

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Tan Hoang BUI,

Petitioner,

v.

Bruce SCOTT, Warden, Northwest ICE
Processing Center; Camilla WAMSLEY,
Enforcement and Removal Operations,
Seattle Field Office Director, U.S.
Immigration and Customs Enforcement;
Kristi NOEM, Secretary of U.S.
Department of Homeland Security, in her
official Capacity; U.S. DEPARTMENT OF
HOMELAND SECURITY; Todd LYONS,
Acting Director and Senior Officer
Performing Duties of Director of ICE; U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Respondents.

Civil Case No.:



**COMPLAINT AND PETITION FOR
WRIT OF HABEAS CORPUS AND
INJUNCTIVE RELIEF**

UNDER 28 USC 2241

INTRODUCTION

1. Petitioner Tan Hoang Bui is a 51-year-old national of Vietnam who was admitted to the United States in 1983 at the age of nine. He is a beloved member of his community in Portland, Oregon where he has been working as an auto mechanic for over 20 years and his wife works as nurse for an ophthalmology technician. He is married to a U.S. Citizen and has two U.S. Citizen children and one U.S. Citizen grandchild. Immigration and Customs Enforcement ("ICE") is detaining him at the Northwest ICE Processing Center in Tacoma, Washington.

2. For 25 years, Petitioner Bui has lived under an order of removal to Vietnam that the U.S. government has been unable to execute because Vietnam has historically not accepted U.S. deportees who entered the United States before 1995. Nonetheless, for 25 years Mr. Bui has duly complied with an ICE Order of Supervision since it was issued in July of 2001 and proven he is not a flight risk and detention is unwarranted. To the contrary, he has established a life in his community, had children, and built a productive life for more than two decades.

3. On October 28, 2025, ICE and multiple other unmarked DHS agents suddenly and without notice surrounded Mr. Bui and his wife in the middle of traffic in their vehicle by blocking them in front and back with vehicles. They ordered Mr. Bui to put the car in park, turn off the vehicle, and then ordered him out of the vehicle. ICE then informed him they had a warrant for his arrest. Mr. Bui and his wife were on the way to the hospital for an appointment for his wife. She cannot currently drive and was left stranded when her husband was arrested. Mr. Bui had recently had a regularly scheduled check-in with ICE on June 4, 2025, where he was informed he would have another check-in appointment for June 3, 2026. Prior to his arrest, Mr. Bui was given no warning by ICE to come back into the office. To date, ICE has still not provided him any legal justification for his re-detention, nor is it clear that they are making any efforts to remove him.

4. ICE has detained Petitioner Bui for a cumulative nine months from the time

1 an immigration judge ordered him removed until now without being able to effectuate his removal
2 to Vietnam.

3 5. Removal to Vietnam is not reasonably foreseeable. ICE has not obtained a travel document
4 from Vietnam, and Vietnam has not agreed to accept Mr. Bui.

5 6. Mr. Bui files this habeas petition to seek his release from custody because ICE unlawfully
6 arrested and detained him without providing any constitutionally mandated notice and a hearing;
7 without complying with regulatory standards and procedures for re-detention and revocation of
8 release; and in violation of the detention statute and substantive due process. Mr. Bui also seeks to
9 enjoin Respondents from removing him to a third country without the notice and opportunity to be
10 heard that is required by the Constitution and the immigration statute in reopened removal
11 proceedings, and to enjoin Respondents from removing him to a third country for a punitive
12 purpose and effect. Mr. Bui also seeks to enjoin Respondents from removing him from the Western
13 District of Washington to another ICE detention facility while his Habeas Petition remains
14 pending.

14 JURISDICTION AND VENUE

15 7. This case arises under the Constitution of the United States, the Immigration and
16 Nationality Act ("INA"), 8 U.S.C. § 1101, et seq., and the Administrative Procedures Act ("APA"),
17 5 U.S.C. §§ 500-596, 701-706.

18 8. This Court has subject matter jurisdiction under 28 U.S.C. § 2241, et seq. (habeas corpus),
19 U.S. Const. art. I, § 9, cl. 2 (Suspension Clause), 28 U.S.C. § 1331 (federal question), 28 U.S.C. §
20 1346 (United States as Respondent), and 28 U.S.C. § 1651 (All Writs Act). Respondents have
21 waived sovereign immunity for purposes of this suit. 5 U.S.C. §§ 702, 706.

22 9. The Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241, et seq.; the
23 Declaratory Judgment Act, 28 U.S.C. § 2201, et seq.; the All Writs Act, 28 U.S.C. § 1651; and the
24 Court's inherent equitable powers.

1 10. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e)(1) because Respondents
2 are agencies or officers of agencies of the United States, Respondents reside in this District,
3 Petitioner is detained in this District, and a substantial part of the events or omissions giving rise
4 to Petitioner's claims occurred in this District.

5 PARTIES

6 11. Petitioner Tan Hoang Bui is a citizen of Vietnam. He has a final order of removal with
7 Vietnam as the country designated for removal. Petitioner is detained in the control and custody
8 of Respondents at the Northwest ICE Processing Center ("NWIPC") in Tacoma, Washington. He
9 is a resident of Multnomah County, Oregon but has been detained at NWIPC since October 28,
2025.

