

1 Tin Thanh Nguyen
2 NC Bar No. 37167
3 Law Office of Tin Thanh Nguyen, PLLC
4 6769 Albemarle Rd., Suite B
5 Charlotte, NC 28212
6 (704) 461-1527
7 tin@lautsutin.com
8 Attorney for Petitioner

9
10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF ARIZONA**
12 **PHOENIX DIVISION**

13 **Truong Tuyen Nguyen,**

14 *Petitioner,*

15 v.

16 **Jesus Rocha, et. al.,**

17 *Respondents.*

Case No. CV-25-04161-PHX-DJH (JFM)

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

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

20 “The Fifth Amendment’s Due Process Clause forbids the Government to ‘depriv[e]’ any
21 ‘person ... of ... liberty ... without due process of law.’ Freedom from imprisonment—from
22 government custody, detention, or other forms of physical restraint—lies at the heart of the liberty
23 that Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S. Ct. 2491 (2001). At its core,
24 Respondents’ position is that ICE unlawfully deprived Petitioner, Truong Tuyen Nguyen (“Mr.
25 Nguyen” or “Petitioner”), of his liberty on May 16, 2025, but that: (1) Mr. Nguyen should not be
26 released, because ICE subsequently provided him with a vague, blanket notice of revocation on
27 November 14, 2025, and (2) the government might remove Mr. Nguyen, if Vietnam issues a travel
28 document in the future. Docs. 7, 7-1, 7-2.

PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION TO PETITIONER'S MOTION FOR A
TEMPORARY RESTRAINING ORDER - 1

1 Because Respondents do not dispute that ICE failed to comply with both 8 C.F.R. § 241.4
2 and 8 C.F.R. § 241.13 at the time of Mr. Nguyen's detention, *id.*, this Court should order
3 Respondents to immediately release Mr. Nguyen from custody, restore the terms and conditions
4 of his preexisting Order of Supervision, and order that Respondents provide him with notice and
5 an opportunity to be heard should it attempt to revoke the OSUP at any point in the future.

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

21
22
23
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.

1 2646165, *4 (S.D. Cal. Sept. 15, 2025) (and citing *Rombot v. Souza*, 296 F. Supp. 3d 383, 387-
2 88 (D. Mass. 2017) (ordering the petitioner released where, “[b]ased on ICE's violations of its
3 own regulations, the Court concludes [the petitioner's] detention was unlawful”); *K.E.O. v.*
4 *Woosley*, Civil Action No. 4:25-cv-74-RGJ, 2025 U.S. Dist. LEXIS 172361, 2025 WL 2553394,
5 at *7 (W.D. Ky. Sept. 4, 2025) (noting “courts across the country have ordered the release of
6 individuals” in ICE custody where ICE “violated their own regulations”); *Grigorian v. Bondi*,
7 CASE NO. 25-cv-22914-RAR, 2025 U.S. Dist. LEXIS 175489, 2025 WL 2604573, at *10 (S.D.
8 Fla. Sept. 9, 2025) (“The failure to provide [the petitioner] with an informal interview promptly
9 after his detention or to otherwise provide a meaningful opportunity to contest the reasons for
10 revocation violates both ICE's own regulations and the Fifth Amendment Due Process Clause.
11 This compels [the petitioner's] release.”).

12 Here, Respondents offer no reason that would compel a different result, and do not even
13 address the recent orders from the Court. Doc. 7-1. In fact, Respondents concede their error in re-
14 detaining Mr. Nguyen, but argue that “any error was harmless because the lapse in procedure was
15 subsequently rectified and even if this court were to order Petitioner to be released on this basis,
16 ICE could detain him again immediately. . . . [i]f it ‘determines that there is a significant likelihood
17 that the alien may be removed in the reasonably foreseeable future.’” Doc. 7 at page 7.
18 Respondents’ arguments ignore that there must be evidence that Mr. Nguyen may be removed
19 and the notice and opportunity to be heard that must be provided prior to this finding being made.
20 Respondents’ claim ignores the due process and regulatory protections which apply prior to the
21 arrest and detention of a non-citizen, not after. Doc. 7-2. Moreover, Respondents’ position is
22 inconsistent with the memorandum of understanding with the government of Vietnam that
23 ensures any repatriated Vietnamese nationals will have time to prepare for their deportation,
24 including time spent with family. Doc. 2-1, Exhibit E. Respondents’ argument also ignores the
25 irreparable, ongoing harm facing Mr. Nguyen, who has been deprived of his liberty without due
26 process and in violation of law, but also ignores the harm facing his United States citizen mother
27

