IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
Columbus Division

NGOC DINH HOANG,

Petitioner,

v.

JASON STREEVAL, Warden, Stewart Detention Center; LADEON FRANCIS, Field Office Director, Atlanta Field Office, U.S. Immigration and Customs Enforcement; TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement; KRISTI NOEM, Secretary of Department of Homeland Security; PAMELA BONDI, Attorney General of the United States, *in their official capacities*;

Respondents.

Case No. _____

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Ngoc Dinh Hoang ("Mr. Hoang" or "Petitioner") is a citizen and national of Vietnam who was abruptly—without notice or process—detained by Respondents in the early morning of August 16, 2025. He has now been detained at the Stewart Detention Center in Lumpkin, Georgia, for several months with no recourse.

2. Mr. Hoang is one of thousands of Vietnamese nationals who fled Vietnam in the aftermath of the Vietnam War. He came to the United States as a refugee with his family as a teenager in 1990. For over thirty years, Mr. Hoang has resided in the United States, where he has proudly raised his five children and dutifully worked as a nail technician. Mr. Hoang has lived well over half of his life in the United States.

3. In 2012, an immigration judge ordered Mr. Hoang removed. Immigration and Customs Enforcement ("ICE") detained Mr. Hoang for several months afterward, but released him back to his community and family when it could not secure travel documents for him. ICE detained and then released Mr. Hoang for a second time in 2017 to 2018, when it tried—and failed—again to obtain travel documents. Now, for the third time, ICE has redetained Mr. Hoang under the pretense that it will somehow be able to obtain travel documents for him. Worse still, ICE did so without affording Mr. Hoang any of the process granted to him by law.

4. Mr. Hoang has now been detained at Stewart for months, with no end in sight. Since his re-detention, Mr. Hoang has received no indication that he will be deported to Vietnam within the reasonably foreseeable future. ICE has never requested that Mr. Hoang meet with the Vietnamese Consulate, nor completed any application for a travel document.

5. Since 2012, ICE has detained Mr. Hoang for over 20 months—ten of which have been after his final order of removal. Mr. Hoang is in a unique position. Because Mr. Hoang

arrived in the United States before 1995, when Vietnam reestablished diplomatic relations with the United States, Vietnam is not likely to grant Mr. Hoang travel documents. And given Mr. Hoang's tortured history of detention, release, and re-detention due to ICE's inability to obtain travel documents, there is no significant likelihood of removal in the reasonably foreseeable future. *See Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

6. Respondents' actions violate the U.S. Constitution, the Immigration and Nationality Act and its implementing regulations, the Administrative Procedure Act, and the *Accardi* doctrine, which obligates administrative agencies to follow their own rules and procedures.

7. To remedy his unconstitutional and statutorily unauthorized detention, Mr. Hoang is entitled to release.

JURISDICTION AND VENUE

8. This Court has jurisdiction under 28 U.S.C. §§ 1331 (federal question), 2241 (habeas corpus), and the Suspension Clause, U.S. Const., Art. I, § 9, cl. 2, as Mr. Hoang is currently detained under color of the authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, and the All Writs Act, 28 U.S.C. § 1651.

9. Venue is proper in the United States District Court for the Middle District of Georgia pursuant to 28 U.S.C. § 1391(b)(2) and (e)(1) because Respondents reside in this District, Mr. Hoang is currently detained in this District, where a substantial part of the events or omissions giving rise to this action occurred and continue to occur, and Mr. Hoang's immediate physical custodian is in this District.

PARTIES

10. Petitioner Ngoc Dinh Hoang is a citizen of Vietnam currently detained at Stewart Detention Center in Lumpkin, Georgia. Mr. Hoang has lived in the United States since 1990. Before his detention, Mr. Hoang resided in Snellville, Georgia. Respondents have detained Mr. Hoang at Stewart Detention Center since approximately August 16, 2025.

11. Respondent Jason Streeval is sued in his official capacity as Mr. Hoang's immediate legal and physical custodian. Respondent Streeval is the Warden of Stewart Detention Center, where Mr. Hoang is currently detained.

12. Respondent LaDeon Francis is sued in his official capacity as a legal custodian of Mr. Hoang. Respondent Francis is the Field Office Director of the ICE Atlanta Field Office. In his role, Respondent Francis is responsible for ICE activities in the Atlanta Area of Responsibility, which includes Georgia, and its detention facilities, including Stewart Detention Center.

13. Respondent Todd Lyons is sued in his official capacity as a legal custodian of Mr. Hoang. As the Acting Director of ICE, Respondent Lyons is responsible for the administration of immigration law pursuant to 8 U.S.C. § 1103.

14. Respondent Kristi Noem is sued in her official capacity as a legal custodian of Mr. Hoang. As the Secretary of the Department of Homeland Security ("DHS"), she directs DHS and its components, which includes ICE, and is responsible for administering immigration laws pursuant to 8 U.S.C. § 1103.

15. Respondent Pamela Bondi is sued in her official capacity as a legal custodian of Mr. Hoang. As the Attorney General of the United States, Respondent Bondi administers immigration laws pursuant to 8 U.S.C. § 1103(g), including the Executive Office of Immigration

Review ("EOIR").

STATEMENT OF FACTS

16. Mr. Hoang is a 51-year-old man who was born in Vietnam. In December 1990, after the end of the Vietnam War, Mr. Hoang and his family fled Vietnam and came to the United States as refugees. Mr. Hoang later adjusted his status to Lawful Permanent Resident ("LPR").