10 12. Respondent Bruce Scott is the Warden of the NWIPC, oversees the day-to-day functioning
11 of the NWIPC, and has immediate physical custody of Petitioner, pursuant to a contract with ICE
12 to detain noncitizens. Mr. Scott is sued in his official capacity as the Warden of a federal detention
13 facility. *See Juarez v. Asher*, No. C20-700, 2021 WL 1946222, at *3-5 (W.D. Wash. May 14,
2021).

14 13. Respondent Cammilla Wamsley is the Field Office Director for ICE Enforcement and
15 Removal Operations ("ERO") in Seattle, Washington. As the ERO Seattle Field Office Director,
16 she is Petitioner's immediate custodian, responsible for her detention at NWIPC, and the person
17 with the authority to authorize detention or release. Respondent Wamsley is sued in her official
18 capacity.

19 14. Respondent Kristi Noem is the Secretary of the Department of Homeland Security
20 ("DHS"). In this capacity, Respondent Noem is the legal custodian of Petitioner. Respondent
21 Noem is sued in her official capacity.

1 15. Respondent Department of Homeland Security (DHS) is a federal executive agency
2 responsible for, among other things, enforcing federal immigration laws and overseeing lawful
3 immigration to the United States. Respondent DHS is a legal custodian of Petitioner.

4 16. Respondent Todd Lyons is Acting Director and Senior Official Performing the Duties of
5 the Director of ICE. Respondent Lyons is responsible for ICE's policies, practices, and procedures,
6 including those relating to removal procedures and the detention of immigrants during their
7 removal procedures. Respondent Lyons is a legal custodian of Petitioner. Respondent Lyons is
8 sued in his official capacity.

9 17. Respondent ICE is the federal executive agency responsible for the enforcement of
10 immigration laws, including the arrest, detention, and removal of noncitizens. Respondent ICE is
11 a legal custodian of Petitioner.

12 STATEMENT OF FACTS

13 Petitioner's Facts

14 18. Petitioner Tan Hoang Bui 51-year-old man born in Vietnam in 1974. He was 9 years old
15 when he was admitted as a refugee on the United States on September 15, 1983. He was approved
16 for lawful permanent resident status based on his refugee status on March 14, 1988.

17 19. Petitioner Bui resides in Portland, Oregon with her U.S. Citizen wife, Jennifer Lee Tu, their
18 son J  a U.S. Citizen child age 6. They currently own their home. Mr. Bui also has another
19 U.S. Citizen child from a prior relationship, Jonathan, age 31 who resides in California, and a
20 U.S. Citizen grandchild. Mr. Bui's mother and father are both U.S. Citizens. His wife currently
21 suffers from asthma, hypertension, and recently experienced a significant concussion and syncope
22 (loss of consciousness) for which she was placed on a cardiac monitor on October 23, 2025, for
23 the next several weeks. She again had to go to the emergency room on November 3, 2025, for
24 chest pain and shortness of breath. She works as a registered nurse but has been out of work for
the last few weeks and is still out of work due to medical need. Mr. Bui has always been the

1 primary caregiver in the home and was the party responsible for taking his son to daycare and
2 now school. With both parents now currently out of work, there is significant financial strain on
3 the family.

4 20. Petitioner has worked as an auto mechanic for decades, most recently with Toyota for the
5 past 12 years. His wife works as a nurse for an ophthalmology technician. They are well-respected
6 in their community and own their own home.

7 21. In 1996, when Petitioner was 22 years old, he was convicted in Orange County, California
8 of voluntary manslaughter. The conviction stemmed from an incident when Mr. Bui was 17 years
9 old. He received a 4-year sentence. At that time, Mr. Bui made the difficult choice to escape his
10 home from his abusive father and got involved with the wrong group of people and made an error
11 in judgement. He has subsequently turned his life around, got married, and raised children. He
12 completed his sentence and Court requirements.

13 22. On July 7, 2000, the Immigration and Naturalization Service ("INS") detained him and
14 charged him with being removable for having an "aggravated felony."

15 23. On October 6, 2000, an immigration judge ordered him removed to Vietnam and denied
16 his applications for withholding of removal and protection under the Convention Against Torture.

17 24. Petitioner did not appeal.

18 25. Based on case law over sixteen after his removal order was entered, Mr. Bui's conviction
19 may in fact no longer be an "aggravated felony" under immigration law. Mr. Bui is currently in
20 process of seeking by separate action in Immigration Court to reopen his removal order.

21 26. Mr. Bui was never issued a travel document by Vietnam.

22 27. He remained in immigration custody until June 18, 2001, when he was released on an
23 Order of Supervision on July 10, 2001. This came only after a Habeas petition was filed in the
24 Central District of California, Case No. CV 01-00754 TJH (RZ), and there was a stipulation to
dismiss signed by all the parties on the basis he be placed on the Order of Supervision.

1 28. For 24 years, he dutifully complied with the Order of Supervision, never missing a check
2 in. He has had no further convictions.