1 who depends on Mr. Nguyen for medical and financial support. Doc. 2-1, Exhibit A ¶¶1-2, 14-
2 32. Accordingly, Mr. Nguyen respectfully requests this Court to grant the habeas petition and
3 order his immediate release. *M.S.L. v. Bostock*, No. 6:25-CV-01204-AA, 2025 U.S. Dist. LEXIS
4 162519, 2025 WL 2430267, at *11 (D. Or. Aug. 21, 2025) (“ICE's failure to provide Petitioner
5 with a timely Notice of Revocation or conduct an informal interview until nearly a month after
6 taking her into custody is a grave violation of Petitioner's due process rights in that they deprived
7 her both of meaningful notice and an opportunity to be heard.”).

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

10 Mr. Nguyen’s detention since May 16, 2025, is unlawful, and the constitutional
11 deprivation of his liberty has been anything but “harmless” or non-prejudicial. Doc. 7 at page 7.

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

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

20 At the time of his re-detention, ICE provided Mr. Nguyen with no notice, no basis of his
21 re-detention, and no interview or opportunity to respond to the reasons for the revocation of his
22 supervised release. Doc. 2-1, Exhibit A at ¶¶16-32. ICE admits that it detained Mr. Nguyen
23 without revoking his supervised release or determining whether his removal was foreseeable.
24 Doc. 7-2. At no point from the time of Mr. Nguyen’s detention on May 16, 2025, until he filed
25 his petition for habeas corpus on November 7, 2025, did ICE revoke his order of supervised
26

1 release, provide Mr. Nguyen with the required notice, or provide him with an interview to be
2 given an opportunity to respond. *Id.*; Docs. 7-1, 7-2.

3 Respondents assert, without citing any supporting authority, that 8 C.F.R. § 241.4(l)(1)
4 does not apply where, as here, ICE allegedly revoked the OSUP under 8 C.F.R. § 241.13(i)(3).
5 Doc. 7 at pages 7-8. However, this assertion only proves that ICE failed to provide Mr. Nguyen
6 with adequate notice at the time of his re-detention. *Id.* This Court should not credit Respondents'
7 *post-hoc* attempt to rationalize violations of the regulations that govern the re-detention and
8 revocation of a person's supervised release. *See M.S.L.*, 2025 U.S. Dist. LEXIS 162519, 2025
9 WL 2430267, at *11 ("Courts have found that when ICE fails to follow its own regulations in
10 revoking release, the detention is unlawful, and the petitioner's release must be ordered."). Mr.
11 Nguyen's re-detention was unlawful, and the remedy for the unlawful detention is his immediate
12 release. *See M.S.L.*, 2025 U.S. Dist. LEXIS 162519, 2025 WL 2430267, at *11 (finding an
13 informal interview given 27 days after petitioner was taken into ICE custody "cannot reasonably
14 be construed as . . . prompt" and granting habeas petition); *Quoc Chi Hoac v. Becerra*, No. 2:25-
15 cv-01740-DC-JDP, 2025 U.S. Dist. LEXIS 136002, 2025 WL 1993771, at *4 (E.D. Cal. July 16,
16 2025) (finding petitioner likely to succeed on his claim that his detention was unlawful "[b]ecause
17 there is no indication that an informal interview was provided"); *Wing Nuen Liu v. Carter*, Case
18 No. 25-03036-JWL, 2025 U.S. Dist. LEXIS 115275, 2025 WL 1696526, at *2 (D. Kan. June 17,
19 2025) (finding "that officials did not properly revoke petitioner's release" because "most
20 obviously . . . petitioner was not granted the required interview upon the revocation of his
21 release").

