

1 JASON RONIS (229628)
Francisco J. Aldana (216388)
2 LAW OFFICES OF JASON A. RONIS
105 F Street, Third Floor
3 San Diego, California 92101
Phone: 619-813-8058
4 JasonRonis@gmail.com

5 Attorney for Petitioner
6 THAT TOM NGIAM

7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 THAT TOM NGIAM,
11
12 Petitioner,

Case Number: '25CV3405 TWR BLM

13 vs.

DHS No.: A 

14 KRISTI NOEM, Secretary of Homeland
Security, PAM BONDI, Attorney General,
15 Todd M. Lyons, Director of Immigration and
16 Customs Enforcement, Patrick Divver, San
Diego ICE Field Office Director; Christopher
17 J. LaRose, Director – Otay Mesa Detention
Center.

PETITION FOR WRIT OF HABEAS
CORPUS,
28 U.S.C. §2241


18
19 Respondents.


20
21 PETITION FOR WRIT OF HABEAS CORPUS, WRIT OF MANDAMUS,
22 DECLARATORY JUDGMENT, AND IMMEDIATE RELEASE FROM
23 CUSTODY

24 1. Petitioner, THAT TOM NGIAM, ("Petitioner"), a native of Cambodia is being
25 kept by the department of Homeland Security at 7488 Calzada De La Fuente, San Diego,
26 California 92154. Defendant has been detained since October 24, 2025, after his Supervision
27
28

1 Order was revoked. (See Exhibit 1, which is a true and correct copy of the Revocation of Order
2 of Supervision)

3 2. Petitioner wrote in that order that he had a United States Citizen wife, that he was
4 requesting asylum because he was afraid to go to Cambodia, a country he has not been to since
5 1979. The DHS has not afforded him a reasonable fear interview and is not allowing him to
6 post a bond.
7

8 3. Petitioner arrived in the United States at the age of 6 years old. He was born on
9  and arrived in the United States and received a legal permanent residence since
10 July 6, 1979.

11 4. On March 30, 1994, Petitioner, unaware of the immigration consequences of his
12 plea, entered of plea of guilty in violation of California Penal Code 459, 2nd degree commercial
13 burglary, California Superior Court Case No.: 

15 5. On February 2, 1997, Petitioner, unaware of the immigration consequences of his
16 plea, entered of plea of guilty in violation of Vehicle Code Section 10851(a), "joyriding."
17

18 6. As a result of the March 30, 1994, conviction, he was ordered removed from the
19 United States on July 10, 1998. He was told he would not get removed because Cambodia was
20 not taking back its refugees. This was over 27 years ago.

21 7. Now Petitioner finds himself in immigration detention with the threat of being
22 sent back to Cambodia, a Country he does not know.

23 8. Petitioner immediately requested that the California Superior Court for the
24 County of San Diego vacate his convictions because of ineffective assistance of counsel and
25 because he did not understand the immigration consequences of his plea. He did not know he
26 would be deported to Cambodia.
27
28

1 9. On November 24, 2025, his conviction in case [REDACTED] was vacated and
2 dismissed. The order of the court stated, "for good cause appearing thereon due to procedural
3 and substantive defects and constitutional infirmity, It is ordered that the guild plea is
4 withdrawn." The People of the State of California then dismissed the case. Therefore, due to
5 violation of the United States Constitution, his conviction has been vacated.
6

7 10. On November 21, 2025, his conviction in case [REDACTED] was vacated and
8 dismissed. The order of the court stated, "for good cause appearing thereon due to procedural
9 and substantive defects and constitutional infirmity, It is ordered that the guild plea is
10 withdrawn." The People of the State of California then dismissed the case. Therefore, due to
11 violation of the United States Constitution, his conviction has been vacated.
12

13 11. On November 25, 2025, Petitioner filed a "Motion to Reopen his Removal
14 Proceedings," and asked DHS to stop his removal until the case was heard. Respondent was
15 informed that the orders came from above and that they would not stop his removal and he was
16 not getting a reasonable or credible fear interview.
17