3 29. Rather, in that time he has dedicated himself to working and raising his children. He
4 obtained his GED and began going to church. His oldest son works on cell phone towers in
5 California, and Mr. Bui recently became a grandfather to a granddaughter who is 1 year old. His
6 youngest son is age 6, and he is the primary caregiver to him, alongside his wife who works as a
7 nurse with unpredictable hours.

8 30. On June 4, 2025, Petitioner appeared at the ICE office in Portland, Oregon for his annual
9 check-in. He was given a next report date of June 3, 2026.

10 31. Without warning, on October 28, 2025, while Mr. Bui and his wife were in route to the
11 hospital for a follow up appointment from her recent fall and concussion, his vehicle was
12 surrounded by ICE and other DHS agents in the middle of the road in traffic. ICE agents ordered
13 Mr. Bui to put the car in park, turn off the vehicle, and then ordered him out of the vehicle. ICE
14 then informed him they had a warrant for his arrest and put him in handcuffs. Mr. Bui's wife was
15 unable to drive and left to pull the car over out of traffic until someone could pick her up.

16 32. ICE officers then took Mr. Bui into custody and took him to the Portland ICE office. There
17 Mr. Bui was told by an officer he didn't know why he had been targeted for pick up, but then the
18 officer provided him with a document in Vietnamese. He informed the officer he couldn't read the
19 document as he does not read Vietnamese. He was then provided a document in English and asked
20 to fill it out. He was given no further information but was told it was to get his travel document
21 and he was not provided a copy. He was also told he would be given an Order of Deferral hearing
22 within 10 days. He was then taken to the NWIPC in Tacoma, Washington, and he has been
23 detained since October 28, 2025. No Order of Deferral hearing has been scheduled to date for Mr.
24 Bui, and no officer at the NWIPC has discussed his case with him.

33. At no time since his re-detention on October 28, 2025, has any ICE officer conducted an initial interview to explain to him the reasons why his release on supervision was revoked or provide him an opportunity to explain why his removal to Vietnam is not likely or foreseeable. ICE has not conducted a revocation custody review.

34. ICE did not have a travel document for Petitioner at the time of his re-detention.

35. To Petitioner's knowledge, ICE has never asked Petitioner to complete the Self-Declaration Form for Vietnam that is required for Vietnam to process a request by the United States for a travel document. If that is the document Mr. Bui was provided after his arrest, he is unclear, but he was not asked to fill it out until after he was taken into custody.

36. Petitioner does not have a Vietnamese passport. He does have a birth certificate from Vietnam. DHS has had a copy of his birth certificate for decades, since before Petitioner was ever ordered removed.

37. Petitioner's removal to Vietnam is not reasonably foreseeable.

Repatriation to Vietnam History

38. Before a Vietnamese immigrant without a passport or other travel document can be repatriated, Vietnam must issue a passport or other travel document in response to a request from ICE. *See Trinh v. Homan*, 466 F.Supp.3d 1077, 1083 (C.D. Cal. 2020).

39. Between the end of the Vietnam War and 2008, Vietnam refused to repatriate any Vietnamese immigrant who had been ordered removed from the United States. *See id.*

40. In 2008, the United States and Vietnam reached a diplomatic agreement pursuant to which Vietnam agreed to start considering repatriation requests for certain Vietnamese immigrants. *See id.* The agreement obligated Vietnam to consider repatriation requests for Vietnamese immigrants who had arrived in the United States after July 12, 1995. *See id.* The agreement also provided that "Vietnamese citizens are not subject to return to Vietnam under this agreement if they arrived in the United States before July 12, 1995." *Id.* Relying on this provision, Vietnam maintained its

1 policy of non-repatriation for pre-1995 Vietnamese immigrants after signing the 2008 agreement.
2 See *id.*

3 41. Prior to 2017, ICE maintained that the removal of pre-1995 Vietnamese immigrants was
4 unlikely given Vietnam's consistent refusal to repatriate them. See *id.* ICE adopted a policy of
5 detaining pre-1995 Vietnamese immigrants for no longer than ninety days after their removal
6 orders became final. See *id.* After ninety days, ICE generally released them into the community on
7 orders of supervision. See *id.*

8 42. In 2017, after some negotiations with Vietnam led ICE to believe Vietnamese officials
9 would begin considering travel documents for pre-1995 Vietnamese immigrants, ICE began re-
10 detaining some Vietnamese individuals who had previously been released on supervision and
11 detaining individuals for longer than 90 days based on a possibility that Vietnam would issue the
12 requisite travel documents. *Id.* That possibility did not materialize.

13 43. After renewed discussions with Vietnam in August 2018, ICE reversed its position again
14 and acknowledged that the removal of pre-1995 immigrants to Vietnam was not significantly
15 likely. *Id.* In October 2018, ICE instructed field offices to resume the practice of releasing pre-
16 1995 Vietnamese immigrants within 90 days of a final order of removal. *Id.*

17 44. Between 2017 and 2019, ICE requested travel documents for pre-1995 Vietnamese
18 immigrants 251 times. Vietnam granted those requests only 18 times.

