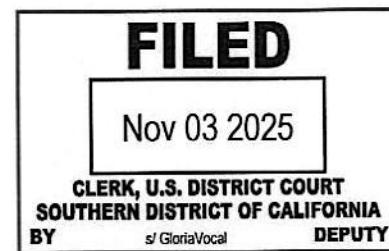


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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

HUONG THI HUYNH

Petitioner,
vs.

IMMIGRATION AND CUSTOMS
ENFORCEMENT (ICE);
ENFORCEMENT AND REMOVAL OPERATIONS
(ERO)
EL PASO FIELD OFFICE;
DEPARTMENT OF HOMELAND SECURITY
(DHS); and
ALEJANDRO MAYORKAS, Secretary of
Homeland Security,
Respondents.

U.S. Case No. 25CV2976 RBM KSC

EMERGENCY TEMPORARY
RESTRAINING ORDER

– IMMINENT REMOVAL –

TEMPORARY RESTRAINING ORDER
AND REQUEST TO STAY REMOVAL PENDING STATE-COURT PROCEEDINGS

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**EMERGENCY TEMPORARY
RESTRAINING ORDER**

- IMMINENT REMOVAL -

I. INTRODUCTION

Petitioner respectfully moves for an Emergency Temporary Restraining Order (TRO) under Fed. R. Civ. P. 65(b) to enjoin ICE from removing her from the United States to Vietnam pending adjudication of her Penal Code § 1473.7 motion to vacate conviction now pending in the San Diego County Superior Court. *and per 28 U.S.C 2241 writ of Habeas Corpus*

Although Petitioner was recently transferred to ICE custody in El Paso, Texas, the legal and factual basis for this request arises entirely in California, where she lived, was convicted, and is seeking to vacate that conviction. If removed, Petitioner will lose the ability to participate in the pending state-court proceeding that directly challenges the conviction forming the basis of her deportation. Removal is reportedly scheduled as early as November 5, 2025, and would cause irreparable harm and render the pending § 1473.7 motion meaningless. This TRO seeks only to preserve the status quo until the California court rules.

II. FACTUAL BACKGROUND

1. Background.

Ms. Huynh is a long-term lawful permanent resident who has lived in the United States for over three decades. In 2009, she pleaded to California Penal Code § 273a(a) in the San Diego County Superior Court, Case No. CD209993.

2. State-Court Motion.

On November 3, 2025, Petitioner filed a motion to vacate her conviction under Penal Code § 1473.7, alleging she did not meaningfully understand the immigration consequences of her plea. If granted, that conviction—and thus the basis for removability—will be vacated.

3. Custody and Imminent Removal.

Petitioner was detained in California and later transferred to the ERO El Paso Camp (East Montana). ICE officers have informed her that she is scheduled for deportation to Vietnam on November 5, 2025.

4. Humanitarian Risk.

Public reports indicate that deported Vietnamese nationals are received by police officials

for administrative processing upon arrival. Ms. Huynh lacks family or stable housing in Vietnam, placing her at serious risk of harm, destitution, or detention.

5. Administrative Efforts.

On November 3, 2025, counsel submitted a written stay-of-removal request to the ERO El Paso Field Office enclosing proof of the filed § 1473.7 motion. No confirmation of deferral has been received.

III. JURISDICTION AND VENUE

This Court has jurisdiction under 28 U.S.C. §§ 1331 and 2241, and the Administrative Procedure Act (5 U.S.C. § 701 et seq.). Venue lies in this District under 28 U.S.C. § 1391(b)(2) because the conviction giving rise to removal and the ongoing state-court motion is in San Diego County, California.

Venue is proper in this District because the conviction arose here, and Petitioner's counsel and state-court proceedings are located in San Diego County. The harm therefore arises from interference with judicial proceedings within this District.

IV. LEGAL STANDARD

A temporary restraining order is appropriate where the petitioner demonstrates:

1. A likelihood of success on the merits;
2. Irreparable harm in the absence of relief;
3. That the balance of equities tips in her favor; and
4. That the injunction serves the public interest.

(*Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 20 (2008); *Leiva-Perez v. Holder*, 640 F.3d 962, 970 (9th Cir. 2011)).

V. ARGUMENT

A. Likelihood of Success on the Merits

Petitioner's § 1473.7 motion challenges the sole conviction underlying her removal. The California Supreme Court has affirmed that defendants who entered pleas without understanding the immigration consequences are entitled to relief. (*People v. Espinoza*, 14 Cal.5th 311 (2023)). Because a favorable ruling would vacate the removal basis, removal now would deprive Petitioner of the opportunity for that adjudication and render her claim moot.

