

1 JASON A. RONIS (CSB 229628)  
FRANCISCO ALDANA (CSB216388)  
2 LAW OFFICES OF JASON A. RONIS  
3 105 F STREET, THIRD FLOOR  
SAN DIEGO, CALIFORNIA 92101  
4 619-236-8355  
JasonRonis@gmail.com  
5 Attorneys for Petitioner That Tom Ngiam

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

THAT TOM NGIAM,

Petitioner,

v.

KRISTI NOEM, Secretary of the  
Department of Homeland Security; et al.  
Respondents.

Case No. 25-cv-03405-TWR-BLM

**PETITIONER'S REPLY TO  
RESPONDENT'S "RETURN IN  
OPPOSITION TO PETITIONER  
FOR WRIT OF HABEAS  
CORPUS**

1 **THE COURT HAS JURISDICTION TO ORDER RESPONDENTS TO RELEASE HIM**  
2 **FROM HIS UNLAWFUL DETENTION**

3 1. Petitioner **THAT TOM NGIAM (Mr. Ngiam)** has asked this court to release him  
4 from his unlawful detention via his lawful right to writ of habeas corpus because his due process  
5 rights have been violated.

6 2. Mr. Ngiam was ordered removed from the United States Petitioner on July 10,  
7 1998, more than 27 years ago.

8 3. At the time of his removal Mr. Ngiam was told that he would not be deported as  
9 evidence by his supervised release. Not once was he told that at some point he would be  
10 immediately removed. This gave him a sense of security and so he sat on his rights. He did not  
11 appeal his removal; he did not contest his criminal pleas. This false sense of security given to  
12 him by Immigration and Customs Enforcement (now DHS) to Mr. Ngiam is a violation of his  
13 due process rights and therefore, it is a violation of law that he is being detained without this due  
14 process.

15 4. In their "Return in Opposition for Writ of Habeas Corpus" the government states  
16 that on "October 24, 2024,<sup>1</sup> ICE re-detained Petitioner to execute his renewal...and That same  
17 day, ICE provided Petitioner with a Notice of Revocation of Release and an Informal interview."  
18 (Return, p.2, par. 17)

19 5. The government fails to acknowledge that on that date, October 24, 2025, when  
20 he was provided that informal interview, Petitioner expressed fear of returning to Cambodia  
21 based on Country Conditions. Petitioner at that point was entitled to a reasonable fear interview.  
22 (See 8 C.F.R. Section 208.30 and 8 C.F.R Section 1208.30)

---

24 <sup>1</sup> The true date is October 24, 2025.

1           6.     Mr. Ngiam has to be referred to an asylum officer and if that officer finds his fear  
2 reasonable or credible, then he has to be referred to an immigration judge to determine whether  
3 or not he can be removed to Cambodia under the Convention Against Torture. A judge must  
4 determine if he is eligible for withholding of removal or deferral of removal.

5           7.     Since the government is not affording him his constitutional rights, and is not  
6 honoring the Nak Kim Chhoeun Settlement, Case No. 8:17-cv-01898-JWH (GJSx) in the Central  
7 District of California, his detention is illegal because the settlement provides for time for Mr.  
8 Ngiam, a class member time to try to set aside his convictions and reopen his case. (See Exhibit  
9 A, Chhoeun Settlement)

10          8.     Since Mr. Ngiam is detained in this district, he filed his Writ of Habeas in this  
11 district.