19 45. In November 2020, the United States and Vietnam signed a Memorandum of
20 Understanding that creates a process for deporting pre-1995 immigrants. Section 4 of the MOU
21 obliges the United States and Vietnam to consider specific factors prior to deciding to remove a
22 Vietnamese citizen and prior to deciding to accept for repatriation a Vietnamese citizen. *Id.* These
23 factors are not publicly known because the U.S. government redacted them in Freedom of
24 Information Act (FOIA) disclosures of the MOU, yet they appear to dictate which categories of
people may be deported to Vietnam. *Id.* Under Section 8 of the MOU, if a person meets the

1 designated criteria, ICE is expected to put together a documentation package for Vietnam to
2 include, inter alia, a self-declaration form of the individual to be removed (using a form attached
3 to the MOU), copies of identity and citizenship documents, and copies of the final order of removal
4 and any criminal records. *Id.* The MOU states that Vietnam intends to issue the travel document
5 within 30 calendar days of receiving the information package when the individual meets the
6 eligibility criteria. *Id.*

7 46. Between September 2021 to September 2023, the U.S. government deported only four pre-
8 1995 Vietnamese immigrants. *Id.*

9 **Punitive Banishment to Third Countries**

10 47. Since January 2025, Respondents have developed and implemented a policy and practice
11 of removing individuals to third countries, without first following the procedures in the INA for
12 designation and removal to a third country and without providing fair notice and an opportunity to
13 contest the removal in immigration court.

14 48. Respondents reportedly have negotiated with at least 58 countries to accept deportees from
15 other nations. On June 25, 2025, the *New York Times* reported that seven countries—Costa Rica,
16 El Salvador, Guatemala, Kosovo, Mexico, Panama, and Rwanda—had agreed to accept deportees
17 who are not their own citizens.¹ Since then, ICE has carried out highly publicized third country
18 deportations to South Sudan, Eswatini, Rwanda, Uganda, and Ghana.

19 49. Punishment and deterrence appear to be the point of the Administration's third country
20 removal scheme. The Administration has reportedly negotiated with countries to have deportees
21 imprisoned in prisons, camps, or other facilities. The government paid El Salvador about \$5
22 million to arbitrarily and indefinitely imprison more than 200 deported Venezuelans in a
23 maximum-security prison notorious for gross human rights abuses, known as CECOT. In
24 February, Panama and Costa Rica took in hundreds of deportees from countries in Africa and

¹ Edward Wong et al, *Inside the Global Deal-Making Behind Trump's Mass Deportations*, N.Y. Times, June 25, 2025.

1 Central Asia and imprisoned them in hotels, a jungle camp, and a detention center. On July 4,
2 2025, ICE deported eight men, including one Vietnamese man, to South Sudan. The men have
3 been detained incommunicado ever since. On July 15, ICE deported five men to the African nation
4 of Eswatini, including one man from Vietnam, where they are reportedly being held in solitary
5 confinement.

6 50. The Administration has hand selected countries known for human rights abuses and
7 instability for these third country deportation agreements to frighten people in the United States
8 into self-deporting or to accept removal to their home countries. Indeed, conditions in South Sudan
9 are so extreme that the U.S. State Department website warns Americans not to travel there, and if
10 they do, to prepare their will, make funeral arrangements, and appoint a hostage-taker negotiator
11 first.

12 51. On July 9, 2025, ICE issued a new memo to staff instructing that when seeking to remove
13 an individual to a country not designated on that person's removal order, that ICE may deport that
14 person without any procedures for notice or an opportunity to be heard if the State Department
15 confirms that it has received diplomatic assurances that individuals will not be persecuted or
16 tortured. If no diplomatic assurances are received, the ICE memo instructs officers to serve on the
17 individual a Notice of Removal that includes the intended country of removal. It instructs officers
18 not to ask whether the individual is afraid of removal to that country. It states that officers should
19 "generally wait at least 24 hours following service of the Notice of Removal before effectuating
20 removal," but that "[i]n exigent circumstances, [ICE] may execute a removal order six (6) or more
21 hours after service of the Notice of Removal as long as the [noncitizen] is provided reasonable
22 means and opportunity to speak with an attorney prior to removal."
23

24 52. The memo further instructs that if the noncitizen "does not affirmatively state a fear of
persecution or torture if removed to the country of removal listed on the Notice of Removal within
24 hours, [ICE] may proceed with removal to the country identified on the notice." If the

1 noncitizen “does affirmatively state a fear if removed to the country of removal” then ICE will
2 refer the case to U.S. Citizenship and Immigration Services (“USCIS”) for a screening for
3 eligibility for withholding of removal and protection under the Convention Against Torture
4 (“CAT”). “USCIS will generally screen within 24 hours.” If USCIS determines that the noncitizen
5 does not meet the standard, the individual will be removed. If USCIS determines that the
6 noncitizen has met the standard, then the policy directs ICE to either move to reopen removal
7 proceedings “for the sole purpose of determining eligibility for [withholding of removal
8 protection] and CAT” or designate another country for removal.

9 53. The government has now carried out numerous third country removals without notice or
10 opportunity to contact family or counsel or make any meaningful fear-based claim. The eight men
11 who were ultimately deported to South Sudan all claimed fear of removal to South Sudan. None
12 of those men were provided a fear screening by a USCIS officer or otherwise, even though they
13 were held by ICE for six weeks on a U.S. military base in Djibouti before their final removal to
14 South Sudan. In a recent third country removal to Ghana, individuals were rounded up by ICE
15 officials in the middle of the night on September 5, 2025, shackled, straightjacketed and put on a
16 U.S. military cargo plane without any notice. They were reportedly not informed where they were
17 being taken until the plane was already in flight.

