IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

Dang Cao Vu, Petitioner, v. Brian English, Warden, Miami Correctional Facility, Respondent.	C/A No.: 3:25-cv-00999-DRL-SJF

PETITION FOR A WRIT OF HABEAS CORPUS

Petitioner Dang Cao Vu ("Mr. Vu") entered the United States as a five-year-old refugee from Vietnam in 1985 and accorded lawful permanent residence. He was ordered removed, however, in 2002. Because Vietnam has never had and still does not have a repatriation agreement with the United States for Vietnamese nationals that resettled as refugees prior to 1995, after eight months in post-order immigration detention, there was no significant likelihood of Mr. Vu's removal in the reasonably foreseeable future and Mr. Vu was released from immigration detention on an order of supervised release.

For the next 23-years, Mr. Vu complied with the terms of his order of supervised release, married a United States citizen, had a United States citizen child with his wife, and built a successful business in his community in Boston, Massachusetts. Simply said, Mr. Vu grew up. And since his relief under *Zadvydas* he has had no interaction with law enforcement. Regardless, on May 20, 2025, Immigration and Customs Enforcement ("ICE") detained him again. He has now been detained unlawfully for 197 days. This Court should order his release for two independent reasons.

First, Respondent did not abide by its own regulations and processes to re-detain Mr. Vu on May 20, 2025. *See, e.g., N.A.L.R. v. Bondi*, No. 4:25-CV-00192-SEB-KMB, 2025 WL 2987239, at *2 (S.D. Ind. Oct. 23, 2025) (ordering immediate release of noncitizen who was re-detained in violation of ICE's own regulations). Courts around the country have repeatedly and consistently granted habeas petitions where ICE violated the terms of 8 C.F.R. § 241.13(i)(2)-(3). Courts around the country have rejected ICE's attempts to re-detain noncitizens without following these steps. *Nguyen v. Hyde*, — F. Supp. 3d. —, 2025 WL 1725791, at *3 (D. Mass. June 20, 2025) (granting habeas for unlawful re-detention); *Vu v. Herrera*, No. 8:25-cv-1905, ECF No. 17 (C.D. Cal. Sep. 3, 2025) (same); *Roble v. Bondi*, No. 25-CV-3196 (LMP/LIB), 2025 WL 2443453, at *3 (D. Minn. Aug. 25, 2025) (same); *Escalante v. Noem*, No. 9:25-CV-00182-MJT, 2025 WL 2206113, at *3 (E.D. Tex. Aug. 2, 2025) (same); *Hoac v. Becerra*, No. 2:25-cv-1740, 2025 WL 1993771, at *3 (E.D. Ca. Jul. 16, 2025); *Phan v. Becerra*, No. 2:25-cv-1757, 2025 WL 1993735, at *3 (E.D. Ca. Jul. 16, 2025) (same); *Tadros v. Noem*, No. 25-cv-4108, 2025 WL 1678501 (D. N.J. June 13, 2025) (same). ICE here failed to identify any change in circumstances, provide notice, or provide an informal interview before Mr. Vu's re-detention.

In the alternative, Mr. Vu's detention has not exceeded six months and Respondent has no evidence to support its claim that his removal is significantly likely in the reasonably foreseeable future under *Zadvydas*. First, the United States has no repatriation agreement with Vietnam for refugees who were admitted to the United States prior to 1995, and Mr. Vu was admitted as a refugee to the United States in 1985. Second, on June 30, 2025, Mr. Vu completed a Form I-217, Information for Travel Document or Passport. But upon information and belief, Vietnam denied it because, generally, Vietnam does not accept refugees that were admitted into the United States prior to 1995. Finally, ICE has yet to complete a six-month post-order custody review ("POCR")

in violation of its own regulations. ICE scheduled a six-month review for November 11, 2025, but it cancelled it the same day. Thus, because ICE cannot remove Mr. Vu to Vietnam and ICE has taken no steps to demonstrate its ability to remove Mr. Vu in the reasonably foreseeable future, Mr. Vu's continued detention is unlawful and he should be released immediately.

In light of Mr. Vu's unlawful detention, under 28 U.S.C. § 2243, this Court should: (1) enter an order to show cause requiring Respondent to file a return within 3 days, unless the government can show good cause, explaining why the writ should not be issued; (2) set a hearing—telephonic or in-person—within five days of Respondent's filing, unless good cause can be shown for additional time; and (3) grant a writ of habeas corpus ordering the Respondent to release the Petitioner immediately. Section § 2243 mandates this tight timeline because Petitioner is suffering through continued unlawful detention as other courts have determined under nearly identical circumstances. *Nguyen v. Hyde*, — F. Supp. 3d. —, 2025 WL 1725791, at *3 (D. Mass. June 20, 2025) (granting habeas for Vietnamese refugee based on unlawful re-detention); *Hoac v. Becerra*, No. 2:25-cv-1740, 2025 WL 1993771 (E.D. Ca. Jul. 16, 2025); *Phan v. Becerra*, No. 2:25-cv-1757, 2025 WL 1993735 (E.D. Ca. Jul. 16, 2025).