17. Mr. Hoang has lived in the United States since his admission as a refugee. Over the past 35 years, Mr. Hoang has built a life and home here for himself and his family. For the past several decades, Mr. Hoang has lived in Snellville, Georgia. Before his detention, Mr. Hoang lived with his U.S. citizen wife and five children. His children range in age from 24 years old to five years old. All of his children were born in the United States and are U.S. citizens by birth.

18. Since 2012, Mr. Hoang has been detained by ICE on three separate occasions. Each occasion caused significant hardship and destabilization for not only Mr. Hoang, but his family and young children.

19. Mr. Hoang's immigration proceedings began in 2011, when he was apprehended by Customs and Border Patrol ("CBP") while returning to the United States after a trip to Vietnam. CBP officers told Mr. Hoang that his LPR status had been revoked because of his criminal convictions. They instructed Mr. Hoang to return within 30 days.

20. On February 23, 2012, Mr. Hoang reported to the Atlanta CBP Deferred Inspection Office as instructed. Mr. Hoang was subsequently issued a Notice to Appear ("NTA") charging him as inadmissible under 8 U.S.C. § 1182(a)(2)(A)(i)(I) for conviction of a crime involving moral turpitude,[1] detained, and later transferred to the Irwin County Detention Center

[1] Mr. Hoang's NTA alleges removability based on his 1994 convictions for forgery and theft and 2011 convictions for simple assault and battery.

("ICDC") in Ocilla, Georgia.

21. On December 12, 2012, an Immigration Judge denied Mr. Hoang's relief applications and ordered him removed. *See* Exhibit A (Order of Removal dated Dec. 12, 2012). Mr. Hoang reserved appeal, although he did not later file an appeal. His removal order thus became administratively final on January 12, 2013. *See* 8 C.F.R. § 1241.1(c) (removal order becomes final "[u]pon expiration of the time allotted for an appeal if the respondent does not file an appeal within that time").

22. Mr. Hoang remained in detention for two more months after being ordered removed while ICE sought travel documents for him. But on February 27, 2013, ICE released Mr. Hoang from ICDC on an Order of Supervision ("OSUP") after ICE officers concluded there was no significant likelihood of removal in the reasonably foreseeable future because of their inability to obtain travel documents to Vietnam. *See* Exhibits B (Release Notification dated Feb. 27, 2013); C (Post Order Custody Review Worksheet dated Feb. 26, 2013); D (Order of Supervision dated Feb. 26, 2013).[2] During the two months after he was ordered removed, ICE never asked Mr. Hoang to speak with representatives from the Vietnamese Consulate regarding an application for travel documents. He completed one document for the Vietnamese government which asked for information about his connections to Vietnam, but received no response or follow up.

23. For the years after his release, Mr. Hoang complied with the terms of his OSUP by reporting to the ICE Field Office at first every six months, then yearly. ICE never told Mr. Hoang that he failed to comply with any of the terms of his OSUP.

24. For four-and-a-half years, Mr. Hoang returned to his daily life as a father and

[2] Under the Review and Recommendations, the Supervisory Reviewing Officer noted "No SLRRFF. OSUP." "SLRRFF" is an acronym generally meaning "significant likelihood of removal in the reasonably foreseeable future." *See Zadvydas*, 533 U.S. at 701.

husband, and operated his nail salon business. Yet, without warning, on November 6, 2017, ICE officers came to Mr. Hoang's home in Snellville, Georgia, two months after his most recent ICE check-in, and arrested him. Mr. Hoang had complied with all terms of his OSUP and had no interactions with the criminal legal system or immigration authorities outside of his regularly scheduled OSUP check-ins since 2012. ICE officers did not provide a substantiated reason for Mr. Hoang's sudden re-detention. Rather, ICE officers at first erroneously told him that he had missed an ICE check-in date, then told him that he had to be taken in for questioning.

25. For the next six months, ICE detained Mr. Hoang at the Stewart Detention Center in Lumpkin, Georgia, then later at ICDC. ICE once again could not obtain travel documents to Vietnam. And despite completing a form requesting that ICE notify his consular representatives of his detention, *see* Exhibit E (Consular Notification dated Nov. 6, 2017), Mr. Hoang at no point spoke to representatives from the Vietnamese Consulate.

26. On or about April 20, 2018, ICE once again released Mr. Hoang on an OSUP. *See* Exhibit F (Order of Supervision dated Apr. 20, 2018). ICE provided Mr. Hoang with a Release Notification document. *See* Exhibit G (Release Notification dated Apr. 20, 2018). That document provided that Mr. Hoang would be "required to surrender to ICE for removal" "[o]nce a travel document is obtained," and that he would be "given the opportunity to prepare for an orderly departure" at that time. *Id.* Contemporaneous with that decision, ICE completed a Post-Order Custody Review ("POCR") checklist in which an ICE officer found that there was no significant likelihood of removal in the reasonably foreseeable future ("SLRRFF") due to an inability to obtain travel documents. *See* Exhibit H (HQ POCR Checklist for 241.13 Reviews dated Apr. 20, 2018). Specifically, the officer noted that, "Despite ERO's assertive efforts to obtain a travel document for similarly circumstanced cases, one has not been issued at this time." *Id.* The officer

recommended release. *Id.*

27. From that point onward, Mr. Hoang again complied with all terms of his OSUP and resumed his everyday life. Mr. Hoang attended every one of his ICE check-ins without fail.