12           **MR. NGIAM DOES NOT HAVE ANY CRIMINAL CONVICTIONS AND TO NOT**  
13           **ALLOW HIM TIME TO REOPEN HIS CASE IS A VIOLATION OF THE NAK KIM**  
14           **CHHOEUN SETTLEMENT (8:17-cv-01898-JWH(GJSx))**

15          9.     When Mr. Ngiam was taken into custody and told he would be removed from the  
16 United States, he moved diligently to protect himself and enforce his constitutional rights. Mr.  
17 Ngiam petitioned the State Courts to vacate his previous guilty pleas to criminal charges against  
18 him based on procedure and substantive defects, and constitutional infirmity. Mr. Ngiam was  
19 successful and all three of his conviction were vacated and dismissed. (See Exhibit B)

20          10.    The government's removal order is now void as the underlying premise to order  
21 him removed no longer exists and hence his order of removal is void or voidable. The Chhoeun  
22 Settlement agreement states, "This Agreement is intended to replace the permanent injunction  
23 with an immediate notice to members of the Settlement Class, as defined herein, that they are  
24

1 subject to removal and can seek to reopen their removal proceedings if their circumstances or the  
2 law underlying their removal order has changed, or other grounds for reopening exist. (Exhibit  
3 A, Chhoeun Settlement, p. 1, par. 24)

4 11. It is true that the Immigration Judge denied Mr. Ngiam's fee waiver, not his  
5 motion to reopen. The Immigration Judge stated that, "respondent has zero income and zero  
6 expenses. No additional documentation was provided." The Immigration Judge ignored the fact  
7 that Mr. Ngiam stated in his request that he is detained and has no income in the Otay Detention  
8 Facility and has not expenses. Nonetheless, a family member has since paid for his filing fee of  
9 \$1,045, and his Motion to Reopen was refiled on December 9, 2025, and the Petitioner will file a  
10 new restraining order if this Honorable Court requires it.<sup>2</sup> (See Exhibit C)

11 12. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28  
12 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States  
13 Constitution (the Suspension Clause) because Mr. Ngiam is being detained unlawfully.

14 13. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory  
15 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651, and because  
16 Mr. Ngiam is seeking release of detention because he is illegally detained, to not afford him this  
17 right effectually suspends the writ of habeas corpus.

18 14. The government states it has worked diligently to remove Mr. Ngiam but it fails  
19 to explain why it has not removed him in 27 years.

20 **MR. NGIAM MUST BE AFFORDED DUE PROCESS**

21 15. Mr. Ngiam was told by Immigration and Customs Enforcement that he would not  
22 be removed from the United States.

23 \_\_\_\_\_  
24 <sup>2</sup> The new filing fees for many immigration petitions have risen dramatically. The motion to reopen filing fee was \$110.00 and it is now \$1,045.00.

1           16.     Since he believed he was not going to be removed, he did not contest any of his  
2 convictions. He did not appeal the order of removal entered in July of 2008.

3           17.     Since the government is now trying to remove him, it would only make sense  
4 under all notions of fairness and justice that he now be afforded the due process right and equal  
5 protection to be treated as if his order had just been entered and he be given the right to pursue  
6 his legal remedies. To not permit him to do so would be a violation of his due process rights.

7           18.     Mr. Ngiam was not afforded a defense in his removal proceedings at the time  
8 because he was promised that he would not be deported.

9           19.     Mr. Ngiam was a legal permanent resident and could have contested his removal  
10 but for the government telling him that he would not be removed.

11          20.     By lulling him into sitting on his rights, Mr. Ngiam's due process rights were  
12 violated, and this court has the authority to release him from detention because if his due process  
13 rights were violated, the order of removal is prohibited as a matter of law. Mr. Ngiam is now  
14 seeking review of that order.

15          21.     The Respondent state that this Court cannot enjoin them from removing Mr.  
16 Ngiam unless "the alien shows by clear and convincing evidence that the entry or execution of  
17 such order is prohibited as a matter of law. Here, Mr. Ngiam is averring that is the case for two  
18 reasons. The first reason is that he has not been given a reasonable fear interview as required by  
19 law. The second reason is because his order of removal was procured by false pretenses and the  
20 underlying convictions justifying his removal and the taking away of his legal permanent  
21 resident status no longer exist.

22          22.     The Respondents have not pointed to any case where Mr. Ngiam is not entitled to  
23 a reasonable fear interview as he expressed fear of returning to Cambodia.