PARTIES

1. Petitioner Dang Cao Vu is currently detained at Miami Correctional Facility in Bunker Hill, Miami County, Indiana. Mr. Vu was born in South Vietnam.

2. Respondent Brian English is the Warden of Miami Correctional Facility. He is Petitioner's immediate custodian.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this case under 28 U.S.C. § 2241. And to the extent it involves additional questions deriving from federal law the Court also has jurisdiction under 28 U.S.C. § 1331.

4. This Court has jurisdiction to enter declaratory relief under the Declaratory Judgement Act, 28 U.S.C. § 2201, and it has jurisdiction to order Respondent to release Petitioner under 28 U.S.C. § 2241.

5. Venue is appropriate in this District and this Division because Respondent is detaining Mr. Vu in this District and Division.

6. Unlike petitions under 28 U.S.C. §§ 2254 & 2255, there are no exhaustion requirements for petitions challenging the lawfulness of ongoing detention under § 2241.

FACTS

7. Petitioner Dang Cao Vu ("Mr. Vu") was born in South Vietnam in 1979.

8. Before Mr. Vu was born, [redacted]

9. [redacted] the family escaped to Thailand, where they were accorded refugee status and resettled in the United States.

10. Mr. Vu acquired lawful permanent residency in the United States on June 6, 1985, when he was five years old.

11. Mr. Vu's family struggled to make ends meet in the United States.

12. Both of his parents were disabled, and Mr. Vu and his siblings were left to fend for themselves.

13. This troubled upbringing led to a criminal conviction for drug trafficking and possession of a firearm for Mr. Vu in 1998 when he was 18 years old.

14. Mr. Vu served approximately 2 and nine months in criminal custody.

15. When Mr. Vu was released from his criminal detention, U.S. Immigration and Customs Enforcement ("ICE") placed him in immigration detention. He received a final order of removal in 2002.

16. After approximately 8 months in ICE detention, ICE released Mr. Vu on an order of supervised release ("OSUP") because his removal was not significantly likely in the reasonably foreseeable future.

17. From 2002 to 2025, Mr. Vu complied with every term of his supervised release. He checked in with ICE every time it was required, he complied with all their requests, and he had no additional criminal conduct.

18. Rather, Mr. Vu thrived in his post-release life in the United States as a lawful permanent resident.

19. Mr. Vu married a U.S. citizen in May of 2008. The couple had a daughter. And the family opened a nail salon outside Boston, Massachusetts, that employed nine people. The family also purchased a tri-plex that they rent.

20. For the past twenty-three years, Mr. Vu has lived the American dream.

21. But on May 20, 2025, ICE arrested and re-detained Mr. Vu.

22. ICE may revoke an OSUP for two reasons: (1) the noncitizen "violates any of the conditions of release," 8 C.F.R § 241.13(i)(1); or (2) ICE "determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future" "on account of changed circumstances." *Id.* at § 241.13(i)(2).

23. If ICE revokes an OSUP for the latter reason, the regulation requires ICE to take certain steps:

> (2) *Revocation for removal.* The Service may revoke an alien's release under this section and return the alien to custody if, on account of changed circumstances, the Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future. Thereafter, if the alien is not released from custody following the informal interview provided for in paragraph (h)(3) of this section, the provisions of § 241.4 shall govern the alien's continued detention pending removal.
>
> (3) *Revocation procedures.* Upon revocation, the alien will be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification. The alien may submit any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision. The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.

8 C.F.R. § 241.13(i)(2)-(3).

24. The regulations require ICE to consider the following factors to determine whether removal is significantly likely in the reasonably foreseeable future:

> (f) *Factors for consideration.* The HQPDU shall consider all the facts of the case including, but not limited to, the history of the alien's efforts to comply with the order of removal, the history of the Service's efforts to remove aliens to the country in question or to third countries, including the ongoing nature of the Service's efforts to remove this alien and the alien's assistance with those efforts, the reasonably foreseeable results of those efforts, and the views of the Department of State regarding the prospects for removal of aliens to the country or countries in question. Where the Service is continuing its efforts to remove the alien, there is no presumptive period of time within which the alien's removal must be accomplished, but the prospects for the timeliness of removal must be reasonable under the circumstances.

