

1 Jesse M. Bless
2 MA Bar No. 660713
3 Bless Litigation LLC
4 6 Vineyard Lane
5 Georgetown, MA 01833
6 781.704.3897
7 jesse@blesslitigation.com
8 Attorney for Petitioner

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

Quốc Huy Nguyễn,

Petitioner,

v.

Gregory J. Archambeault, *et. al.*,

Respondents.

Case No. 2:25-cv-04052-DWL--ASB

**PETITIONER'S REPLY TO
RESPONDENTS' OPPOSITION TO
PLAINTIFF'S MOTION FOR A
TEMPORARY RESTRAINING ORDER**

**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, Quốc Huy Nguyễn (“Mr. Nguyễn” or “Petitioner”), of his liberty on July 16, 2025,¹ but that: (1) Mr. Nguyễn should not be released, because ICE subsequently provided him with a vague, blanket notice of revocation on

¹ Respondents claim ICE detained Mr. Nguyễn on June 17, 2025. Doc. 7-1 ¶13. Mr. Nguyễn claims he was detained one day earlier on July 16, 2025. Doc 2-1, Exhibit A ¶13.

1 November 6, 2025, and (2) the government might remove Mr. Nguyễn, if Vietnam issues a travel
2 document in the future. Docs. 7, 7-1, 7-2.

3 Because Respondents do not dispute that ICE failed to comply with both 8 C.F.R. § 241.4
4 and 8 C.F.R. § 241.13 at the time of Mr. Nguyễn's detention, *id.*, this Court should order
5 Respondents to immediately release Mr. Nguyễn from custody, subject to the terms and
6 conditions of his preexisting Order of Supervision.

7 As previously stated, this Court should follow the reasoning of its two recent decisions
8 which ordered the immediate release of detained Vietnamese nationals who had been unlawfully
9 re-detained, like Mr. Nguyễn. Doc. 2-1 (October 28, 2025 Order, *Bui v. Archambeault et al*, CV-
10 25-03774-PHX-KML (JFM), Exhibit D (October 20, 2025 Order, *Ho v. Archambeault et al*, CV-
11 25-03753-PHX-JJT (JZB)). Courts outside the district have nearly universally agreed to grant
12 habeas petitions in similar situations. On October 10, 2025, the United States District Court for
13 the Southern District of California, *Minh Nhat Phan v. Noem*, 3:25-cv-02422-RBM-MSB, 2025
14 U.S. Dist. LEXIS 201411, *13-14 (S.D. Cal. Oct. 10, 2025), joined the district courts to grant
15 habeas petitions and order the immediate release of Vietnamese nationals detained while under
16 an order of supervised release. "The Court's research indicate[d] that every district court, except
17 one,² to consider the issue has 'determined that where ICE fails to follow its own regulations in
18 revoking release, the detention is unlawful, and the petitioner's release must be ordered.'" *Minh*
19 *Nhat Phan*, 2025 U.S. Dist. LEXIS 201411, *13-14 (*quoting Rokhfirooz v. Larose et al.*, Case
20 No.: 25-cv-2053-RSH-VET, 2025 U.S. Dist. LEXIS 180605, 2025 WL 2646165, *4 (S.D. Cal.

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24 ² 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.

1 Sept. 15, 2025) (and *citing Rombot v. Souza*, 296 F. Supp. 3d 383, 387-88 (D. Mass. 2017)
2 (ordering the petitioner released where, “[b]ased on ICE’s violations of its own regulations, the
3 Court concludes [the petitioner’s] detention was unlawful”); *K.E.O. v. Woosley*, Civil Action No.
4 4:25-cv-74-RGJ, 2025 U.S. Dist. LEXIS 172361, 2025 WL 2553394, at *7 (W.D. Ky. Sept. 4,
5 2025) (noting “courts across the country have ordered the release of individuals” in ICE custody
6 where ICE “violated their own regulations”); *Grigorian v. Bondi*, CASE NO. 25-cv-22914-RAR,
7 2025 U.S. Dist. LEXIS 175489, 2025 WL 2604573, at *10 (S.D. Fla. Sept. 9, 2025) (“The failure
8 to provide [the petitioner] with an informal interview promptly after his detention or to otherwise
9 provide a meaningful opportunity to contest the reasons for revocation violates both ICE’s own
10 regulations and the Fifth Amendment Due Process Clause. This compels [the petitioner’s]
11 release.”). Respondents offer no reason that would compel a different result, and do not even
12 address the recent orders from the Court. Doc. 2-1. Instead, Respondents allege that “even if this
13 court were to order Petitioner to be released on this basis, ICE could detain him again
14 immediately. . . . [i]f it determines that there is a significant likelihood that the alien may be
15 removed in the reasonably foreseeable future.” Doc 7 at 9. Respondents’ argument sidesteps the
16 unlawful and unconstitutional past actions and fails to mention that Plaintiff would have rights to
17 be notified and have an opportunity to respond prior to any future actions. Moreover,
18 Respondents’ position is inconsistent with the memorandum of understanding with the
19 government of Vietnam that ensures any repatriated Vietnamese nationals will have time to
20 prepare for their deportation, including time spent with family. Doc. 2-1, Exhibit E. The Court
21 could also ensure that Respondents afford Mr. Nguyễn sufficient process in an order granting the
22 habeas petition for the past and current deprivation of his liberty. Accordingly, Mr. Nguyễn
23 respectfully requests this Court to grant the habeas petition and order his immediate release. *M.S.L.*
24 *v. Bostock*, No. 6:25-CV-01204-AA, 2025 U.S. Dist. LEXIS 162519, 2025 WL 2430267, at *11
25 (D. Or. Aug. 21, 2025) (“ICE’s failure to provide Petitioner with a timely Notice of Revocation
26 or conduct an informal interview until nearly a month after taking her into custody is a grave
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1 violation of Petitioner's due process rights in that they deprived her both of meaningful notice and
2 an opportunity to be heard.”).