18 **LEGAL FRAMEWORK**

19 **Post-Removal Order Detention and Re-Detention**

20 54. The INA provides that after a removal order becomes final, the government “shall remove
21 the alien from the United States within a period of 90 days.” 8 U.S.C. § 1231(a)(1)(A). This 90-
22 day period is often referred to as the “initial removal period,” and during it, the government “shall
23 detain the alien.” *Id.* § 1231(a)(2). In some circumstances, federal immigration authorities can
24 continue to detain an alien beyond the initial removal period. Specifically, section 1231(a)(6)
allows the government to detain certain enumerated classes of immigrants—including those

1 ordered removed due to criminal convictions—for more than 90 days. *Id.* § 1231(a)(6).
2 In *Zadvydas*, 533 U.S. 678, the Court addressed the question of how long the government can
3 detain an immigrant pursuant to section 1231(a)(6).

4 55. The *Zadvydas* Court began by rejecting the government’s position that section 1231(a)(6)
5 permitted indefinite detention following the initial removal period. *See id.* It held that “[a] statute
6 [that] permit[ed] indefinite detention of an alien would raise a serious constitutional problem,” *id.*
7 at 690, and instead determined that section 1231(a)(6) “implicitly limits an alien’s detention to a
8 period reasonably necessary to bring about that alien’s removal,” *id.* at 679. Thus, “once removal
9 is no longer reasonably foreseeable, continued detention is no longer authorized by [section
10 1231(a)(6)].” *Id.* at 699.

11 56. The Court went on to institute a framework that would govern future challenges to section
12 1231(a)(6) detention. “[F]or the sake of uniform administration in the federal courts,” the Court
13 found that post-removal detention was “presumptively reasonable” for the first six months. *Id.* at
14 700-01. When that “presumptively reasonable” six-month period ends, aliens seeking release from
15 custody bear the initial burden of providing “good reason to believe that there is no significant
16 likelihood of removal in the reasonably foreseeable future.” *Id.* at 701. Once that initial showing
17 is made, the burden shifts to the government to respond with evidence sufficient to rebut it. *See id.*

18 57. Upon release from custody, a noncitizen subject to a final order of removal must comply
19 with certain conditions of release. 8 U.S.C. § 1231(a)(3), (6). The revocation of that release is
20 governed by 8 C.F.R. § 241.13(i), which authorizes ICE to revoke a noncitizen’s release for
21 purposes of removal.

22 58. ICE may revoke a noncitizen’s release and return them to ICE custody due to failure to
23 comply with any of the conditions of release, 8 C.F.R. § 241.13(i)(1), or if, “on account of changed
24 circumstances, the Service determines that there is a significant likelihood that the [noncitizen]
may be removed in the reasonably foreseeable future.” *Id.* § 241.13(i)(2).

1 59. Upon such a determination by ICE to re-detain, “the alien will be notified of the reasons
2 for revocation of his or her release. [ICE] will conduct an initial informal interview promptly after
3 his or her return to [ICE] custody to afford the alien an opportunity to respond to the reasons for
4 revocation stated in the notification. The [noncitizen] may submit any evidence or information that
5 he or she believes shows there is no significant likelihood he or she be removed in the reasonably
6 foreseeable future, or that he or she has not violated the order of supervision. The revocation
7 custody review will include an evaluation of any contested facts relevant to the revocation and a
8 determination whether the facts as determined warrant revocation and further denial of release.”
Id. § 241.13(i)(3).

9 60. In addition to the regulatory framework, procedural due process does not permit ICE to
10 re-detain an individual it has released on an order of supervision without providing a pre-
11 deprivation hearing on the reasons for re-detention. Individuals released on orders of supervision
12 have a protected liberty interest in remaining in the community on supervision that cannot be taken
13 away without notice and a pre-deprivation hearing. *See, e.g., Zakzouk v. Becerra*, No. 25-cv-
14 06254, 2025 WL 2097470, at *3 (N.D. Cal. July 26, 2025) (“Courts have previously found that
15 individuals released from immigration custody. . . have a protectable liberty interest in remaining
16 out of custody.”) (citing cases); *Romero v. Kaiser*, No. 22-cv-02508-TSH, 2022 WL 1443250, at
*2 (N.D. Cal. May 6, 2022).

17 61. “[C]ivil immigration detention is permissible only to prevent flight or protect against
18 danger to the community.” *Zadvydas*, 533 U.S. at 690. Once a person has been ordered released
19 and is complying with the conditions of supervision, ICE has no legitimate interest in re-detaining
20 the individual. In the event a travel document is obtained, ICE can notify the individual and
21 facilitate their orderly departure without detention, consistent with ICE’s standard notice of release
22 and order of supervision. The language of ICE’s standard “Release Notification” reads “Once a
23
24

1 travel document is obtained, you will be required to surrender to the ICE for removal. You will, at
2 that time, be given an opportunity to prepare for an orderly departure.”

