoptive parents during the relevant time period. Throughout the late 1970s and early 1980s, Petitioner lived with the Clapp family in California, was included in their household for military benefits, and was, by all accounts, a permanent member of the Clapp family unit.

Naturalization of Petitioner's Mother: On July 3, 1979, Petitioner's adoptive mother, Mrs. Lisa "Net" Clapp, took the oath of U.S. citizenship and became a naturalized United States citizen in a ceremony in the U.S. District Court for the Southern District of California. At that

time, Petitioner was 17 years old (a minor), was residing with his adoptive parents in San Diego, and was already a lawful permanent resident of the United States. Petitioner was in the legal and physical custody of Mrs. Clapp on the date of her naturalization, as he had been for several years. Petitioner's adoptive father, Larry Clapp, was already a U.S. citizen (by birth) throughout this period. Thus, as of July 3, 1979, both of Petitioner's adoptive parents were U.S. citizens – his father by birth and his mother by naturalization. Petitioner was under 18 and living in the U.S. as a permanent resident in their family. These facts, as detailed in the supporting declarations and records, are not in dispute: they are confirmed by official documents including Mrs. Clapp's Certificate of Naturalization (1979), Petitioner's birth and adoption records (showing his date of birth and adoptive parentage), and immigration records showing Petitioner's LPR status in the 1970s.

Removal Proceedings: Despite Petitioner's U.S. citizenship status, immigration authorities later initiated removal proceedings against him, apparently unaware or unconvinced of his derivative citizenship. On April 20, 1999, an Immigration Judge (IJ) entered a final order of removal against Petitioner, treating him as an alien subject to deportation. Petitioner, unrepresented by counsel at that time, did not appeal the IJ's decision to the Board of Immigration Appeals. Years later, after obtaining counsel, Petitioner moved to reopen his case to raise his citizenship claim; however, that motion to reopen was denied, and the removal order remained in effect. In 2025, ICE detained Petitioner pursuant to that old removal order and scheduled him for deportation. Petitioner maintains that the Government's detention and planned removal are unlawful because he is not an alien at all, but rather a U.S. citizen. His U.S. citizenship was acquired automatically by operation of law in 1979 and does not depend on any exercise of agency discretion. The Government's failure to recognize or investigate his citizenship has now led to the extraordinary

situation of a U.S. citizen being held in immigration detention under a removal order. This petition followed.

I. Claim: Unlawful Detention of a U.S. Citizen (Former INA § 320)

Lack of Authority to Detain or Remove a U.S. Citizen: The continued detention of Petitioner by ICE violates the Constitution and laws of the United States because Petitioner is a U.S. citizen. The immigration statutes, including those governing detention and removal, apply only to “aliens.” By law, U.S. citizens are not subject to deportation and may not be held in immigration custody. ICE’s post-final-order detention authority under 8 U.S.C. § 1231, for example, extends only to “aliens” who have been ordered removed. That authority cannot lawfully be exercised against a United States citizen. Because Petitioner automatically derived citizenship on July 3, 1979, he is not an “alien” and is not removable or detainable under the INA provisions that Respondents are purporting to enforce. Any further detention or attempted deportation of Petitioner is ultra vires and contrary to fundamental due process. In short, ICE is holding Petitioner without legal authority, and such detention of a U.S. citizen is per se unlawful.

Derivative Citizenship by Operation of Law: Under the nationality laws in effect in 1979 (former INA §§ 320–321, previously codified at 8 U.S.C. § 1432(a) (1952) (repealed 2000)), a child born outside the United States to alien parents would automatically acquire U.S. citizenship upon the naturalization of his parent(s) if certain conditions were met. In general, the statute required: (1) at least one parent had become a U.S. citizen (by birth or naturalization); (2) the child was under 18 years of age; (3) the child was residing in the United States pursuant to a lawful admission for permanent residence; and (4) if the child was born to two alien parents, the child was in the legal custody of the parent who naturalized (or, if applicable, both parents were naturalized or other statutory alternatives satisfied). Congress specifically amended these laws in