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

23 Section 241.13 provides "special review procedures" that apply where, among other
24 conditions, a noncitizen "has provided good reason to believe there is no significant likelihood of
25 removal to the country to which he or she was ordered removed, or to a third country, in the
26 reasonably foreseeable future." 8 C.F.R. § 241.13(a). "The Service may revoke [a noncitizen's]
27

1 release under this section and **return the [noncitizen] to custody** if, on account of changed
2 circumstances, the Service determines that there is a significant likelihood that the [noncitizen]
3 may be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2) (emphasis added).
4 Contrary to Respondents’ claim, § 241.13(a) did not allow ICE to re-detain Mr. Nguyen without
5 first revoking his order of supervised release. Doc. 7 at 7-8; Doc. 7-1, 7-2. At the time ICE
6 “return[ed]” Mr. Nguyen “to custody,” it admittedly failed to make the necessary determinations
7 in compliance with 8 C.F.R. §§ 241.13(a), (i)(2). Doc. 7-2. Respondents cannot admit to having
8 unlawfully re-detained Mr. Nguyen while also claiming that his continued detention is lawful,
9 (Doc. 7 at 7-9), because “this section has the same requirements as 8 C.F.R. § 241.4 in that,
10 ‘[u]pon revocation,’ the noncitizen ‘will be notified of the reasons for revocation of his or her
11 release’ and ‘will be afforded an initial informal interview promptly after his or her return’ to be
12 given ‘an opportunity to respond to the reasons for revocation stated in the notification.’ §
13 241.13(i)(3).” *Minh Nhat Phan*, 2025 U.S. Dist. LEXIS 201411, *10. “ICE’s failure to provide
14 [Mr. Nguyen with] an interview and opportunity to respond is reason enough to find [his]
15 detention unlawful.” *Id.*

16
17 In addition to the November 14, 2025 notice of revocation presented to this Court (Doc.
18 7-2), Respondents have submitted the sworn declaration of Supervisory Detention and
19 Deportation Officer, San Diego Field Office, Calexico Suboffice, Marco Miranda. Doc. 7-1.
20 Officer Miranda admits that ICE did not revoke Mr. Nguyen’s Order on Supervised Release prior
21 to re-detaining him on May 16, 2025. *Id.* at ¶¶15, 24. Following Mr. Nguyen’s re-detention,
22 Respondents have yet to formally contact the Vietnamese government. *Id.* at ¶¶15-24. Moreover,
23 Respondents have not been able to acquire any documents or statements from Mr. Nguyen, which
24 are necessary to complete an application for a travel document and effectuate his removal to
25 Vietnam. *Id.* at ¶¶16, 18, 24. Respondents do not dispute that Mr. Nguyen had complied with his
26 OSUP conditions of release which were set over twenty-five years ago. *Id.* Doc. 7. Since being
27 released under supervision in 2000, Mr. Nguyen “made a conscious decision to rebuild [his] life

1 and stay away from negative influences.” Doc. 2-1, Exhibit A ¶¶13. Mr. Nguyen has strong family
2 ties in the United States, and from 2003 until his re-detention on May 16, 2025, has “worked as
3 an In-Home Supportive Services (“IHSS”) caregiver for [his] elderly mother who suffers from
4 dementia.” *Id.* ¶¶1, 14. Respondents do not allege, and the facts do not support a finding, that Mr.
5 Nguyen is a risk to the community, or a flight risk. Docs. 7, 7-1.

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

19
20 Even if the Court credits the Respondents last-minute attempt to rationalize their unlawful
21 actions, the vague, unsupported assertions in Officer Miranda’s declaration and the Notice of
22 Revocation of Release do not provide evidence that ICE is significantly likely to secure a travel
23 document for Mr. Nguyen; it shows that Respondents could have complied with the law prior to
24 detaining him. *Kong*, 62 F.4th at 620 (*citing* 8 C.F.R. §§ 241.13(f), (i)(2)); Doc. 7-1, 7-2. It is
25 undisputed that ICE has not secured a travel document for Mr. Nguyen in the intervening twenty-
26 five-year period since he was first ordered removed. Doc. 2-1, Exhibit A ¶¶10-16. In support of
27 his motion for a temporary restraining order, Mr. Nguyen submitted a sworn declaration from

1 attorney, Tin Nguyen, who has personal knowledge of the government's lack of progress in
2 securing a travel document for Mr. Nguyen. Doc. 2-1, Exhibit B at ¶¶20-23.