3 Third Country Removals

4 62. The immigration laws delineate the proper procedures by which a country may be
5 designated for removal. See 8 U.S.C. § 1231(b). These procedures move in incremental steps.

6 63. First, an individual with a removal order may designate the country to which they want to
7 be removed, and the government *shall* remove the alien to that country. *Id.* § 1231(b)(2)(A). The
8 government may disregard that designation if (1) the individual fails to designate a country
9 promptly; (2) the government of that country does not inform the U.S. government finally, within
10 30 days after the date the U.S. government first inquires, whether the government will accept the
11 individual into that country; (3) the government of the country is not willing to accept the alien
12 into the country; or (4) the government decides that removing the individual to that country is
prejudicial to the United States. *Id.* § 1231(b)(2)(C).

13 64. Second, if the individual is not removed to the country they designated under section
14 1231(b)(2)(A), the government shall remove the individual to the country of which the individual
15 is a “subject, national, or citizen” unless the government of that country does not inform the U.S.
16 government or the individual within 30 days after first inquiry or within another reasonable period
17 of time whether the government will accept the individual into the country or the country is not
willing to accept the individual into the country. *Id.* § 1231(b)(2)(D).

18 65. Third, if the individual is not removed to either the country of their designation or the
19 country of which they are a subject, national, or citizen then the government shall remove them to
20 any of the following options: (1) the country from which the individual was admitted to the United
21 States; (2) the country in which is located the foreign port from which the individual left for the
22 United States or for a foreign territory contiguous to the United States; (3) the country in which
the individual resided before the individual entered the United States and from which the

1 individual entered the United States; (4) the country in which the individual was born; or (5) the
2 country in which the individual's birthplace is located when the individual was ordered removed.
3 *Id.* § 1231(b)(2)(E). Only "[i]f impracticable, inadvisable, or impossible" to remove the individual
4 to any of these countries may the government remove the individual to "another country whose
5 government will accept [them] into that country." *Id.* § 1231(b)(2)(E)(vii).

6 66. Notwithstanding any of these procedures, the statute prohibits removal to a third country
7 where a person may be persecuted or tortured, a form of protection known as withholding of
8 removal. See *id.* § 1231(b)(3)(A). The government "may not remove [a noncitizen] to a country if
9 the Attorney General decides that the [noncitizen's] life or freedom would be threatened in that
10 country because of the [noncitizen's] race, religion, nationality, membership in a particular social
11 group, or political opinion." *Id.*; see also 8 C.F.R. §§ 208.16, 1208.16. Withholding of removal is
12 a mandatory protection.

13 67. Similarly, Congress codified protections enshrined in the CAT prohibiting the government
14 from removing a person to a country where they would be tortured. See FARRA 2681-822
15 (codified as 8 U.S.C. § 1231 note) ("It shall be the policy of the United States not to expel,
16 extradite, or otherwise effect the involuntary return of any person to a country in which there are
17 substantial grounds for believing the person would be in danger of being subjected to torture,
18 regardless of whether the person is physically present in the United States."); 28 C.F.R. § 200.1;
19 *id.* §§ 208.16-208.18, 1208.16-1208.18. CAT protection is also mandatory.

20 68. To comport with the requirements of due process, the government must provide notice of
21 the third country removal and an opportunity to respond. Due process requires "written notice of
22 the country being designated" and "the statutory basis for the designation, i.e., the applicable
23 subsection of § 1231(b)(2)." *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1019 (W.D. Wash. 2019); see
24 also *D.V.D. v. U.S. Dep't of Homeland Sec.*, No. 25-cv-10676-BEM, 2025 WL 1453640, at *1 (D.
Mass. May 21, 2025) ("All removals to third countries, i.e., removal to a country other than the

1 country or countries designated during immigration proceedings as the country of removal on the
2 non-citizen's order of removal, must be preceded by written notice to both the non-citizen and the
3 non-citizen's counsel in a language the non-citizen can understand." (citation omitted));
4 *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (due process requires notice to the
5 noncitizen of the right to apply for asylum and withholding to the country where they will be
6 removed). The government must be able to show evidence that the third country will accept the
7 individual into that country. *See Himri v. Ashcroft*, 378 F.3d 932, 939 (9th Cir. 2004) (when "at
8 the time the government proposes a country of removal pursuant to § 1231(b)(2)(E)(vii), the
9 government must be able to show that the proposed country will accept the [individual]").

9 69. Due process also demands that the government "ask the noncitizen whether he or she fears
10 persecution or harm upon removal to the designated country and memorialize in writing the
11 noncitizen's response. This requirement ensures DHS will obtain the necessary information from
12 the noncitizen to comply with section 1231(b)(3) and avoids [a dispute about what the officer and
13 noncitizen said]." *Aden*, 409 F. Supp. 3d at 1019; *cf. D.V.D.*, 2025 WL 1453640, at *1 ("Following
14 notice, the individual must be given a meaningful opportunity, and a minimum of ten days, to raise
15 a fear-based claim for CAT protection prior to removal." (emphasis omitted)).