1978 to expand eligibility for adopted children: an adopted foreign-born child could derive citizenship upon a parent's naturalization so long as the adoption was completed before the child turned 16 and the child was in the adopting parent's custody. Congress at the same time raised the age cutoff for derivation from 16 to 18, an amendment which was made retroactive to benefit all children under 18 as of 1952. These amendments, in effect in 1979, squarely cover Petitioner's situation. Petitioner meets every requirement of the law that was in force at the time:

- *Adoptive Parent's Citizenship:* Petitioner's mother naturalized as a U.S. citizen on July 3, 1979, and his father was already a U.S. citizen. Thus, from that date forward, Petitioner had two U.S. citizen parents (satisfying the requirement of having citizen parent(s)). Even if only one citizen parent were required, Petitioner indisputably had at least one citizen parent at all relevant times by 1979.
- *Age:* Petitioner was 17 years old on the date of his mother's naturalization, i.e. under the age of 18. This satisfies the age requirement (then under 18, as amended in 1978).
- *Lawful Permanent Residence:* Petitioner was lawfully residing in the U.S. as a permanent resident by 1979. He had entered the U.S. in 1975 under refugee evacuation processes and was granted LPR status during the resettlement of his family. He remained an LPR in 1979 and thereafter.
- *Legal Custody:* Petitioner was in the legal custody of his naturalized mother (and his U.S. citizen father) at the time of naturalization. Petitioner had been adopted in 1975 and lived continuously with his adoptive parents; he was unquestionably under their legal and physical custody as their son. Notably, the 1978 amendment required only "custody" of the adopting parent, and either legal or physical custody suffices. Petitioner fulfills even

the strictest interpretation of this requirement, as the adoption was legal and he was residing with his mother.

Given these facts, Petitioner automatically acquired U.S. citizenship by operation of former INA § 320/321 on July 3, 1979. There was no discretionary decision or further action required; the statute vested citizenship in Petitioner instantly when the last condition was met (his mother's naturalization while he was an LPR under 18 in her custody). At that moment, Petitioner "became and remains a United States citizen" as a matter of law. His citizenship is status-based and permanent; once obtained, it cannot be involuntarily taken away except through the stringent process of denaturalization (which is inapplicable here, as Petitioner did not naturalize but derived citizenship). Any actions by immigration authorities treating Petitioner as an alien – including the 1999 removal order and the current detention – are made null and void by the fact of Petitioner's citizenship. An order of removal against a U.S. citizen is a legal nullity. Likewise, detaining a U.S. citizen under color of immigration laws is unlawful. The government simply lacks the jurisdiction to remove Petitioner or to continue to detain him under laws that apply only to aliens.

Courts have repeatedly recognized that individuals in circumstances like Petitioner's (foreign-born children who satisfy the statutory conditions) are indeed U.S. citizens by operation of former § 320/321. For example, in *Flores-Torres v. Holder*, a case strikingly similar to this one, a federal court (after a full evidentiary hearing) determined that the petitioner "became and remains a United States citizen" under former 8 U.S.C. § 1432(a) upon the naturalization of his mother. There, as here, the government had been treating the individual as removable, but the court found that he had automatically derived citizenship years earlier when his mother naturalized while he was a minor LPR. Numerous other cases have upheld derivative citizenship

claims under the pre-2000 law for those who meet the requirements (including adopted or legitimated children in the custody of a naturalized parent). Petitioner's case falls well within the heartland of those precedent cases – indeed, the facts here present an even more straightforward claim to citizenship. In sum, Petitioner has been a United States citizen for over 45 years, and Respondents' actions in detaining him and seeking to deport him violate 8 U.S.C. § 1503(a) (which guarantees the right of a person claiming citizenship to seek a judicial declaration of nationality) and the fundamental principle that no citizen may be deported under the immigration laws.