28. On August 11, 2025, Mr. Hoang reported to the Atlanta ICE Field Office for his regularly scheduled ICE check-in. Unlike previous check-ins, that day, Mr. Hoang did not have a face-to-face check-in with an ICE officer. Rather, Mr. Hoang checked in at an electronic kiosk and was provided with a printout instructing him to report again in August 2026.

29. While leaving the ICE Field Office, an ICE officer stopped Mr. Hoang and instructed him to go to an Intensive Supervision Appearance Program ("ISAP") office in Norcross, Georgia, the following day. The officer did not explain why additional reporting was required. Nevertheless, Mr. Hoang complied.

30. On August 12, 2025, Mr. Hoang appeared at the ISAP office in Norcross, Georgia, as instructed the previous day. Despite his continuous compliance with the terms of his OSUP and never having had stringent surveillance conditions in years prior, he was placed on an ankle monitor. That day, he returned to his home in Snellville, Georgia.

31. Four days later, between 4:30AM and 5:30AM on August 16, 2025, four ICE officers in four separate ICE vehicles came to Mr. Hoang's residence. Officers knocked on Mr. Hoang's front door and told his wife who opened the door that they needed to take him to the ICE office for questioning.

32. Mr. Hoang complied with the officers' demands and went into their custody. The ICE officers did not explain why Mr. Hoang was being re-detained, nor did they state whether and why Mr. Hoang's OSUP had been revoked. Mr. Hoang was not given the opportunity to say goodbye to his children or get any of his personal affairs in order.

33. Mr. Hoang was provided no notice or warning that his OSUP had been revoked, either in the weeks leading up to his August 11 check-in, during the August 11 check-in, or at any time after he was re-detained. Nor did ICE give Mr. Hoang a post-arrest opportunity to be heard regarding ICE's reasons for re-detaining him.

34. Several times on August 16, Mr. Hoang asked officers why he had been re-detained and what was going to happen. Only once did an ICE officer provide a brief, conclusory explanation that he, and those he was detained with, would be deported back to their countries of origin. The officer did not provide Mr. Hoang with any additional information.

35. ICE eventually took Mr. Hoang to the Stewart Detention Center, where he remains detained to date. With each passing day, Mr. Hoang's detention inflicts hardship on himself, his wife, and his children, who do not know when—or whether—he will return home.

36. Since his re-detention, ICE has never given Mr. Hoang a Notice of Revocation of Release, nor given him any other information about the reasons for his OSUP revocation and redetention. Nor has ICE conducted a post-revocation interview with Mr. Hoang, as required by ICE's own regulations. Upon information and belief, prior to and since his re-detention, ICE has not obtained travel documents necessary for Mr. Hoang to be removed from the United States.

37. To date, Mr. Hoang has neither met with officials from the Vietnamese Consulate regarding repatriation to Vietnam nor with any ICE officers concerning his deportation. He has not filled out any documents regarding a request for travel documents—or any paperwork at all—aside from one document that collected his basic biographic information at the ICE Field Office. Indeed, Mr. Hoang has received no information at all about the status of his detention or deportation, and does not know when—or if—he will be deported to Vietnam.

History of Removal of Vietnamese Nationals

38. Mr. Hoang is one of many people who "fled [Vietnam] to escape political persecution" following the Vietnam War. *See Trinh v. Homan*, 466 F. Supp. 3d 1077, 1083 (C.D. Cal. 2020).

39. For years, as a policy and practice, Vietnam did not issue travel documents for Vietnamese immigrants ordered removed from the United States. *Id.* (explaining that "[b]etween the end of the Vietnam War and 2008, Vietnam refused to repatriate any Vietnamese immigrants who had been ordered removed from the United States.").

40. In 2008, the United States and Vietnam reached a diplomatic agreement whereby Vietnam agreed to begin considering repatriating certain Vietnamese nationals. *Id.*; *see also* Agreement Between the United States and Vietnam, Jan. 22, 2008 [hereinafter 2008 Agreement]. Notably, in the 2008 Agreement, the Vietnamese government refused to repatriate individuals who came to the United States on or before July 12, 1995 ("pre-1995 Vietnamese immigrants"), when the United States reestablished diplomatic relations with Vietnam. *Trinh*, 466 F. Supp. 3d at 1083; 2008 Agreement, art. 2 § 2 ("Vietnamese citizens are not subject to return to Vietnam… if they arrived in the United States before July 12, 1995."). Accordingly, for several years, ICE "maintained that the removal of pre-1995 Vietnamese immigrants was unlikely given Vietnam's consistent refusal to repatriate them." *Trinh*, 466 F. Supp. 3d at 1083.

41. As a result, ICE adopted a policy of detaining pre-1995 Vietnamese immigrants for no longer than 90 days after their removal order became final. After 90 days, pre-1995 Vietnamese immigrants were generally—as a policy—released on OSUP. *Id.*

42. In 2017, however, ICE began re-detaining pre-1995 Vietnamese immigrants at a higher rate, pursuant to Vietnam's "verbal[] commit[ment] to begin considering ICE travel

document requests for pre-1995 Vietnamese immigrants on a case-by-case basis, without explicitly committing to accept any of them." *Id.* This uptick in detentions of Vietnamese nationals included Mr. Hoang, who had been previously detained and released on OSUP due to ICE's inability to obtain travel documents. *Id.* at 1084;[3] *supra* ¶¶ 24–25.