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

5 Mr. Nguyễn’s detention since July 16, 2025 is unlawful, and the constitutional deprivation
6 of his liberty has been anything but “harmless” or non-prejudicial. Doc 7 at 9.

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

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

15 At the time of his re-detention, ICE provided Mr. Nguyễn with no notice, no basis of his
16 re-detention, and no interview or opportunity to respond to the reasons for the revocation of his
17 supervised release. (Doc 2-1, Exhibit A at ¶¶ 13-19.). In fact, ICE admits that it detained Mr.
18 Nguyễn without first having revoked his supervised release. Doc 7-2. Nevertheless, ICE abruptly
19 detained Petitioner on July 16, 2025, after inviting him to appear at their local office. Doc 2-1,
20 Exhibit A at ¶ 13-15. Prior to his re-detention, Mr. Nguyễn had complied with the terms of his
21 supervised release for more than twenty-three years, yet ICE arrested him without having revoked
22 his order of supervised release. Doc 2-1 ¶¶ 13-19. At no point from the time of Mr. Nguyễn’s
23 detention on July 16, 2025, until he filed his petition for habeas corpus on October 28, 2025, did
24 ICE revoke his order of supervised release, provide Mr. Nguyễn with the required notice, or
25 provide him with an interview to be given an opportunity to respond. *Id.*; Docs. 7-1, 7-2.

26 Respondents assert, without citing any supporting authority, that § 241.4(l)(1) does not
27 apply where, as here, ICE revoked under § 241.13(i)(3). Doc 7 at 9. This proves, however, that
28 PETITIONER’S REPLY TO RESPONDENTS’ OPPOSITION TO PLAINTIFF’S MOTION FOR A
TEMPORARY RESTRAINING ORDER - 4

1 ICE provided Mr. Nguyễn with notice including the underlying basis his re-detention, and only
2 provided such requisite notice in response to Mr. Nguyễn's present petition raising serious
3 credibility concerns about whether ICE's position is strictly a litigation position, or based in fact.
4 *Id.* This Court should not credit Respondents *post-hoc* attempts to rationalize violations of the
5 regulations that govern the re-detention and revocation of a person's supervised release. *See*
6 *M.S.L.*, 2025 U.S. Dist. LEXIS 162519, 2025 WL 2430267, at *11 ("Courts have found that when
7 ICE fails to follow its own regulations in revoking release, the detention is unlawful, and the
8 petitioner's release must be ordered."). Mr. Nguyễn's re-detention was unlawful, and the remedy
9 for the unlawful detention is his immediate release. *See M.S.L.*, 2025 U.S. Dist. LEXIS 162519,
10 2025 WL 2430267, at *11 (finding an informal interview given 27 days after petitioner was taken
11 into ICE custody "cannot reasonably be construed as . . . prompt" and granting habeas petition);
12 *Quoc Chi Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP, 2025 U.S. Dist. LEXIS 136002, 2025
13 WL 1993771, at *4 (E.D. Cal. July 16, 2025) (finding petitioner likely to succeed on his claim
14 that his detention was unlawful "[b]ecause there is no indication that an informal interview was
15 provided"); *Wing Nuen Liu v. Carter*, Case No. 25-03036-JWL, 2025 U.S. Dist. LEXIS 115275,
16 2025 WL 1696526, at *2 (D. Kan. June 17, 2025) (finding "that officials did not properly revoke
17 petitioner's release" because "most obviously . . . petitioner was not granted the required
18 interview upon the revocation of his release").