II. Right to Judicial Determination of Citizenship

The Supreme Court has long held that a person in Petitioner's position – physically present in the United States and asserting U.S. citizenship – has an absolute right to a judicial determination of that citizenship claim before he can be deported or punished under the immigration laws. It would offend due process to remove (or continue to detain) an individual who credibly claims U.S. citizenship without first having a neutral court confirm that he is in fact an alien. In the landmark case *Ng Fung Ho v. White*, 259 U.S. 276 (1922), the Supreme Court recognized that deporting someone who claims to be a U.S. citizen would inflict irreparable harm and violate the Fifth Amendment unless a court first adjudicates the citizenship claim. The Court stated that “*to deport one who so claims to be a citizen obviously deprives him of liberty. It may result also in loss of both property and life, or of all that makes life worth living*”. The Court held that “against the danger of such deprivation without the sanction afforded by judicial proceedings, the Fifth Amendment affords protection.” In other words, due process requires that the question of citizenship be heard and decided by a court whenever a non-frivolous claim is raised by a person facing deportation.

The Supreme Court in *Ng Fung Ho* further ruled that in habeas corpus proceedings to test the validity of a deportation order, the petitioner is entitled to a de novo judicial hearing on his citizenship claim. The Court directed that where there is a credible assertion of citizenship, the petitioner must be brought before a district court to have a full trial on the issue of nationality, and “may not be deported or banished until the right of the government to deport has been judicially determined.” This rule has been a bedrock of due process in immigration law for the past century: the government cannot unilaterally expel a person who has a plausible claim to U.S. citizenship without judicial oversight. To do so would risk the gravest of errors – the banishment of a citizen – which is an irreparable and unconstitutional act.

Petitioner’s case exemplifies why this safeguard is necessary. Petitioner’s citizenship claim is far from trivial; it is supported by official records and a straightforward application of the law. There is at least a genuine dispute about his nationality, and indeed the evidence strongly indicates he *is* a U.S. citizen. Under these circumstances, the Constitution and 8 U.S.C. § 1252(b)(5) (which provides procedures for resolving citizenship claims raised in immigration proceedings) both demand judicial intervention. Yet, until now, no court has reviewed Petitioner’s citizenship claim de novo. The 1999 removal order was issued by an Immigration Judge, an executive branch officer, without the benefit of all the evidence and perhaps under a misunderstanding of the law. The Board of Immigration Appeals never passed on the claim because no appeal was heard, and the later motion to reopen was denied on procedural grounds. Thus, no Article III court has yet determined Petitioner’s citizenship status, and he has been treated as an alien by executive officials in violation of *Ng Fung Ho*’s mandate. Petitioner is entitled to have this Court adjudicate his nationality now, before any removal occurs. To proceed

with deportation absent a judicial determination would deprive Petitioner of liberty without due process of law.

Accordingly, Petitioner respectfully requests this Court not only to take up his citizenship claim, but to grant immediate relief to prevent irreparable harm while doing so. As detailed below, Petitioner meets the criteria for a temporary restraining order preventing his removal and ensuring his availability before the Court. The Court's intervention is necessary to prevent a potential miscarriage of justice – the deportation of an American citizen. This Court's review of Petitioner's status will vindicate the fundamental principle that “[i]n our society liberty is the norm” and that no person, especially no citizen, should be deprived of freedom and expelled from the country without a full and fair judicial hearing on his rights.

III. Request for Temporary Restraining Order and Preliminary Injunction

Petitioner seeks an immediate TRO to maintain the status quo (preventing his removal or transfer) and to secure his release if appropriate, pending the Court's final resolution of his habeas petition. Such emergency relief is warranted here to ensure the Court can effectively decide the merits of the case. The purpose of the requested TRO is to stay Petitioner's removal, prevent any transfer out of this District, and require expedited production of records necessary to prove his citizenship. Petitioner is prepared to proceed expeditiously to a hearing on the merits of his citizenship claim. The TRO will allow time for the Court to conduct that hearing and make an informed determination, without the case being mooted by Petitioner's deportation or lost by transfer.

Legal Standard: A TRO or preliminary injunction is an extraordinary remedy, but it is fully justified in this case. Under the familiar four-factor test in *Winter v. Natural Resources Defense Council*, 555 U.S. 7 (2008), the party seeking preliminary relief must demonstrate: (1) a

likelihood of success on the merits; (2) a likelihood of irreparable harm absent relief; (3) that the balance of equities tips in the petitioner's favor; and (4) that an injunction is in the public interest. The Ninth Circuit employs a "sliding scale" approach whereby a strong showing on some factors can compensate for a lesser showing on others, but ultimately all four Winter factors should be satisfied. Petitioner addresses each factor below and shows that each one strongly favors granting relief here.