43. Notwithstanding the Vietnamese government's informal representations that they would begin repatriating pre-1995 Vietnamese immigrants, "the removal of these individuals was still not significantly likely." *Trinh*, 466 F. Supp. 3d at 1084. ICE once again began releasing pre-1995 Vietnamese immigrants who, like Mr. Hoang, received final orders of removal but who could not be deported to Vietnam given ICE's inability to obtain travel documents.

44. In 2020, the United States and Vietnam entered into a Memorandum of Understanding ("2020 MOU") regarding the repatriation of pre-1995 Vietnamese immigrants. The 2020 MOU outlined a process by which the Vietnamese government would begin considering repatriations of pre-1995 Vietnamese immigrants on a case-by-case basis. *See* Memorandum of Understanding Between the Department of Homeland Security of the United States of America and the Ministry of Public Security of the Socialist Republic of Vietnam on the Acceptance of Vietnamese Citizens Who Arrived in the United States Before July 12, 1995 and Who Have Been Ordered Removed from the United States, Nov. 21, 2020 [hereinafter 2020 MOU].

45. Pursuant to Section 4 of the MOU, pre-1995 Vietnamese immigrants must meet certain eligibility criteria to be repatriated to Vietnam. *Id.* § 4 ("Eligibility for Acceptance of Return"). They must (1) have Vietnamese citizenship, and no citizenship of any other country; (2) have been ordered removed by the United States and served any prison sentence they may

[3] Mr. Hoang was a named petitioner in *Trinh v. Homan*, challenging the government's practice of detaining a class of pre-1995 Vietnamese immigrants whose removal was highly unlikely in the foreseeable future.

have; and (3) have resided in Vietnam before arriving in the United States, and not have the right to reside in another country. *Id.* The 2020 MOU also requires a fourth criterion, which is redacted in public versions of the document. *Id.*

46. Sections 5 and 6 of the MOU, which are also redacted in publicly available versions of the document, outline considerations by the United States before requesting travel documents for a Vietnamese citizen. *Id.* §§ 5, 6 ("Factors to be Considered by the DHS before Removal" and "Factors to be Considered by the [Ministry of Public Security of the Socialist Republic of Viet Nam] before Acceptance of Return").

47. Section 8 of the MOU outlines steps that ICE must take to request travel documents from Vietnam before effectuating a person's removal, including the compilation of certain documents. *Id.* § 8.

48. Pursuant to the MOU, Vietnam "intends to issue the travel document" within thirty days "when the individual meets the eligibility criteria listed in Section 4" of the MOU. *Id.*

49. Notwithstanding the 2020 MOU, deportations of pre-1995 Vietnamese immigrants continued to happen infrequently, if ever. *See Nguyen v. Scott*, No. 2:25-cv-01398, 2025 WL 2419288, at *15 (W.D. Wash. Aug. 21, 2025) (discussing evidence showing that Vietnam may take months to issue travel documents). As a result, the majority of pre-1995 Vietnamese immigrants have spent—at minimum—the past 30 years living and working in the United States. Many of these individuals have thus spent the vast majority of their lives—their childhoods, teenage years, and adulthood—here.

50. On or about June 9, 2025, ICE rescinded its policy of generally finding that pre-1995 Vietnamese immigrants were not likely to be removed in the reasonably foreseeable future. *See id.* at *7. ICE once again began re-detaining pre-1995 Vietnamese immigrants at

higher rates with the belief that Vietnam would issue travel documents for those individuals.

51. Mr. Hoang was again included in this swell of detentions, and remains in limbo at the Stewart Detention Center as it is unclear when—and if—Mr. Hoang will be deported to Vietnam.

52. Mr. Hoang has received no indication from either ICE or the Vietnamese government that he meets the criteria for repatriation to Vietnam.

53. Given Mr. Hoang's previous experiences in ICE detention and the fact that "the process for procuring travel documents from Vietnam for pre-1995 immigrants continues to be uncertain and protracted," *id.* at *15, it is unlikely that Mr. Hoang will be deported in the reasonably foreseeable future.

LEGAL FRAMEWORK

Post-Removal Order Detention Under 8 U.S.C. § 1231

54. 8 U.S.C. § 1231 permits ICE to detain noncitizens during the "removal period," which is defined as the 90-day period during which "the Attorney General shall remove the [noncitizen] from the United States." 8 U.S.C. § 1231(a)(1)(A). The removal period begins on the latest of the following:

> (i) The date the order of removal becomes administratively final.
> (ii) If the removal order is judicially reviewed and if a court orders a stay of the removal of the [noncitizen], the date of the court's final order.
> (iii) If the [noncitizen] is detained or confined (except under an immigration process), the date the [noncitizen] is released from detention or confinement.

Id. § 1231(a)(1)(B).

55. If an individual is ordered removed by an Immigration Judge and does not appeal, their removal order becomes administratively final when the 30-day deadline for appeal expires, or immediately if the person waives appeal. *See* 8 C.F.R. §§ 1241.1(b), (c).

56. Detention is mandatory only during the 90-day "removal period." *See* 8 U.S.C. § 1231(a)(1)(A). After the 90-day removal period, detention is no longer mandatory, and ICE may release noncitizens under orders of supervision ("OSUP"). *See* 8 U.S.C. § 1231(a)(3).