8 C.F.R. § 241.13(f).

25. Here, Mr. Vu did not violate any condition of his OSUP. Thus, ICE did not revoke his OSUP under § 241.13(i)(1).

26. Rather, ICE revoked Mr. Vu's OSUP on account of "changed circumstances."

27. ICE provided no evidence of changed circumstances and none exists. While the revocation claimed

28. ICE did not provide Mr. Vu notice of the reasons for revocation in violation of § 241.13(i)(3).

29. ICE did not provide Mr. Vu an opportunity to respond to the reasons for revocation stated in the notification in violation of § 241.13(i)(3).

30. ICE did not give Mr. Vu an opportunity to submit any evidence or information that shows there is no significant likelihood he will be removed in the reasonably foreseeable future in violation of § 241.13(i)(3).

31. ICE did not conduct an evaluation of any contested facts relevant to the revocation in violation of § 241.13(i)(3).

32. And ICE never considered the factors at § 241.13(f) as part of any decision to revoke Mr. Vu's OSUP.

33. Upon information and belief, ICE claimed that the changed circumstances to revoke Mr. Vu's OSUP comprise a "recently entered into repatriation agreement with Vietnam" and a claim that "ICE has started to remove Vietnamese citizens to Vietnam consistent with that agreement." *See, e.g., Nguyen v. Hyde*, — F. Supp. 3d. —, 2025 WL 1725791, at *3 (D. Mass. June 20, 2025).

34. But there is no indication that Vietnam is able or willing to repatriate its own nationals who arrived in the United States as refugees prior to 1995.

35. There is a long history of Vietnam refusing to repatriate its nationals from the United States.

36. In 2008, the United States entered into a repatriation agreement with Vietnam, but the agreement did not apply to Vietnamese citizens who arrived as refugees in the United States prior to July 12, 1995. *See Nguyen*, 2025 WL 1725791 at *1.

37. Similarly, in 2020, the United States entered into a memorandum of understanding with Vietnam related to repatriation, but it is not binding and it does not apply to Vietnamese refugees who entered the United States prior to 1995.

38. Contrary to ICE's conclusory statements, there have been no change in circumstances that now render Mr. Vu's removal significantly likely in the reasonably foreseeable future.

39. Further, ICE can muster no evidence that any recent removals to Vietnam entered the United States as refugees prior to 1995.

40. Even when asked for this information specifically by a federal court, ICE's response came up short. *Nguyen*, 2025 WL 1725791 at *4.

41. ICE's claim on May 20, 2025, that there had been a change in circumstances that render Mr. Vu's removal likely is false.

42. The revocation claimed that "Your case is under current review by the Government of Vietnam for the issuance of a travel document." This was patently untrue because ICE did not ask Mr. Vu to complete and submit a travel document request to Vietnam until June 30, 2025, more than a month after he was detained.

43. Upon information and belief, ICE arbitrarily revoked Mr. Vu's OSUP and re-detained him to meet quotas for detention.

44. ICE claims it did a 90-day post order custody review but ICE never interviewed Mr. Vu or discussed it with him at all.

45. ICE then scheduled a six-month post order custody review for November 11, 2025.

46. Mr. Vu prepared a package and scheduled his lawyer to attend the meeting with him.

47. ICE simply did not hold the meeting. It cancelled and never rescheduled. To date, Mr. Vu has not had a six month custody review.

48. Mr. Vu has now been detained for 197 days.

49. Such detention is unlawful because ICE violated its own regulations and there remains no likelihood of his removal in the reasonably foreseeable future.

50. Further, his detention is now beyond 180 days and Mr. Vu's removal is not likely in the reasonably foreseeable future. This independently renders his detention unlawful.

51. This detention is harming Mr. Vu.

52. First, he is separated from his U.S. citizen wife and U.S. citizen daughter.

53. Second, his family had to sell their business to make ends meet without Mr. Vu at home.

54. Third, Mr. Vu has suffered serious mental anguish and depression from his detention. A fellow immigration detainee recently committed suicide at Moshannon Valley ICE Processing Center, where he was prior to being transferred to this facility, which has caused Mr. Vu serious stress, mental anguish and depression.

