

1 Jason A. Ronis (CSB # 229628)  
2 Francisco J. Aldana, Esq. (CSB# 216388)  
3 RONIS & RONIS  
4 105 West "F" Street, 3<sup>rd</sup> Floor  
San Diego, California 92101  
Tel.: 619-236-8344 | Fax: 619-639-8860  
Email: JasonRonis@gmail.com

5 Attorney for Petitioner  
6 THAT TOM NGIAM

7  
8  
9 **UNITED STATES DISTRICT COURT**  
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 **THAT TOM NGIAM,**

12 **Petitioner,**

13 **vs.**

14 **KRISTI NOEM, Secretary of Homeland**  
15 **Security, PAM BONDI, Attorney General,**  
16 **TODD M. LYONS, Director of Immigration**  
17 **and Customs Enforcement, PATRICK**  
18 **DIVVER, San Diego ICE Field Office**  
19 **Director; CHRISTOPHER J. LAROSE,**  
20 **Director – Otay Mesa Detention Center,**

21 **Respondents.**

**Case No.: 3:25-cv-03405-TWR-BLM**

**DECLARATION OF THAT TOM NGIAM**  
**IN SUPPORT OF EMERGENCY MOTION**  
**FOR TEMPORARY RESTRAINING**  
**ORDER AND ORDER TO SHOW CAUSE**  
**WHY A PRELIMINARY INJUNCTION**  
**SHOULD NOT ISSUE**

Hearing Date:


Time:

Department:

22 **I, THAT TOM NGIAM, declare as follows:**




- 23 1. I am the Petitioner in this action. I have personal knowledge of the facts set forth in this  
24 declaration and, if called as a witness, I could and would competently testify to them. I  
25 make this declaration in support of my Emergency Motion for Temporary Restraining  
26 Order.

27 **BACKGROUND AND IMMIGRATION HISTORY**

- 28 2. I am 52 years old. I was born in Cambodia on   
3. I came to the United States when I was only 6 years old, fleeing the Khmer Rouge regime  
in Cambodia with my family.

- 1 4. I was granted lawful permanent residence on July 6, 1979. I have lived in the United States  
2 continuously since that time, for 46 years.
- 3 5. I have no memory of Cambodia. I left when I was 6 years old, and all of my memories,  
4 my family, my life, and my identity are American. I do not speak Khmer fluently. I know  
5 nothing about living in Cambodia as an adult.

6 **CRIMINAL CONVICTIONS AND VACATUR**

- 7 6. In 1994, when I was 21 years old, I pleaded guilty to second-degree commercial burglary  
8 in violation of California Penal Code Section 459 in San Diego Superior Court Case No.  
9  I did not understand that this plea could result in my deportation from the  
10 United States. My attorney never explained the immigration consequences to me because  
11 he said that I would not be deported because people were not being deported to Cambodia.  
12 I would not have plead guilty if I knew one day I would be deported.
- 13 7. In 1997, I pleaded guilty to a violation of Vehicle Code Section 10851(a) (joyriding) in  
14 San Diego Superior Court Case No.  Again, I did not understand the  
15 immigration consequences, and my attorney did not explain them to me.
- 16 8. Because of these convictions, I was ordered removed from the United States on July 10,  
17 1998, over 27 years ago. At that time, ICE officers told me I would not actually be  
18 deported because Cambodia was not accepting deportees back. I believed them and tried  
19 to live my life.
- 20 9. After I was detained in October 24, 2025 and realized I was actually going to be deported,  
21 I immediately sought to vacate my convictions based on ineffective assistance of counsel  
22 and lack of understanding of the immigration consequences.
- 23 10. On November 21, 2025, the San Diego Superior Court vacated and dismissed my  
24 conviction in Case No.  The court found "good cause appearing thereon due  
25 to procedural and substantive defects and constitutional infirmity" and ordered that my  
26 guilty plea be withdrawn. The People of the State of California then dismissed the case. A  
27 true and correct copy of this order is attached as Exhibit A to my Petition for Writ of  
28 Habeas Corpus. Attached to this declaration as Exhibit A, is a true and correct copy of

1 the order vacating my plea and dismissing my conviction.