1. Likelihood of Success on the Merits: Petitioner has made a strong showing that he will prevail on his underlying claim that he is a U.S. citizen and thus unlawfully detained. The factual basis of his claim is well-documented and supported by official records: Petitioner's mother's Naturalization Certificate (July 3, 1979), Petitioner's date of birth confirming he was under 18 on that date, immigration records confirming Petitioner's LPR status, and the adoption decree and dependency records placing Petitioner in his mother's legal custody, all substantiate his citizenship claim. The law is also clear. As explained above, a person in Petitioner's circumstances automatically became a citizen as a matter of law under the then-applicable statute. Petitioner's case is not novel; it is firmly supported by the language of former INA § 320/321 and by legal precedent (including decisions like *Flores-Torres* and others recognizing derivative citizenship in similar situations). The Government, on the other hand, will be unable to produce any valid evidence or law to refute Petitioner's claim to citizenship. There is no dispute about Petitioner's adoption or his mother's naturalization; the only question is the legal effect of those events. Here, the law unambiguously provides that Petitioner acquired citizenship automatically. In essence, Petitioner is asserting a status – U.S. national – that, once proven, is an absolute defense to any removal or detention. Because Petitioner can

establish each element of derivative citizenship (and indeed has already proffered substantial evidence of each), he is highly likely to succeed on the merits of his habeas petition. In fact, if the Court finds the facts as alleged, success on the merits is certain: the Court must conclude Petitioner is a U.S. citizen and order his release. Thus, this most important factor (likelihood of success) weighs heavily in Petitioner's favor.

2. Irreparable Harm Absent Relief: Petitioner will suffer immediate and irreparable injury if a stay of removal and other interim relief are not granted. Deportation of a person with a rightful claim to U.S. citizenship is a paradigmatic irreparable harm – indeed, harm of the gravest kind. As the Supreme Court observed in *Ng Fung Ho*, the banishment of a person from the United States — the country that is rightfully his home — without due process is a deprivation of liberty that “*may result in loss of both property and life, or of all that makes life worth living.*” If Petitioner were removed to Vietnam (a country he left as a child, and where he has little to no remaining ties), he would be separated from his family, his long-term community, and the life he has known in the United States for decades. Such a forced exile of a U.S. citizen is a harm that cannot be undone after the fact; even if Petitioner later prevailed in proving his citizenship, that victory would come too late – he would have already been expelled from his own country. In addition to the profound personal hardships and potential physical dangers associated with removal, the ongoing violation of Petitioner's constitutional rights is itself irreparable injury. Every day that Petitioner, as a U.S. citizen, is detained as an “alien” is a day of wrongful imprisonment by the government. Courts recognize that the loss of constitutional rights, even briefly, constitutes irreparable harm. Furthermore, without a TRO, ICE could at any time transfer Petitioner out of this District (for example,

to a distant detention facility or put him on an international flight), which would severely impede his access to counsel and the ability to seek relief from this Court. Such a transfer or removal would effectively defeat this Court's jurisdiction and strip Petitioner of the opportunity to establish his rights. In short, the threat of wrongful removal and continued unlawful detention satisfies the irreparable harm requirement. Petitioner faces harm that is not speculative but imminent and concrete – harm that is irreparable both in human terms and in legal terms – and thus this factor too strongly supports interim relief.