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

21 Section 241.13 provides "special review procedures" that apply where, among other
22 conditions, a noncitizen "has provided good reason to believe there is no significant likelihood of
23 removal to the country to which he or she was ordered removed, or to a third country, in the
24 reasonably foreseeable future." 8 C.F.R. § 241.13(a). "The Service may revoke [a noncitizen's]
25 release under this section and **return the [noncitizen] to custody** if, on account of changed
26 circumstances, the Service determines that there is a significant likelihood that the [noncitizen]
27 may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2) (emphasis added).

1 Contrary to Respondents' claim, 241.13(a) did not allow ICE to re-detain Mr. Nguyễn, without
2 first revoking his order of supervised release. Doc 7 at 9; Doc. 7-1, 7-2. At the time ICE
3 "return[ed]" Mr. Nguyễn "to custody," it admittedly failed to make the necessary determinations
4 in compliance with 8 C.F.R. §§ 241.13(a), (i)(2). Doc 7-2. Respondents cannot admit to having
5 unlawfully re-detained Mr. Nguyễn while also claiming that his continued detention is lawful,
6 (Doc 7 at 9-1), because "this section has the same requirements as 8 C.F.R. § 241.4 in that, '[u]pon
7 revocation,' the noncitizen 'will be notified of the reasons for revocation of his or her release'
8 and 'will be afforded an initial informal interview promptly after his or her return' to be given 'an
9 opportunity to respond to the reasons for revocation stated in the notification.' § 241.13(i)(3)."
10 *Minh Nhat Phan*, 2025 U.S. Dist. LEXIS 201411, *10. "ICE's failure to provide [Mr. Nguyễn
11 with] an interview and opportunity to respond is reason enough to find [his] detention unlawful."
12 *Id.* Respondents must follow the regulations, and did not do so at the time it returned him to
13 custody. Doc 7-2.

14 In addition to the November 6, 2025 notice of revocation presented to this Court (Doc 7-
15 2), Respondents' have submitted a sworn declaration of Assistant Field Office Director, San
16 Diego Field Office, Calexico Subdivision, Fernando Valenzuela. Doc 7-1. Assistant Director
17 Valenzuela admits that ICE did not revoke Mr. Nguyễn's Order on Supervised Release at the time
18 of his re-detention on July 16, 2025. *Id.* at ¶¶ 13, 22. Following Mr. Nguyễn's re-detention,
19 Respondents have yet to formally contact the Vietnamese government. Doc 7-1 ¶ 16. Respondents
20 had not completed Mr. Nguyễn's application for a travel document until October 2025, and are
21 currently awaiting necessary translations before forwarding the request to Vietnam.. Doc 7-1
22 ¶ 16. Respondents do not dispute that Mr. Nguyễn had complied with his OSUP conditions of
23 release which were set years ago. Doc 7, 7-1. Respondents also do not allege that Mr. Nguyễn is
24 a flight risk. *Id.*

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

12 Even if the Court credits the Respondents last-minute attempt to paper over their unlawful
13 actions against Mr. Mr. Nguyễn, the vague, unsupported assertions in Assistant Director
14 Valenzuela’s declaration and the Notice of Revocation of Release do not provide evidence that
15 ICE is significantly likely to secure a travel document for Mr. Nguyễn; it shows that Respondents
16 could have complied with the law prior to detaining him. *Kong*, 62 F.4th at 620 (citing 8 C.F.R.
17 §§ 241.13(f), (i)(2)); Doc 7-1, 7-2. It is undisputed that ICE has not secured a travel document for
18 Mr. Nguyễn in the intervening twenty-three year period since he was ordered removed. Doc 2-1,
19 Exhibit A ¶24. In support of his motion for a temporary restraining order, Mr. Nguyễn submitted
20 a sworn declaration from attorney, Tin Nguyen, who has personal knowledge of the government’s
21 lack of progress in securing a travel document for Mr. Nguyễn. Doc 2-1, Exhibit B at ¶¶15-16.