57. The INA's implementing regulations provide a comprehensive regulatory scheme governing the issuance and revocation of OSUPs. The regulations state that ICE may release a noncitizen on an OSUP if he "would not pose a danger to the community . . . or a significant risk of flight," 8 C.F.R. § 241.4(d)(1), or if "there is no significant likelihood that [he] will be removed in the reasonably foreseeable future," *id.* § 241.13(g)(1).

58. For noncitizens released on OSUPs under § 241.13(g)(1), like Mr. Hoang, the regulations specify certain conditions of release, including the requirement that the noncitizen "obey all laws, including any applicable prohibitions on the possession or use of firearms." *Id.* § 241.13(h)(1). ICE must advise these OSUP recipients of the consequences of violating their conditions of release. *Id.* § 241.13(h)(2). USCIS may grant these OSUP recipients employment authorization. *Id.* § 241.13(h)(3).

59. The regulations also specify when and how ICE may revoke an OSUP. *See id.* § 241.13(i). ICE may only revoke a person's OSUP under specific circumstances. Where a noncitizen has been released on an OSUP because ICE determined that there is no "significant likelihood that the [noncitizen] will be removed in the reasonably foreseeable future," *id.* § 241.13(g), revocation of release can occur only where the person has violated conditions of their release, *id.* § 241.13(i)(1), or where "changed circumstances" dictate that "there is a significant likelihood" of removal in the "reasonably foreseeable future," *id.* § 241.13(i)(2). Those regulations require "(1) an individualized determination (2) by ICE that, (3) based on changed circumstances, (4) removal has become significantly likely in the reasonably

foreseeable future." *Kong v. United States*, 62 F.4th 608, 619–20 (1st Cir. 2023) (synthesizing process outlined at 8 C.F.R. § 241.13(i)(2)).

60. ICE must follow certain procedures when revoking a noncitizen's OSUP under § 241.13. ICE must (1) "notif[y the noncitizen] of the reasons for revocation of [their] release;" (2) "conduct an initial informal interview promptly after [their] return to [ICE] custody to afford the [noncitizen] an opportunity to respond to the reasons for revocation;" and (3) conduct a "revocation custody review" which evaluates whether any facts relevant to the revocation "warrant revocation and further denial of release." *Id.* § 241.13(i)(3).

Constitutional Limits on Detention Under 8 U.S.C. § 1231

61. ICE may continue to detain some noncitizens who are not released on orders of supervision. Noncitizens who have been ordered removed because of certain criminal convictions, or those who are deemed to be "a risk to the community or unlikely to comply with the order of removal, may be detained beyond the removal period." 8 U.S.C. § 1231(a)(6). But that period of post-removal order detention is not without limits.

62. In *Zadvydas*, the Supreme Court applied the doctrine of constitutional avoidance to hold that § 1231(a)(6) authorizes detention only for "a period reasonably necessary to bring about that [noncitizen]'s removal from the United States," which is presumptively no longer than six months. 533 U.S. at 689, 701.

63. A person's continued detention pursuant to § 1231(a)(6) is constitutionally impermissible if it is not reasonably related to the statutory purpose of ensuring the individual's prompt removal or protecting against dangerousness in certain narrow circumstances. *Zadvydas*, 533 U.S. at 690. The justification of preventing a noncitizen's flight is "weak or nonexistent" where removal is not foreseeable, and detention based on dangerousness is only permissible

"when limited to specially dangerous individuals and subject to strong procedural protections." *Id.* at 690–91.

64. To avoid the "serious constitutional problem" of indefinite civil detention under § 1231(a)(6), the *Zadvydas* Court established a rebuttable presumption regarding what constitutes a "reasonable period of detention" for noncitizens after a removal order. *Id.* at 690, 700–01. The Court determined that six months of detention could be deemed a "presumptively reasonable period of detention," after which the burden shifts to the government to justify continued detention if the noncitizen provides a "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701. The noncitizen need not show that their removal is "impossible." *Id.* at 702. And once the burden shifts to the government, the government must do more than simply claim that "good faith efforts to effectuate . . . deportation continue." *See id.* If the government fails to rebut the noncitizen's showing that there is no significant likelihood of removal in the reasonably foreseeable future, the government must release the noncitizen. *See id.*; *Singh v. Att'y Gen.*, 945 F.3d 1310, 1313–14 (11th Cir. 2019).

65. The Eleventh Circuit has distilled a noncitizen's burden under *Zadvydas* into two elements. To state a claim under *Zadvydas*, the noncitizen must show (1) detention for over six months, and (2) that there is no significant likelihood of removal in the reasonably foreseeable future. *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002).

66. When considering whether the noncitizen has shown post-order detention of greater than six months, courts evaluate non-consecutive periods of detention. As one oft-cited decision explains, "the six-month period does not reset when the government detains a[] [noncitizen]..., releases him from detention, and then re-detains him again." *Sied v. Nielsen*, No.