3. Balance of Equities: The balance of hardships tips sharply in Petitioner's favor. If no TRO is issued, Petitioner faces the catastrophic harm of being removed from his own country and the loss of the rights and privileges that come with U.S. citizenship. He would also remain in detention indefinitely, despite his citizenship. On the other hand, if a TRO is granted, the harm or inconvenience to the Government is minimal. A TRO would simply maintain the status quo for a short period – ensuring Petitioner is not removed or moved out of reach – while the Court considers the case. The Government has no legitimate interest in executing a removal order against someone who may very well be a U.S. citizen without allowing a court to first determine the person's status. Any administrative burden or slight delay in carrying out the removal is vastly outweighed by the severe and irreversible injury that Petitioner would suffer if removed in error. Indeed, if Petitioner is correct about his citizenship (as the evidence indicates), then the Government has no authority at all to remove him – meaning any “harm” to the Government from a delay is not a legally cognizable harm, but merely a postponement of an action (deportation) that the Government ultimately may have no right to carry out. In equity, preventing an unlawful action (wrongful deportation) takes precedence over the

government's interest in efficiency. Additionally, issuing the TRO does not meaningfully impair the public interest or burden the Government financially: Petitioner would either remain in custody (or perhaps be released on appropriate conditions) for the duration of the litigation, which is no different from the status quo except that he would not be sent abroad. The Government incurs no significant cost or risk by waiting to remove Petitioner; by contrast, Petitioner risks losing everything if removed. Therefore, the equities tip decidedly in favor of Petitioner.

4. Public Interest: The public interest strongly favors granting the TRO. There is an overriding public interest in ensuring that the Government does not deport U.S. citizens and that no person is wrongly expelled or detained due to a misclassification of their citizenship. The integrity of our justice system and our national values would be undermined by the removal of a person who is, in fact, an American. As courts have noted in similar contexts, “the public has a profound interest in seeing that its laws (in this case, the immigration and nationality laws) are not wrongly applied in a way that strips a person of their status and rights.” Preventing the unlawful removal of a U.S. citizen upholds the rule of law and reinforces public confidence that the government adheres to constitutional protections. Conversely, temporarily halting Petitioner's removal poses no harm to the public. There is no public interest in the deportation of individuals who are entitled to be here; rather, the public interest lies in avoiding tragic errors. Additionally, the public interest is served by keeping families together and communities intact – Petitioner has family members (including U.S. citizen relatives) who would suffer if he were unjustly removed. Finally, issuing a TRO in this case signals the importance of careful judicial review when the stakes involve citizenship, one of the

most fundamental rights. In sum, every factor of the Winter test favors Petitioner. He has demonstrated a clear likelihood of success, irreparable harm, equities in his favor, and alignment with the public interest. This is precisely the type of extraordinary case – the possible wrongful removal of a U.S. citizen – that warrants extraordinary relief.

Because Petitioner meets all the requirements for a TRO/preliminary injunction, this Court has both the authority and the responsibility to grant such relief. The All Writs Act further bolsters this Court’s power to issue orders preserving its ability to render a meaningful decision on the merits. Here, an injunction is necessary “*in aid of*” the Court’s jurisdiction to decide the habeas petition, ensuring that Petitioner remains available and the case remains live.

IV. Proposed Temporary Restraining Order Provisions

To ensure effective relief, Petitioner respectfully requests that the Court’s Temporary Restraining Order include the following provisions:

1. **Stay of Removal:** An order restraining Respondents (including ICE, DHS, and their officers, agents, and anyone acting on their behalf) from removing or deporting Petitioner from the United States until further order of this Court. This provision will maintain the status quo and prevent irreparable harm while the Court adjudicates Petitioner’s citizenship claim.
2. **No Transfer from this District:** An order restraining Respondents from transferring Petitioner out of the District of Arizona (or, at minimum, out of the Phoenix Field Office’s area of responsibility) during the pendency of this action. This will ensure that Petitioner remains within the Court’s jurisdiction and that he has continued access to his counsel and to the Court. It prevents the Government from relocating Petitioner to a distant facility or staging him for removal in a manner that could impede the litigation.