B. Irreparable Harm

If deported, Ms. Huynh will lose access to her counsel and her pending state proceeding, permanently preventing meaningful participation in her § 1473.7 motion. Courts routinely find such harm irreparable where deportation would foreclose judicial review. (*Nken v. Holder*, 556 U.S. 418, 435 (2009); *Devitri v. Cronen*, 289 F. Supp. 3d 287 (D. Mass. 2018)).

Additionally, Ms. Huynh faces humanitarian hardship in Vietnam—no housing, family, or community—compounding the harm of premature removal.

C. Balance of Equities and Public Interest

The balance of equities strongly favors maintaining the status quo. ICE will suffer no prejudice from a short pause in removal, whereas Petitioner faces irreversible separation and potential harm. The public interest favors judicial efficiency and avoiding removals that may later prove unlawful.

VI. REQUESTED RELIEF

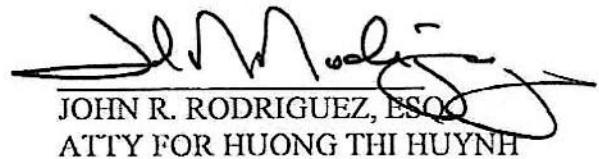
Petitioner respectfully requests that this Court:

1. Issue an immediate Temporary Restraining Order prohibiting Respondents from removing or transferring Ms. Huynh from the United States pending further order;

2. Order Respondents to maintain her current custody status until the San Diego County Superior Court rules on the pending Penal Code § 1473.7 motion.
3. Require ICE to provide five (5) days' advance notice before any future removal action; and
4. Grant any further relief the Court deems just and proper.

Dated: 11-3-2025

Respectfully submitted,


JOHN R. RODRIGUEZ, ESQ.
ATTY FOR HUONG THI HUYNH

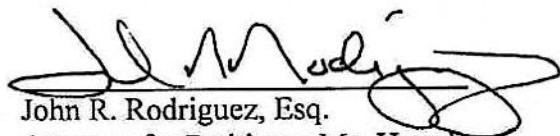
DECLARATION OF COUNSEL IN SUPPORT OF EMERGENCY TRO

I, John R. Rodriguez, declare as follows:

1. I am an attorney licensed to practice in the State of California and represent Ms. Huynh in both her immigration custody and state-court post-conviction case in CD209993.
2. On November 3, 2025, I filed a motion to vacate Ms. Huynh's 2009 conviction under California Penal Code § 1473.7 in the San Diego County Superior Court. That filing seeks to vacate the conviction forming the sole basis of her removal.
3. A true and correct copy of the state-court motion is available and will be lodged with this Court upon request.
4. I was informed by Ms. Huynh that she is currently detained at the ERO El Paso Camp, East Montana, and is scheduled for removal to Vietnam on November 5, 2025.
5. On the same date, I transmitted a written stay-of-removal request with proof of the filed § 1473.7 motion to the ERO El Paso Field Office. As of this declaration, ICE has not confirmed whether removal will be deferred.
6. If removed, Ms. Huynh will be unable to participate in her state-court proceeding, and I will lose direct access to my client and essential evidence required for that litigation, especially if she is detained by the Vietnamese government following her arrival.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 3rd day of November 2025, at San Diego, California.



John R. Rodriguez, Esq.
Attorney for Petitioner Ms. Huynh

CERTIFICATE OF SERVICE

I, John R. Rodriguez, hereby certify that on November 3, 2025, I served a copy of the foregoing Emergency Motion for Temporary Restraining Order, Declaration of Counsel, and [Proposed] Order by electronic mail upon the following:

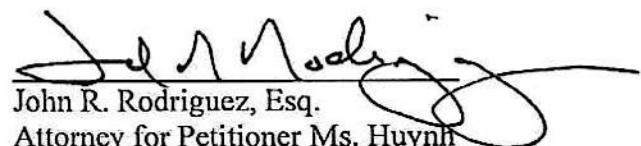
- 1. U.S. Attorney's Office – Southern District of California**
Civil Division, Immigration Section
Email: USACAS.ECFCivil@usdoj.gov

- 2. ICE ERO El Paso Field Office**
Email: ELPASOERO@ice.dhs.gov

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 3, 2025

San Diego, California



John R. Rodriguez, Esq.
Attorney for Petitioner Ms. Huynh