15 70. If the noncitizen claims fear, measures must be taken to ensure that the noncitizen can seek
16 asylum, withholding, and relief under CAT before an immigration judge in reopened removal
17 proceedings. *Cf. D.V.D.*, 2025 WL 1453640, at *1 (requiring the government to move to reopen
18 the noncitizen's immigration proceedings if the individual demonstrates "reasonable fear" and to
19 provide "a meaningful opportunity, and a minimum of fifteen days, for the non-citizen to seek
20 reopening of their immigration proceedings" if the noncitizen is found to not have demonstrated
21 "reasonable fear"); *Aden*, 409 F. Supp. 3d at 1019 (requiring notice and time for a respondent to
22 file a motion to reopen and seek relief).

1 71. Finally, notice of the country to which the noncitizen will be removed must not be “last
2 minute” because that would deprive an individual of a meaningful opportunity to apply for fear-
3 based protection from removal. *Andriasian*, 180 F.3d at 1041. They must have time to prepare and
4 present relevant arguments and evidence and to seek reopening of their removal case.

5 **Punitive Removal Practices**

6 72. It is bedrock law that the U.S. government may not impose or inflict an infamous
7 punishment for violations of civil immigration law. In 1896, the U.S. Supreme Court ruled that
8 while deportation itself was not a punishment, the government could not attach punitive conditions
9 to deportation—in that case, imprisonment at hard labor—absent a criminal charge, trial in a court
10 of law, and the protections of the Fifth, Sixth, and Eighth Amendments. *Wong Wing v. United*
States, 163 U.S. 228, 237 (1896).

11 73. Importantly, the Court drew a distinction between deportation, which the Court
12 reasoned is “not a ‘banishment,’ in the sense in which that word is often applied to the expulsion
13 of a citizen from [her] country by way of punishment,” and government actions aimed at
14 punishment, such as imprisonment at hard labor in addition to deportation. *Id.* at 236. The Court
15 explained that deportation “is but a method of enforcing the return to [her] own country of an
16 alien who has not complied with the conditions upon the performance of which the government
17 of the nation, acting within its constitutional authority and through the proper departments, has
18 determined that [her] continuing to reside here shall depend.” *Id.* (quoting *Fong Yue Ting v.*
United States, 149 U.S. 730 (1893)). But the Court admonished that the government may not
19 “declare unlawful residence within the country to be an infamous crime, punishable by
20 deprivation of liberty and property . . . unless provision were made that the fact of guilt should
21 first be established by a judicial trial.” *Id.* at 237.

22 74. Deportation of individuals to third countries to be imprisoned or harmed is unquestionably
23 punishment.

CLAIMS FOR RELIEF

COUNT ONE

Unlawful Re-Detention

Violation of the Fifth Amendment Due Process Clause, Immigration and Nationality Act ("INA"), 8 U.S.C. § 1231(a), 8 C.F.R. § 241.13, and the Administrative Procedures Act ("APA")

75. The allegations in the above paragraphs are realleged and incorporated herein.

76. Respondents' re-detention of Petitioner Tan Hoang Bui violates his rights guaranteed by the Due Process Clause of the Fifth Amendment of the U.S. Constitution; the INA, 8 U.S.C. § 1231(a); implementing regulations, 8 C.F.R. § 241.13; and the APA.

77. Neither the statute nor the Constitution authorizes ICE's sudden re-detention of Mr. Bui, nor does it authorize his continued detention.

78. Respondents were required to provide Petitioner pre-deprivation notice and a hearing before re-detaining him, given that he has remained fully compliant with his order of supervision and release conditions. He had an appointment with ICE four months before his arrest without issue and was provided a time to come back in June of 2026.

79. Respondents violated governing regulations for revoking Petitioner's conditions of release. Petitioner has duly complied with the conditions of his supervised release, including attending check-ins and providing the information and documentation requested of him. His release may be revoked only if changed circumstances make his removal reasonably foreseeable. 8 C.F.R. § 241.13(i)(2). Upon such a determination, several procedural steps are required to revoke release, *id.* § 241.13(i)(3), none of which were followed here. Respondents are required to follow their own regulations. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954).

80. Petitioner's removal to Vietnam is not significantly likely to occur in the reasonably foreseeable future. Petitioner has already spent cumulatively nine months in immigration custody

1 during which time the government has been unable to remove him. As the reasonably presumptive
2 period of six months for post-order detention has elapsed, ICE has no authority under the detention
3 statute or the Constitution to continue detaining Mr. Bui. Moreover, civil immigration detention is
4 only authorized if a person is a flight risk or a danger to the community. Ms. Bui is neither.

5 81. Upon information and belief, Respondents do not have agreement from Vietnam to
6 repatriate Petitioner and have not secured his travel documents. There is no evidence that Vietnam
7 will issue a travel document.

8 82. For all these reasons, the Court should order Ms. Bui's immediate release.

9 **COUNT TWO**

10 **Third Country Removal**

11 **Violation of the Fifth Amendment, 8 U.S.C. § 1231, Convention Against Torture, 12 Implementing Regulations, and the APA**

13 83. The allegations in the above paragraphs are realleged and incorporated herein.