3. **Production of Records:** An order directing Respondents to produce Petitioner's complete immigration records (including his A-file and all records of proceedings before the Immigration Court and DHS) to Petitioner's counsel, or alternatively to the Court, by a date certain in the near future (for example, within 10 days). Access to these records is crucial for Petitioner to support his citizenship claim with all available evidence and for the Court to have a full factual record. This provision will expedite the gathering of proof (such as historical immigration entries, LPR documents, and any prior assertions of citizenship) that may reside in government files.
4. **Order to Show Cause and Briefing Schedule:** Inclusion of an order that Respondents show cause at a prompt hearing (to be scheduled by the Court) why the relief requested in the petition should not be granted. In particular, Respondents should be required to justify Petitioner's continued detention and to explain why a preliminary injunction or final habeas relief should not issue. Petitioner is prepared to proceed on an accelerated timeline, and this order will ensure the case moves swiftly to resolution. Under Federal Rule of Civil Procedure 65(b), a TRO can last up to 14 days (and can be extended for good cause or by consent); Petitioner requests that the TRO remain in effect until that show-cause hearing and thereafter be extended as needed until the Court's final decision on the merits. Petitioner also requests that the Court waive any security bond under Rule 65(c), as is within the Court's discretion, given that this case involves no monetary injury to Respondents and seeks to vindicate important constitutional rights.

These provisions collectively will preserve the Court's ability to adjudicate the case effectively and ensure that Petitioner is not irreparably harmed in the interim. Petitioner respectfully submits that such a TRO is narrowly tailored to the extraordinary circumstances here

– preventing the irreversible act of a citizen’s deportation and safeguarding due process, while imposing only minimal burdens on the Government for a limited time.

Conclusion and Prayer for Relief

For the foregoing reasons, Petitioner Minh Khac Nguyen respectfully requests that this Court grant the requested Temporary Restraining Order and related preliminary relief, and thereafter grant a writ of habeas corpus upon determining the merits of his claim. Petitioner has made a compelling prima facie showing that he is, in fact, a United States citizen who is being unlawfully detained and faces imminent wrongful removal. Both statutory law and constitutional due process principles prohibit the Government from deporting Petitioner without a judicial determination of his citizenship. As the Supreme Court has admonished, a person within the United States who claims citizenship “*may not be deported or banished until the right of the government to deport has been judicially determined.*” This Court’s intervention is necessary to ensure that this fundamental guarantee is honored.

WHEREFORE, Petitioner prays that the Court grant the following relief:

1. **Immediate Release or Production:** Issue a writ of habeas corpus or other appropriate order directing Respondents to release Petitioner from custody immediately (on his own recognizance or under appropriate conditions of supervision), or to bring Petitioner before the Court forthwith, as Petitioner is being held without lawful basis.
2. **Temporary Restraining Order:** Pending a final decision on the merits, issue a TRO and/or preliminary injunction enjoining Respondents from removing Petitioner from the United States, and from transferring him out of this District, and requiring prompt production of Petitioner’s records, as detailed above. The TRO should remain in place

until this Court has determined Petitioner's citizenship and the lawfulness of his detention.

3. **Declaratory Judgment of Citizenship:** After reviewing the evidence, declare that Petitioner is a citizen of the United States pursuant to former INA § 320/321 (8 U.S.C. § 1432(a) as in effect prior to 2000), having automatically derived citizenship on July 3, 1979. Such a declaration should also state that Petitioner is not removable on the basis of the prior order because he was not legally an alien at the time of those proceedings.
4. **Permanent Injunction and Relief:** Permanently enjoin Respondents from treating Petitioner as an alien, cancel the removal order issued against Petitioner as void *ab initio*, and prohibit any future detention or deportation of Petitioner by DHS. Additionally, direct the Government to provide Petitioner with any documentation to which he is entitled as a U.S. citizen (such as evidence of citizenship status).
5. **Any further relief** that the Court deems just and proper, including costs and reasonable attorney's fees if available under the Equal Access to Justice Act or other authority, and such other relief as may be necessary to effectuate the Court's judgment.

Petitioner emphasizes that the core principle at stake is that no United States citizen should be forcibly removed or denied liberty without a full and fair opportunity to have his citizenship status adjudicated. By granting the requested relief, this Court will uphold that principle, prevent an egregious injustice, and ensure that Petitioner's rights are protected. Petitioner stands ready to provide further evidence or briefing as the Court requires, and he respectfully requests prompt action given the urgency of the circumstances.

Dated: October 23, 2025

Respectfully submitted,

/s/Daniel M Huynh

Daniel M Huynh, Esq.
Counsel for Petitioner Minh Khac Nguyen