18 12. On November 25, 2025, Petitioner filed a "Motion to Stay he Removal."
19

20 13. His removal order had been signed by an Immigration Judge in Lancaster,
21 California, but that Immigration Court has been moved to Adelanto, California. Since his case is
22 an old "paper case," the court had to order it from storage and that would take 30 days.
23

24 14. The Petitioner asked US Immigration and Custom's Enforcement to delay his
25 removal until this Motion to Reopen is heard, but they stated they cannot do that as the orders
26 come from above.
27

28 15. Petitioner is married to a United States Citizen and has two United States minor
children who rely on him.

1 22. The federal district courts have jurisdiction to review petitions for habeas corpus
2 challenging an alien's indefinite confinement and conditions of detention. *See Clark v. Martinez*,
3 543 U.S. 371, 385-86 (2005) (concluding that even aliens not admitted to the United States,
4 including parolees, are entitled to a custody determination). *See also* Joint Explanatory Statement
5 of the Committee of Conference, H.R. Cong. Rep. No 109-72 at 175, 151 Cong. Rec. H2836,
6 2873 (2005) (“[REAL ID Act] section 106 will not preclude habeas review over challenges to
7 detention that are independent of challenges to removal orders.”)

9 23. The REAL ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 231, 302 (“Real ID
10 Act”), does not affect the Court’s jurisdiction over challenges to an alien’s detention. *See*
11 *Ochieng v. Mukasey*, 520 F.3d 1110, 1115 (10th Cir. 2008) (concluding that provisions of the
12 REAL ID Act limiting habeas relief did not apply where the petitioner “would not be seeking
13 review of an order of removal, but review of his detention”); *Singh v. Gonzales*, 499 F.3d 969,
14 978 (9th Cir. 2007) (relying on the legislative history of the REAL ID Act to conclude that the
15 provisions of the REAL ID Act limiting habeas relief “would not preclude habeas review over
16 challenges to detention that are independent of challenges to removal orders” (internal quotation
17 marks and emphasis omitted)); *see also* H.R. Rep. No. 109–72, at 122, 2005 U.S.C.C.A.N. 240,
18 300 (stating that that the REAL ID Act “would not preclude habeas review over *challenges to*
19 *detention that are independent of challenges to removal orders*. Instead, the bill would eliminate
20 habeas review *only over challenges to removal orders*.” (emphasis added)).

21
22
23 24. The Court also has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1651, as a civil
24 action arising under the Constitution, laws, or treaties of the United States (Federal question), 28
25 U.S.C. § 1361, as an action to compel an officer or employee of the United States to perform a
26 duty owed to Plaintiff (Mandamus), 28 U.S.C. §§ 2201-02 (declaratory relief); the
27
28

1 Administrative Procedure Act (APA), 5 U.S.C. §§ 701 et seq., as an action to compel agency
2 action unlawfully withheld and to hold unlawful and set aside agency action, findings, and
3 conclusions found to be: (A) arbitrary, capricious, an abuse of discretion, or otherwise not in
4 accordance with law; (B) contrary to constitutional right, power, privilege, or immunity; (C) in
5 excess of statutory jurisdiction, authority, or limitations, or short of statutory right; [or] (D)
6 without observance of procedure required by law and the Immigration & Nationality Act (INA)
7 and regulations implementing it (Title 8 of the C.F.R.).

9 25. This Court may also exercise jurisdiction pursuant to 28 U.S.C. § 1331 and may
10 grant relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All
11 Writs Act, 28 U.S.C. § 1651.

12 VENUE

13 26. Venue lies in the Southern District of California, the judicial district in which the
14 Petitioner is detained. *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004) (“The plain language of the
15 habeas statute thus confirms the general rule that for core habeas petitions challenging present
16 physical confinement, jurisdiction lies only in one district: the district of confinement.”).
17 Petitioner is detained at the Otay Mesa Detention Facility, a Department of Homeland Security,
18 Immigration and Customs Enforcement facility located in this judicial district in San Diego
19 California, California (OMDF).