22 Without refuting the testimony of Attorney Nguyen, Assistant Director Valenzuela states
23 an application for a travel document for Mr. Nguyễn was filed by an ICE deportation officer in
24 October 2025. Doc 7-1 ¶16. Assistant Director Valenzuela claims that “[d]uring fiscal year 2025,
25 ICE removed at least 587 Vietnamese citizens to Vietnam. Of the 587, 324 of those were
26 Vietnamese citizens who, like Mr. Nguyễn, had immigrated to the United prior to July 12, 1995.”
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1 Doc 7-1 at ¶18. However, the record lacks some “very pertinent information[,]” including the
2 total number of requests that were made to Vietnam, the number of applications rejected, and the
3 factors Vietnam considers in denying or approving a request. *See Nguyen v. Hyde*, No. 25-CV-
4 11470-MJJ, 2025 U.S. Dist. LEXIS 117495, *14-15 2025 WL 1725791 (D. Mass. June 20, 2025).

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

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19 Although Assistant Director Valenzuela claims that “once ICE receives a travel document
20 for Petitioner, his removal can be effectuated promptly,” yet the same has been true for the last
21 twenty-three years while Mr. Nguyễn had an order of supervised release. Doc 7-1 at ¶20; *Mong*
22 *Tuyen Thi Tran*, 2025 U.S. Dist. LEXIS 201561 *15-16, *citing Chun Yat Ma v. Asher*, No. C11-
23 1797 MJP, 2012 U.S. Dist. LEXIS 58082, 2012 WL 1432229, at *4 (W.D. Wash. Apr. 25, 2012)
24 (“conflicting statements concerning removal” indicate removal is unlikely); *Nguyen*, 2025 WL
25 1725791, at *4 (D. Mass. June 20, 2025) (lack of data on recent removal rates of pre-1995
26 Vietnamese immigrants undermined argument that removal was likely). On the current record,
27 Mr. Nguyễn has demonstrated that his removal to Vietnam is not reasonably foreseeable.

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

14 Government agencies are required to follow their own regulations. *United States ex rel.*
15 *Accardi v. Shaughnessy*, 347 U.S. 260, 268, 74 S. Ct. 499, 98 L. Ed. 681 (1954); *United States v.*
16 *Ramos*, 623 F.3d 672, 683 (9th Cir. 2010) (“It is a well-known maxim that agencies must comply
17 with their own regulations.”) (*quoting Ramon-Sepulveda v. INS*, 743 F.2d 1307, 1310 (9th Cir.
18 1984)). ICE admitted to its own failure to comply with both 8 C.F.R. § 241.4 and 8 C.F.R. §
19 241.13, and has violated Mr. Nguyễn’s due process rights. Doc 7-1, 7-2; *Minh Nhat Phan*, 2025
20 U.S. Dist. LEXIS 201411, *10 *See Diaz*, 2025 U.S. Dist. LEXIS 173666, 2025 WL 2581575, at
21 *7 (“DHS’s failure to follow its own procedural regulations may constitute a due process
22 violation.”); *M.S.L.*, 2025 U.S. Dist. LEXIS 136002, 2025 WL 2430267, at *11 (“ICE’s failure
23 to provide Petitioner with a timely Notice of Revocation or conduct an informal interview until
24 nearly a month after taking her into custody is a grave violation of Petitioner’s due process rights
25 in that they deprived her both of meaningful notice and an opportunity to be heard.”).
26 Respondents’ efforts during the course of these proceedings to try and cover up their
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1 constitutional and regulatory violations proves too much. It shows only that their re-detention
2 process was not lawful to begin with.

3 The protection against the deprivation of another individual's liberty without due process
4 strikes at the heart of our inalienable rights protected under the Constitution: deprivation of one's
5 liberty is never harmless. *M.S.L.*, 2025 U.S. Dist. LEXIS 136002, 2025 WL 2430267, at *11,
6 Respondents and all their officers, agents, employees, attorneys, and persons acting on their
7 behalf or in concert with them should be ORDERED to immediately release Mr. Nguyễn from
8 custody under the conditions of his most recent order of supervision. Should they seek to remove
9 Mr. Nguyễn to Vietnam or a third country, they must first afford him with notice and a meaningful
10 opportunity to respond.

11 **III. CONCLUSION**

12 For the foregoing reasons, the Court should immediately grant Mr. Nguyễn's Petition for
13 Writ of Habeas Corpus pursuant to § 2241, and order Mr. Nguyễn's immediate release from
14 custody.

15
16 November 12, 2025

Respectfully Submitted,

17 /s/Jesse M. Bless

18 Jesse M. Bless

19 MA Bar No. 660713

Bless Litigation LLC

20 6 Vineyard Lane

Georgetown MA 01833

781.704.3897

21 jesse@blesslitigation.com

22 *Admitted Pro Hac Vice*

23 Attorney for Petitioner

CERTIFICATE OF SERVICE

I, Jesse M. Bless, hereby certify that on November 12, 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
Bless Litigation LLC