17-CV-06785-LB, 2018 WL 1876907, at *6 (N.D. Cal. Apr. 19, 2018); *see also Nguyen v. Warden*, No. 25-cv-2441-AGS-MMP, 2025 WL 2971654, at *2 (S.D. Cal. Oct. 21, 2025) (citing *Sied* and aggregating time pre-1995 Vietnamese immigrant spent across two prior periods of detention); *Villanueva v. Tate*, No. H-25-3364, 2025 WL 2774610, at *9 (S.D. Tex. Sept. 26, 2025) ("The government's contention that it may avoid the holding of *Zadvydas* and re-start the six-month presumptively constitutional detention clock by simply releasing and then re-detaining a noncitizen has no basis in the statutes, the regulations, or *Zadvydas* itself. . . . [T]he Court does not read *Zadvydas* to permit the government to indefinitely detain a noncitizen by the simple expedient of releasing and then re-detaining him in a series of 'presumptively constitutional' six-month increments."); *Tang v. Bondi*, No. 2:25-cv-01473-RAJ-TLF, 2025 WL 2637750, at *4 (W.D. Wash. Sept. 11, 2025) ("A petitioner's total length of confinement need not be consecutive to reach the six-month presumptively reasonable limit established in *Zadvydas*."); *Nguyen*, 2025 WL 2419288 at *13 (rejecting argument that "because [petitioner's] detention was not consecutive, the clock has restarted" and finding that pre-1995 Vietnamese immigrant petitioner's detention was not presumptively reasonable under *Zadvydas* when he had been detained for 19 months, spread across three separate periods of detention); *Chen v. Holder*, No. CV 6:14-2530, 2015 WL 13236635, at *2 (W.D. La. Nov. 20, 2015) ("Surely, under the reasoning of *Zadvydas*, a series of releases and re-detentions by the government...in essence results in an indefinite period of detention, albeit executed in successive six month intervals."); *Nhean v. Brott*, No. 17-28 (PAM/FLN), 2017 WL 2437268, at *2 (D. Minn. May 2, 2017) (holding that when the government detained a noncitizen for 90 days, released him, and then re-detained him, the second detention "was presumptively reasonable for an additional ninety days (six months in total)," not an additional six months), *report & recommendation adopted*,

2017 WL 2437246 (D. Minn. June 5, 2017); *S.F. v. Bostock*, No. 3:25-cv-01084, 2025 WL 2841022, at *4 (D. Or. Oct. 7, 2025) ("[F]ederal courts have refrained from applying the presumption of reasonableness under *Zadvydas* in re-detention cases like this one.").

67. Release is the proper remedy for unconstitutionally prolonged post-removal-order detention. *See Zadvydas*, 533 U.S. at 699–700 (explaining that supervised release is the appropriate relief when "the detention in question exceeds a period reasonably necessary to secure removal" because, at that point, detention is "no longer authorized by statute").

***Agencies' Obligation to Follow their Own Policies under* Accardi**

68. Under the *Accardi* doctrine, agencies are bound to follow their own rules affecting fundamental rights. *Accardi v. Shaughnessy*, 347 U.S. 260, 266–67 (1954) (holding that the Board of Immigration Appeals must follow its own regulations in the exercise of its discretion); *see Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures… even where the internal procedures are possibly more rigorous than otherwise would be required."). "[U]nder deeply rooted principles of administrative law, not to mention common sense, government agencies are generally required to follow their own regulations." *Fed. Defs. of New York, Inc. v. Fed. Bureau of Prisons*, 954 F.3d 118, 130 (2d Cir. 2020).

69. When an agency fails to adhere to its own policies as required by *Accardi*, courts typically frame the violation as arbitrary, capricious, and contrary to law under the Administrative Procedure Act ("APA"), *see Damus v. Nielsen*, 313 F. Supp. 3d 317, 336–37 (D.D.C. 2018), or as a due process violation, *see Sameena, Inc. v. U.S. Air Force*, 147 F.3d 1148, 1153 (9th Cir. 1998) ("An agency's failure to follow its own regulations 'tends to cause unjust discrimination and deny adequate notice' and consequently may result in a violation of an

individual's right to due process.") (quoting *NLRB v. Welcome-American Fertilizer Co.*, 443 F.2d 19, 20 (9th Cir. 1971)). Agencies are bound to follow internal policies, guidance, and instructions that are not "limited to rules attaining the status of formal regulations." *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991).

70. Courts have the authority to review final agency actions under the APA, 5 U.S.C. § 704, which include those actions that (1) "mark the consummation of the agency's decisionmaking process" and (2) "by which rights or obligations have been determined, or from which legal consequences will flow." *Bennett v. Spear*, 520 U.S. 154, 177–78 (1997) (citations omitted). ICE's decision to revoke a person's OSUP constitutes a final agency action. This action resulted in legal consequences for Mr. Hoang, who is now detained in violation of his rights under the Constitution, Immigration and Nationality Act, and its implementing regulations.

71. When a final agency action is arbitrary, capricious, an abuse of discretion, or otherwise contrary to law, courts must "hold unlawful and set aside" that action. 5 U.S.C. § 706(2)(A).

CLAIMS FOR RELIEF

COUNT ONE
VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1231
Presumptively Unreasonable Detention under Zadvydas

72. Mr. Hoang re-alleges and incorporates by reference each allegation contained above.

73. Mr. Hoang is currently detained under 8 U.S.C. § 1231(a)(6), as he is subject to a final order of removal, and has been detained beyond the mandatory 90-day removal period under 8 U.S.C. § 1231(a)(1)(A).

74. Mr. Hoang's continued detention violates 8 U.S.C. § 1231, as interpreted by

Zadvydas. First, ICE has detained Mr. Hoang far in excess of the six months deemed presumptively reasonable. Since being ordered removed in 2012, Mr. Hoang has faced approximately 10 months of cumulative post-removal order detention, including the last two months.