20 PARTIES

21 27. Petitioner, That Tom Ngiam is a fifty-two-year-old citizen of Cambodia. He is
22 currently detained at the Otay Mesa Detention Facility, 7488 Calzada de la Fuente, San Diego,
23 California 92154.

1 28. Respondent Kristi Noem is the Secretary of the Department of Homeland Security
2 and is sued in her official capacity. Secretary Noem is responsible for the administration and
3 enforcement of the immigration laws, including the detention of aliens.

4 29. Respondent Pam Bondi is the Attorney General of the United States, and is
5 responsible for overseeing the Department of Justice, and oversees the enforcement of
6 immigration laws and policies with the Department of Justice.
7

8 30. Respondent Todd M. Lyons is the Director in charge of Detention, and is,
9 therefore, the administrator/warden of DHS Otay Mesa Detention Facility and is sued in his
10 official capacity.

11 31. Respondent Todd M. Lyons is the Director OF U.S. Immigration and Customs
12 Enforcement and is sued in his official capacity.
13

14 32. Respondent Patrick Divver is the acting Field Director for U.S. Immigration and
15 Customs Enforcement for the San Diego Field Office and is sued in his/her official capacity for
16 authority over Petitioner's Detention.
17

18 33. Respondent Christopher J. LaRose, Director and Warden of the Otay Mesa
19 Detention Facility, is the Director in charge of Detention, and is, therefore sued in his official
20 capacity and is Petitioner's immediate custodian.

21 34. Furthermore, this action also includes a prayer for relief in the form of a
22 Declaratory Judgment and a Writ of Mandamus and all Respondents are necessary parties to this
23 suit so the Court has power to order them to obey this Court's orders.
24

25 **FACTUAL AND PROCEDURAL HISTORY**

26 35. Petitioner is a citizen and national of Cambodia who legally entered the United
27 States when he was 6 years old and received legal permanent residence. He was a legal
28 permanent resident for 18 years.

1 36. The Petitioner is detained in Otay Mesa Detention facility. He was told to come to
2 a meeting at the ERO office at 880 Front Street, Second Floor in San Diego, California 92101 to
3 meet with an ERO officer for Immigration and Customs Enforcement.

4 37. He was detained and taken to Otay Detention Facility.

5 38. Respondent told the Deportation Officer that he was fearful to return to Cambodia
6 because of changing country conditions. The law requires that he be interviewed for a credible
7 or reasonable interview under Section 241(a)(5) of the Immigration and Nationality Act. The
8 Petitioner has expressed fear of persecution or torture. The Cambodian government has passed
9 laws which are very onerous for Cambodians returning to Cambodia.
10

11 39. The Department of Homeland Security has refused to provide a bond or to stay
12 his removal. They have refused to provide him a reasonable or credible fear interview as
13 required by law.
14

15 40. Petitioner remains detained as of the filing of this petition and has not been
16 afforded a bond or has been released on his own recognizance.
17

18 LEGAL BACKGROUND

19 **A. Petitioner's Continued Detention Violates Constitutional Due Process**

20 **1. Petitioner Is Entitled to Due Process Protections**

21 41. The Fifth Amendment's Due Process Clause applies to all persons within the
22 United States, including aliens. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Reno v. Flores*,
23 507 U.S. 292, 306 (1993). Petitioner, who has substantial ties to the United States and a pending
24 asylum application, is entitled to meaningful due process protections before being subjected to
25 indefinite detention.
26

27 **2. Detention Without Individualized Hearing Violates Due Process**

28

1 42. Petitioner has been detained without a bond hearing or individualized
2 determination of whether his detention is justified. He had been under supervised release for
3 more than 15 years and was not given sufficient notice, thus violating his due process. The
4 Supreme Court has held that prolonged immigration detention without individualized review
5 violates due process. See *Rodriguez v. Robbins*, 804 F.3d 1060, 1089 (9th Cir. 2015) (holding
6 that aliens subject to prolonged immigration detention must receive bond hearings with certain
7 safeguards), rev'd on other grounds, *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018).