2 11. On November 24, 2025, the San Diego Superior Court vacated and dismissed my  
3 conviction in Case No. [REDACTED] The court made the same findings regarding  
4 "procedural and substantive defects and constitutional infirmity" and ordered that my  
5 guilty plea be withdrawn. The People of the State of California then dismissed this case  
6 as well. A true and correct copy of this order is attached as Exhibit B to my Petition for  
7 Writ of Habeas Corpus. Attached to this declaration as Exhibit B, is a true and correct  
8 copy of the order vacating my plea and dismissing my conviction.

9 12. These two convictions were the only basis for my removal order. Now that they have been  
10 vacated, I believe my removal order should no longer be valid.

11 **CURRENT DETENTION AND IMMINENT REMOVAL**

12 13. For over 15 years, I was on supervised release with ICE. During all that time, I complied  
13 with every requirement. I reported as required, I followed all rules, and I never missed an  
14 appointment or violated any condition of my supervision.

15 14. On October 24, 2025, I was told to report to the ICE office at 880 Front Street, Second  
16 Floor, in San Diego for a regular check-in meeting.

17 15. When I arrived, instead of a normal check-in, ICE officers detained me and revoked my  
18 Order of Supervision. I was taken to the Otay Mesa Detention Center, where I remain  
19 detained today.

20 16. I have been detained continuously since October 24, 2025, for over five weeks.

21 17. I wrote on the revocation form that I am afraid to return to Cambodia. I explained that I  
22 have a U.S. citizen wife and that conditions in Cambodia have changed. I am genuinely  
23 fearful of what will happen to me if I am sent back to a country I do not know. A true and  
24 correct copy of the Revocation of Order of Supervision showing my statement is attached  
25 as Exhibit 1 to my Petition for Writ of Habeas Corpus.

26 18. Despite my clear expression of fear, ICE has refused to give me a reasonable fear interview  
27 or credible fear interview. When my attorney asked them to provide this interview as  
28 required by law, they said "orders come from above" and they cannot stop my removal.

1 19. I have not been given a bond hearing. I have not been brought before an Immigration  
2 Judge. No one has made an individualized determination about whether I am a flight risk  
3 or a danger to anyone.

4 20. ICE has told my attorney that they plan to deport me imminently, possibly within days.

5 **MOTION TO REOPEN**

6 21. On November 25, 2025, my attorney filed a Motion to Reopen my removal proceedings  
7 with the Immigration Court. This motion is based on the fact that both of my criminal  
8 convictions have been vacated.

9 22. My attorney also filed a Motion to Stay Removal on November 25, 2025.

10 23. My original removal order was issued by an Immigration Judge in Lancaster, California,  
11 but that court has since moved to Adelanto, California.

12 24. Because my case is old (from 1998), it is a "paper case" that must be retrieved from  
13 storage. The Immigration Court told my attorney it will take approximately 30 days to  
14 retrieve the file from storage before they can even begin to consider my Motion to Reopen.

15 25. ICE has refused to wait for the Immigration Court to decide my Motion to Reopen. They  
16 say they are going to deport me before the court can rule, even though the court doesn't  
17 even have my file yet.

18 **FAMILY TIES IN THE UNITED STATES**

19 26. I am married to a United States citizen. My wife depends on me for emotional and financial  
20 support.

21 27. I have two minor children who are United States citizens. They need their father. They  
22 have never known life without me, and they will be devastated if I am taken from them.

23 28. My entire family is in the United States. I have lived here for 46 of my 52 years. Everyone  
24 I know and love is here.

25 29. I have worked to support my family. I worked at my family's donut shop. I also worked  
26 for many years at DYE Precision, a paintball gun company in San Diego. They have told  
27 me they would be happy to have me back if I am released.

28 30. I have strong community ties, stable housing with my family, and every reason to stay in

1 the United States and fight my case. I have absolutely no reason to flee, and I am not a  
2 danger to anyone.

3 **FEAR OF RETURN TO CAMBODIA**

4 31. I am genuinely afraid to return to Cambodia. I know nothing about that country. I don't  
5 speak the language well. I have no family there, no job prospects, no home, and no support  
6 system.

7 32. I have read that Cambodia has passed new laws that make it very difficult for deportees  
8 returning from the United States. I have heard stories of deportees being mistreated and  
9 facing severe hardships.

10 33. I cannot survive in Cambodia. I would be completely alone in a country I have not seen  
11 since I was a small child.

12 34. If I am sent to Cambodia, I will lose everything: my wife, my children, my home, my job,  
13 and any chance at fighting my immigration case.