75. Second, there is no significant likelihood of Mr. Hoang's removal to Vietnam in the reasonably foreseeable future. Mr. Hoang has been previously released from ICE detention not once, but twice, based on a lack of a significant likelihood of removal in the reasonably foreseeable future. *See* Exhibits C, D, F, G. To date, ICE has not shown any changed circumstances justifying his current detention.

76. Mr. Hoang complied with any and all past directions to apply for a Vietnamese travel document when he was previously detained. Mr. Hoang has never, at any point, spoken to officials from the Vietnamese Consulate regarding his possible repatriation to Vietnam, nor has he spoken to ICE officers about his deportation since being re-detained in August 2025. Since his redetention, ICE has never asked Mr. Hoang to complete a Vietnamese travel document application nor to meet with a Vietnamese consular official. ICE has never told Mr. Hoang that it has requested travel documents on his behalf.

77. Additionally, in similar cases, courts have found that there is no significant likelihood of removal in the reasonably foreseeable future for similarly situated pre-1995 Vietnamese immigrants. *See, e.g., Nguyen*, 2025 WL 2419288, at *14–15 (finding that petitioner had shown his removal was not reasonably foreseeable when ICE did not request a travel document from Vietnam until after filing of habeas petition; petitioner arrived as a refugee after his father's service to the US military, making it less likely that Vietnam would accept him; and petitioner's evidence showed that "the process for procuring travel documents from Vietnam for

pre-1995 immigrants continues to be uncertain and protracted"); *Tran v. Scott*, No. 2:25-cv-01886-TMC-BAT, 2025 WL 2898638, at *4 (W.D. Wash. Oct. 12, 2025) ("Petitioner's evidence showing (1) the historically low number of removals to Vietnam for immigrants who arrived in U.S. pre-1995 . . .; (2) the government's failure to deport her for 21 years, since Vietnam first refused a travel document request for her in 2004 . . . ; and (3) that the government detained her without securing a travel document from Vietnam and failed to make any progress toward obtaining one between May and October . . . 'provides good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future'" (quoting *Zadvydas*, 533 U.S. at 701)).

78. No "sufficiently strong special justification" exists to justify Mr. Hoang's continued detention beyond the removal period and the presumptively reasonable six-month limit. *See Zadvydas*, 533 U.S. at 690–91. Mr. Hoang is neither a flight risk nor danger to the community, nor has ICE made any showing to that end.

79. Mr. Hoang's continued detention violates 8 U.S.C. § 1231, and he is entitled to immediate release from Respondents' custody.

COUNT TWO
VIOLATION OF THE
ADMINISTRATIVE PROCEDURE ACT, 8 U.S.C. § 706(2)(A)
Failure to Follow OSUP Revocation Policies & Regulations

80. Mr. Hoang re-alleges and incorporates by reference each allegation contained above.

81. Agencies are required to follow their own regulations and policies. Courts must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

82. ICE regulations provide that an OSUP may only be revoked when its conditions

are violated, or where changed circumstances make removal reasonably foreseeable. *See* 8 C.F.R. § 241.13(i)(2), (f).

83. No circumstances have changed to support ICE's revocation of Mr. Hoang's OSUP. For decades, the United States has been largely unable to deport pre-1995 Vietnamese immigrants to Vietnam. *See supra* ¶¶ 38–53. ICE has not made an individualized determination that removal has become significantly likely in the reasonably foreseeable future. *See Kong*, 62 F.4th at 619-20; *see also Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP, 2025 WL 1993771, at *4, *7 (E.D. Cal. July 16, 2025) (granting preliminary injunction and ordering release of petitioner where respondents failed to show changed circumstances); *Vu v. Noem*, No. 1:25-cv-01366, 2025 WL 3114341, at *6, *10 (E.D. Cal. Nov. 6, 2025) (same); *Van Nguyen v. Hyde*, 788 F. Supp. 3d 144, 150, 153 (D. Mass. 2025) (same, granting habeas petition where respondents "did not identify any facts to support that ICE re-detained [the petitioner] based on changed circumstances").

84. ICE's unilateral decision to rescind its policy of generally releasing pre-1995 Vietnamese immigrants, without more, does not demonstrate changed circumstances sufficient to warrant Mr. Hoang's detention. ICE has not made any individualized determination that Mr. Hoang is likely to be repatriated.

85. Mr. Hoang has complied with efforts to procure travel documents for more than a decade to no avail. Upon information and belief, to date, ICE has not obtained travel documents for Mr. Hoang to Vietnam, nor has ICE requested them.

86. ICE also flagrantly violated its own regulations by failing to provide Mr. Hoang with notice or an explanation of the reasons for revoking his OSUP whatsoever, or a prompt post-deprivation opportunity to hear and contest those reasons.