9 43. Additionally, to not provide a reasonable or credible fear interview violated his
10 due process rights as required by statute. At least one bond hearing is required.

11 44. While *Jennings* held that the relevant immigration statutes do not mandate
12 periodic bond hearings, the Court expressly declined to address "whether, as respondents also
13 argued, the Due Process Clause requires the result that the Court of Appeals decreed." *Id.* at 851.
14 The constitutional question remains open and, under Ninth Circuit precedent, Petitioner is
15 entitled to a bond hearing with appropriate safeguards if his detention continues.

17 **3. Detention Is Not Justified by Flight Risk or Danger**

18 45. Petitioner presents neither a flight risk nor a danger to the community:

19 46. a. Petitioner has relatives in San Diego where he has lived. He worked with his
20 family at their donut shop and also worked for DYE Precision in San Diego, a Paintball Guns
21 company who would love to have him back. He has worked for them for many years.

22 47. b. Petitioner has no reason to flee.

23 48. d. Petitioner's criminal convictions have been vacated and can no longer be used
24 as reasons to remove him from the United States; and

25 49. e. Petitioner has family members willing to support his release.
26
27
28

THIRD CLAIM FOR RELIEF

(Right Against Unreasonable Seizure)

1
2
3 57. Petitioner re-alleges and reasserts the foregoing paragraphs as if set forth fully
4 herein.

5 58. Petitioner is protected by every clause of the United States Constitution that is not
6 expressly reserved to citizens. This protection includes the Fourth Amendment.
7

8 59. The arbitrary refusal to provide Petitioner's with a bond hearing and to provide
9 him with a reasonable and credible fear interview with an asylum officer, and his continued
10 detention violate his right against unreasonable seizure.

FOURTH CLAIM FOR RELIEF

(Violation of 5 U.S.C. §§ 702, 704,706-APA Claims)

11
12
13 60. Petitioner re-alleges and reasserts the foregoing paragraphs as if set forth fully
14 herein.

15 61. Petitioner has suffered a "legal wrong" or has been "adversely affected or
16 aggrieved" by agency action. 5 U.S.C. & 702. Petitioner is aggrieved by agency action for
17 which there is no other adequate remedy in court. 5 U.S.C. § 704.
18

19 62. Respondents' unlawful refusal to release respondent and keep him in custody with
20 a bond hearing or without a reasonable or credible fear interview, is causing irreparable harm as
21 Petitioner continues to be detained and exceeds their statutory authority. 5 U.S.C. § 706(c)(2).
22

FIFTH CLAIM FOR RELIEF

(Relief under the Mandamus Act)

23
24
25 63. Petitioner re-alleges and reasserts the foregoing paragraphs as if set forth fully
26 herein.
27
28

1 B. That it issue an order directing Respondents to give Petitioner a credible fear
2 interview and/or a reasonable fear interview and require Respondents to provide Petitioner a
3 hearing before a judge for a bond hearing or to release Petitioner on his own recognizance
4 pending the decision on his motion to reopen. Also, that Respondents not remove Petitioner
5 from the United States until the his Motion to Reopen is fully adjudicated.
6

7 C. That it award reasonable attorney's fees and costs to Petitioner for being required
8 to bring this action;

9 D. That it grant other such relief that may become available through a change in the
10 law; and

11 E. That it grant such other relief that is just and equitable.
12

13
14 Dated this 2nd day of December 2025.

15 

16 _____
17 Jason A. Ronis
18 Law Offices of Jason Ronis
19 105 F Street, Third Floor
20 San Diego, California 92101
21 Telephone: (619) 236-8344
22 Attorney for Petitioner
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

I, THAT TOM NGIAM, am the Petitioner in this matter. I verify under penalty of perjury that the statements made in the herein attached Petition for Writ of habeas Corpus are true and correct to the best of my knowledge.

Dated: 11-24-2025



THAT TOM NGIAM