14 **IRREPARABLE HARM**

15 35. If I am deported before the Immigration Court can decide my Motion to Reopen and before  
16 this Court can decide my habeas petition, I will suffer irreparable harm that can never be  
17 fixed: a. I will be permanently separated from my wife and children. My children will  
18 grow up without their father. b. I will be unable to participate in my legal case. I will have  
19 no way to work with my attorney or appear at hearings. c. Even if I win my case later, I  
20 will never be able to get back the time I lose with my family. I will miss my children  
21 growing up. d. Even if I ultimately win, coming back to the United States from Cambodia  
22 will be extremely difficult or impossible. e. I may face danger, persecution, or severe  
23 hardship in Cambodia.

24 36. I am not asking to be released from custody at this time, although I believe I should be  
25 entitled to a bond hearing. I am simply asking this Court to stop my deportation until the  
26 legal system has a chance to decide whether my removal order is still valid now that my  
27 convictions have been vacated.

28 37. I have waited 27 years since my removal order was issued. ICE can wait a few more weeks

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or months to let the courts decide my case fairly.


38. It is not fair or just to deport me before: the Immigration Court can even retrieve my file from storage or decide my Motion to Reopen; ICE gives me the fear interview that the law requires; or this Court can decide whether my detention and removal violate the Constitution.

39. I am begging this Court to stop my deportation temporarily so that justice can be done. I am not asking for special treatment, just a fair chance to have my case heard before I am permanently exiled from the only country I have ever known.

40. All I want is the opportunity to stay with my family and have my day in court. That is all any person should ask for.

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

Executed on November 24, 2025, at San Diego, California.

  
\_\_\_\_\_  
THAT TOM NGAIM

# EXHIBIT A

1 Francisco J. Aldana (SBN 216388)  
2 3033 Fifth Avenue, Ste 201  
3 San Diego, California 92103  
4 Phone: 619-236-8355  
5 Email: fjaldana@aol.com

**FILED**  
San Diego Superior Court

NOV 21 2025

Clerk of the Superior Court  
By: C. Ami, Deputy

6 Attorney for Defendant

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
8 **COUNTY OF SAN DIEGO**

9  
10  
11 **PEOPLE OF THE STATE OF CALIFORNIA,**

12 Plaintiff,

13 vs.

14 **THAT TOM NGIAM**

15 Defendant.

Case No.: 

**MOTION TO WITHDRAW PLEA  
PURSUANT TO PENAL CODE  
SECTION §1018 AND PC §1473.7.**

[PC § 1018, §1473.7]

Hearing Date:  
Time:  
Department:

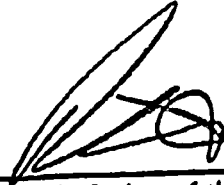
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19 After having reviewed the defendant's Motion Withdraw Plea, and for good cause  
20 appearing thereon due to procedural and substantive defects and constitutional infirmity.

21 **IT IS ORDERED that:**

22 The guilty plea is withdrawn.

23  
24 **IT IS SO ORDERED.**

25  
26 Dated: 11/21/25

  
Honorable Judge of the Superior Court  
**RODERICK W. SHELTON**



27 **CLERK'S CERTIFICATE**

The foregoing 1 page(s) is a true and correct copy of  the original  a copy on file with this office. It is  the entire document  an excerpt from a document.

11-21-25 Clerk of the Superior Court by [Signature] Page 12  
Date Deputy

**MOTION TO WITHDRAW PLEA**

# EXHIBIT B

Francisco J. Aldana (SBN 216388)  
3033 Fifth Avenue, Ste 201  
San Diego, California 92103  
Phone: 619-236-8355  
Email: fjaldana@aol.com

**FILED**  
San Diego Superior Court

NOV 24 2025

Clerk of the Superior Court  
By: C. Ami, Deputy

Attorney for Defendant

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO**

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

THAT TOM NGIAM

Defendant.

Case No.: 

**MOTION TO WITHDRAW PLEA  
PURSUANT TO PENAL CODE  
SECTION §1018 AND PC §1473.7.**

[PC § 1018, §1473.7]

Hearing Date:

Time:

Department:

After having reviewed the defendant's Motion Withdraw Plea, and for good cause appearing thereon due to procedural and substantive defects and constitutional infirmity,

IT IS ORDERED that:

The guilty plea is withdrawn.

IT IS SO ORDERED.

Dated: 11/24/25

  
\_\_\_\_\_  
Honorable Judge of the Superior Court

**RODERICK W. SHELTON**