3 Without refuting the testimony of Attorney Nguyen, Officer Miranda states the
4 government has worked expeditiously to effectuate Mr. Nguyen's removal to Vietnam. Doc. 7-1
5 ¶18. Beyond the undisputed testimony provided by Attorney Nguyen, the government's argument
6 lacks some "very pertinent information[,]” including the total number of requests that were made
7 to Vietnam, the number of applications rejected, and the factors Vietnam considers in denying or
8 approving a request. *See Nguyen v. Hyde*, No. 25-CV-11470-MJJ, 2025 U.S. Dist. LEXIS
9 117495, *14-15 2025 WL 1725791 (D. Mass. June 20, 2025).

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

24 Although Officer Miranda claims Mr. Nguyen's re-detention was necessary to “effectuate
25 removal to Vietnam,” Mr. Nguyen has been released with an order of removal for the last twenty-
26 five years, and there is no evidence that Mr. Nguyen will fail to depart if the government secures
27 a travel document. Doc. 7-1 at ¶13; *Mong Tuyen Thi Tran*, 2025 U.S. Dist. LEXIS 201561 *15-

1 16, citing *Chun Yat Ma v. Asher*, No. C11-1797 MJP, 2012 U.S. Dist. LEXIS 58082, 2012 WL
2 1432229, at *4 (W.D. Wash. Apr. 25, 2012) (“conflicting statements concerning removal”
3 indicate removal is unlikely); *Nguyen*, 2025 WL 1725791, at *4 (D. Mass. June 20, 2025) (lack
4 of data on recent removal rates of pre-1995 Vietnamese immigrants undermined argument that
5 removal was likely). On the current record, Mr. Nguyen has demonstrated that his detention is
6 punitive and unnecessary.

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

19 Government agencies are required to follow their own regulations. *United States ex rel.*
20 *Accardi v. Shaughnessy*, 347 U.S. 260, 268, 74 S. Ct. 499, 98 L. Ed. 681 (1954); *United States v.*
21 *Ramos*, 623 F.3d 672, 683 (9th Cir. 2010) (“It is a well-known maxim that agencies must comply
22 with their own regulations.”) (quoting *Ramon-Sepulveda v. INS*, 743 F.2d 1307, 1310 (9th Cir.
23 1984)). ICE admitted to its own failure to comply with both 8 C.F.R. § 241.4 and 8 C.F.R. §
24 241.13, and has violated Mr. Nguyen’s due process rights. Doc. 7-1, 7-2; *Minh Nhat Phan*, 2025
25 U.S. Dist. LEXIS 201411, *10 See *Diaz*, 2025 U.S. Dist. LEXIS 173666, 2025 WL 2581575, at
26 *7 (“DHS’s failure to follow its own procedural regulations may constitute a due process

1 violation.”); *M.S.L.*, 2025 U.S. Dist. LEXIS 136002, 2025 WL 2430267, at *11 (“ICE’s failure
2 to provide Petitioner with a timely Notice of Revocation or conduct an informal interview until
3 nearly a month after taking her into custody is a grave violation of Petitioner’s due process rights
4 in that they deprived her both of meaningful notice and an opportunity to be heard.”).

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

13 III. CONCLUSION

14 For the foregoing reasons, the Court should immediately grant Mr. Nguyen’s Petition for
15 Writ of Habeas Corpus pursuant to § 2241, and order Mr. Nguyen’s immediate release from
16 custody.
17

18 November 19, 2025

Respectfully Submitted,

/s/Tin Thanh Nguyen

Tin Thanh Nguyen

NC State Bar # 37167

Law Office of Tin Thanh Nguyen, PLLC

6769 Albemarle Rd., Suite B

Charlotte, NC 28212

(704) 46101527

tin@luatsutin.com

Admitted Pro Hac Vice

Attorney for Petitioner

CERTIFICATE OF SERVICE

I, Tin Thanh Nguyen, hereby certify that on November 19, 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/ Tin Thanh Nguyen
Tin Thanh Nguyen