14 84. The Fifth Amendment, the INA, the CAT, and implementing regulations mandate
15 meaningful notice and opportunity to respond to any attempt to remove Petitioner to a third country
16 in reopened removal proceedings. They also require an opportunity for Petitioner to make a fear-
17 based claim against removal to a third country in reopened removal proceedings. Respondents'
18 policy for third country removals violates all of these laws because it directs ICE agents to remove
19 individuals to third countries without any notice or process at all where diplomatic assurances are
20 received and, where no diplomatic assurances are received, to provide flagrantly insufficient notice
21 (6-24 hours) and opportunity to respond, in violation of the statute, regulations, and Fifth
22 Amendment.

23 85. Prior to any third country removal, Petitioner must be provided with constitutionally and
24 statutorily compliant notice and an opportunity to respond and contest that removal if he has a fear
of persecution or torture in that country in reopened removal proceedings.

COUNT THREE

Punitive Third Country Banishment

Violation of Fifth and Eighth Amendments

86. The allegations in the above paragraphs are realleged and incorporated herein.

87. Under the Fifth Amendment of the U.S. Constitution, no person shall “be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury;” “be subject for the same offence to be twice put in jeopardy of life or limb;” or “be deprived of life, liberty, or property, without due process of law.”

88. The Eighth Amendment provides that no “cruel and unusual punishments” may be inflicted.

89. The U.S. Supreme Court long ago held that the government may not inflict upon individuals an “infamous punishment” in addition to deportation, as a penalty for an immigration violation, absent criminal charges, a judicial trial, and attendant constitutional protections. *Wong Wing*, 163 U.S. at 236-38.

90. Petitioner was convicted and completed his sentence decades ago. At the time of his removal hearing, his convictions made him removable from the United States, but his convictions do not authorize the government to inflict, as a matter of executive policy and discretion, additional punishment on him. Additionally, the crime which was committed by Respondent has been found to no longer constitute an aggravated felony under immigration law. Respondents’ third country removal program is punitive in nature and execution. The government has arranged for third countries to receive deportees and imprison them on arrival, possibly indefinitely and often in abhorrent conditions. It has selected countries notorious for human rights abuses and instability for third country removal arrangements. It has targeted individuals with criminal convictions for third country removals where they will be imprisoned and harmed and publicly broadcast those removals to demonize and dehumanize the individuals subjected to these practices and strike fear

1 in the immigrant community to send a message of retribution and deterrence. Respondents' third
 2 country removal program is more than a publicity stunt. The hundreds of individuals who have
 3 already been subjected to it have been banished in foreign prisons upon arrival without charge and
 4 often without communication with the outside world, including their families and lawyers.

5 91. Respondents may not subject Petitioner to its third country removal program designed to
 6 impose a severe punishment on its subjects. *See id.* Such conduct "shocks the conscience" under
 7 Fifth Amendment substantive due process, is cruel and unusual punishment, and may not be
 8 imposed without charge and a judicial trial.

9 92. Respondents may not seek to remove Petitioner to a third country under their punitive
 10 banishment policy and practices.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Petitioner respectfully requests that this Honorable Court:

- 13 1. Assume jurisdiction over this action;
- 14 2. Order Respondents to immediately release Petitioner from custody;
- 15 3. Order that Respondents may not re-detain Petitioner without first following the
 16 statutory and regulatory procedures for revocation of release and without first obtaining agreement
 17 from Vietnam to repatriate him, obtaining his travel documents, and securing a travel date;
- 18 4. Order that Respondents may not remove or seek to remove Petitioner to a third country
 19 without notice and meaningful opportunity to respond in compliance with the statute and due
 20 process in reopened removal proceedings;
- 21 5. Order that Respondents may not remove Petitioner to any third country because
 22 Respondents' third country removal program seeks to impose unconstitutional punishment on its
 23 subjects, including imprisonment and other forms of harm;
- 24 6. Award costs and reasonable attorney fees under the Equal Access to Justice Act, 28
 U.S.C. § 2412; and

1 7. Order all other relief that the Court deems just and proper.
2

3 Dated: November 13, 2025
4

5 Respectfully submitted,

6 By: /s/ Jeffrey C. Gonzales

7 Jeffrey C. Gonzales (WA State Bar No. 13864)

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10 Portland, OR 97205

11 Phone: 503-274-1680

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13 **ATTORNEYS FOR PETITIONER**
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1 I. **VERIFICATION OF COUNSEL**

2
3 I, Jeffrey C. Gonzales, pursuant to Local Court Rule 100(e), hereby certify that I am
4 familiar with the case of the named petitioner and that the facts as stated above are true and
5 correct to the best of my knowledge and belief. I make this verification on behalf of Tan Hoang
6 Bui, who is unable to make this verification himself while he is detained at the Northwest
Immigration and Customs Enforcement Processing Center in Tacoma, Washington.

7 Dated: November 13, 2025.

8
9 /s/ Jeffrey C. Gonzales
Jeffrey C. Gonzales

CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2025, I caused a true and correct copy of the foregoing document to be filed with the Clerk of the Court for the United States District Court – Western District of Washington by using the CM/ECF system. All participants in this case are registered CM/ECF users and will be served by the CM/ECF system.

/s/ Jeffrey C. Gonzales

Jeffrey C. Gonzales