87. ICE's failure to adhere to its own binding regulations governing the revocation of OSUPs violates the *Accardi* doctrine, under which agencies are required to follow their own policies. *See Damus*, 313 F. Supp. 3d at 337. ICE's violation of its own binding regulations renders Mr. Hoang's redetainment unlawful. *See Rasakhamdee v. Noem*, No. 3:25-cv-02816, 2025 WL 3102037, at *5 (S.D. Cal. Nov. 6, 2025) ("Government agencies are required to follow their own regulations. . . . ICE failed to do so here. The Court's research indicates that every district court, except two, to consider the issue has 'determined that where ICE fails to follow its own regulations in revoking release, the detention is unlawful and the petitioner's release must be ordered.'" (quoting *Rokhfirooz v. Larose*, No. 25-cv-2053, 2025 WL 2646165, at *4 (S.D. Cal. Sept. 15, 2025))); *Hoac*, 2025 WL 1993771, at *5, *7 (finding likelihood of success on petitioner's *Accardi* claim when ICE failed to provide him with an informal interview and petitioner showed that there was no change in circumstances making removal likely, and ordering petitioner's release); *K.E.O. v. Woosley*, No. 4:25-cv-74, 2025 WL 2553394, at *7 (W.D. Ky. Sept. 4, 2025) (concluding that ICE's failure to provide petitioner with a Notice of Revocation promptly after her arrest violated ICE's regulations, ordering release based on petitioner's "illegal detention," and noting that "courts across the country have ordered the release of individuals" in ICE custody where ICE "violated their own regulations"); *Liu v. Carter*, No. 25-3036, 2025 WL 1696526, at *3 (D. Kan. June 17, 2025) (concluding that "because officials did not properly revoke petitioner's [OSUP] pursuant to the applicable regulations, that revocation has no effect, and petitioner is entitled to his release (subject to the same Order of Supervision that governed his most recent release)").

88. Accordingly, Respondents' revocation of Mr. Hoang's OSUP should be set aside and this Court should order Respondents to release Mr. Hoang.

COUNT THREE
VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION
Failure to Follow OSUP Revocation Policies & Regulations

89. Mr. Hoang re-alleges and incorporates by reference each allegation contained above.

90. Regulations governing OSUPs ensure that individuals, who have been free to live in their communities, are not erroneously deprived of their due process right to liberty. "[T]he fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)).

91. By failing to give Mr. Hoang any of the processes due to him under binding ICE regulations before re-detaining him and revoking his OSUP, *see* 8 C.F.R. § 241.13(i)(2), ICE has flouted its responsibility to give Mr. Hoang the notice and opportunity to be heard he is owed under the Constitution. *See Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 166 (W.D.N.Y. 2025) (holding that "because ICE did not follow its own regulations in deciding to re-detain [petitioner]," including by failing to provide him with required initial interview, "his due process rights were violated, and he is entitled to release"); *Grigorian v. Bondi*, No. 25-CV-22914-RAR, 2025 WL 2604573, at *9 (S.D. Fla. Sept. 9, 2025) (noting that the OSUP revocation regulations are not "ticky-tacky procedural requirement[s]," but rather essential procedural safeguards that "strike[] at the heart of what due process demands" and ordering petitioner's release because of respondents' failure to comply with OSUP revocation regulations); *Zhu v. Genalo*, No. 1:25-CV-06523, 2025 WL 2452352, at *9 (S.D.N.Y. Aug. 26, 2025) ("ICE's failure to follow its own regulations and provide Petitioner with notice or an interview violated Petitioner's procedural due process rights"); *M.S.L. v. Bostock*, No. 6:25-cv-01204, 2025 WL 2430267, at

*12 (D. Or. Aug. 21, 2025) (holding that ICE's failure to follow its own regulations in detaining petitioner, including by "failing to provide a timely Notice of Revocation of Petitioner's Order of Supervision" and "failing to provide Petitioner with a 'prompt' informal interview so that she could contest the reasons for her revocation," "violated Petitioner's constitutional due process rights").

92. Respondents' failure to adhere to its own binding regulations governing the revocation of OSUPs violate Mr. Hoang's due process rights under the Fifth Amendment.

93. Mr. Hoang is entitled to immediate release under conditions no more restrictive than his prior OSUP.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Ngoc Dinh Hoang respectfully requests that the Court:

A. Assume jurisdiction over this matter;

B. Order Respondents to show cause why the writ should not be granted, to "be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed." 28 U.S.C. § 2243;

C. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under chapter 153 (habeas corpus) of Title 28;

D. Enjoin Respondents from transferring Petitioner outside of this judicial district pending litigation of this matter or his removal proceedings;

E. In the event that this Court determines that a genuine dispute of material fact exists regarding the likelihood of Petitioner's removal in the reasonably foreseeable future, or regarding any other material factual issue, schedule an evidentiary hearing pursuant to 28 U.S.C. § 2243. *See Singh*, 945 F.3d at 1315–16;

F. Declare that Petitioner's detention violates the Immigration and Nationality Act;

G. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment of the U.S. Constitution;

H. Declare that ICE Respondents' failure to follow their own binding rules and policies on revocation of orders of supervision with respect to Petitioner's arrest and ongoing detention violates the Administrative Procedure Act and the Due Process Clause of the Fifth Amendment;

I. Grant a Writ of Habeas Corpus, ordering Respondents to immediately release Petitioner from their custody based on any or all of the findings above;

J. Award Petitioner's costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and

K. Grant such further relief as the Court deems just and proper.

Dated: November 18, 2025

Respectfully submitted,

/s/ Alexandra M. Smolyar
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Counsel for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I hereby verify that the facts set forth in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

Dated: November 18, 2025

/s/ Alexandra M. Smolyar
Alexandra M. Smolyar
Counsel for Petitioner

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that I filed this Petition for Habeas Corpus and all attachments using the CM/ECF system, which will send a notice of this filing to all participants in this case. I hereby certify that I have served all parties electronically or by another means authorized by Federal Rule of Civil Procedure 5(b)(2).

Dated: November 18, 2025

Respectfully submitted,

/s/ Alexandra M. Smolyar
Alexandra M. Smolyar