55. Fourth, Mr. Vu has a motion to reopen his removal order currently pending with the Board of Immigration Appeals.

56. Fifth, Mr. Vu currently has a motion to set aside his 1998 conviction for lack of adequate counsel.

57. Sixth, his detention is causing serious, irreparable harm to his U.S. citizen wife and teenage daughter.

58. Finally, he is being arbitrarily deprived of his freedom and liberty.

59. This Court should grant this habeas.

FIRST CAUSE OF ACTION
(Re-Detention in Violation of 8 C.F.R. § 241.13(i)(2))

60. Petitioner restates and realleges all allegations above as though restated here.

61. Mr. Vu is "in custody in violation of the Constitution or laws or treaties of the United States" because ICE's decision to re-detain Mr. Vu "is not in compliance with 8 C.F.R. § 241.13(f), (i)(2)." *Nguyen*, 2025 WL 1725791 at *5.

62. ICE is required to follow its own regulations. *Chong v. Dist. Dir., I.N.S.*, 264 F.3d 378, 389 (3d Cir. 2001) (citing *United States ex rel Accardi v. Shaughnessy*, 347 U.S. 260 (1954)).

63. Mr. Vu was released from ICE custody in 2002 on an order of supervised release ("OSUP").

64. He never violated a single term of the OSUP in 23 years.

65. To re-detain an individual who has been released on an OSUP, ICE must comply with 8 C.F.R. § 241.13(i).

66. ICE did not revoke Mr. Vu's OSUP and re-detain him because Mr. Vu violated the OSUP. Thus, 8 C.F.R. § 241.13(i)(1) is not relevant.

67. ICE revoked Mr. Vu's OSUP and re-detained him under § 241.13(i)(2) because ICE claims there has been a change in circumstances and Mr. Vu's removal is now significantly likely in the reasonably foreseeable future.

68. This determination, however, is invalid and illegal because:

a. There are no changed circumstances.

b. ICE did not provide Mr. Vu notice of the reasons for revocation in violation of § 241.13(i)(3).

c. ICE Did not provide Mr. Vu an opportunity to respond to the reasons for revocation stated in the notification in violation of § 241.13(i)(3).

d. ICE did not give Mr. Vu an opportunity to submit any evidence or information that shows there is no significant likelihood he will be removed in the reasonably foreseeable future in violation of § 241.13(i)(3).

e. ICE did not conduct an evaluation of any contested facts relevant to the revocation in violation of § 241.13(i)(3).

f. ICE never considered the factors at § 241.13(f) as part of any decision to revoke Mr. Vu's OSUP.

g. ICE failed to carry its burden to show that there has been a change in circumstances that would make Mr. Vu's removal significantly likely in the reasonably foreseeable future;

h. Mr. Vu's removal is not significantly likely in the reasonably foreseeable future because there is no evidence that Vietnam repatriates U.S. deportees who were resettled in the United States as refugees prior to 1995; and

i. There is no indication that Mr. Vu's removal is significantly likely in the reasonably foreseeable future to any third country because Mr. Vu has not been notified of any attempts to remove him to a third country and he has not had a chance to contest any removal to a third-country.

69. Mr. Vu's current detention is unlawful and, therefore, this Court should grant this habeas petition.

70. ICE will however argue that 8 C.F.R. § 241.4(l)(2) controls the revocation Mr. Vu's 2002 OSUP and, therefore, the legality of his current detention.

71. But § 241.4 does not apply if ICE releases a post-order detainee on an OSUP after determining that there is no significant likelihood of removal for that detainee in the reasonably foreseeable future:

> **(4) Service determination under 8 CFR 241.13.** The custody review procedures in this section do not apply after the Service has made a determination, pursuant to the procedures provided in 8 CFR 241.13, that there is no significant likelihood that an alien under a final order of removal can be removed in the reasonably foreseeable future. However, if the Service subsequently determines, because of a change of circumstances, that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future to the country to which the alien was ordered removed or to a third country, the alien shall again be subject to the custody review procedures under this section.

8 C.F.R. § 241.4(b)(4); *see also* 8 C.F.R. § 241.13(b)(1) (same).

72. In such a scenario, neither § 241.4 nor *Zadvydas* applies. *See Nguyen*, 2025 WL 1725791, at *3; *Escalante*, 2025 WL 22061113, at *3.

73. Rather, "ICE's decision to re-detain a noncitizen . . . who has been granted supervised release is governed by ICE's own regulation requiring (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); *Roble*, 2025 WL 2443453, at *3 ("Once ICE releases a noncitizen on an Order of Supervision, ICE's ability to re-detain that noncitizen is constrained by its own regulations. Relevant here, ICE may re-detain a noncitizen released on an Order of Supervision 'if, on account of changed circumstances, [ICE] determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future.' 8 C.F.R. § 241.13(i)(2)."); *Escalante*, 2025 WL 2206113, at *3 (E.D. Tex. Aug. 2, 2025) (same); *Hoac*, 2025 WL 1993771, at *3; *Phan*, 2025 WL 1993735, at *3 (same).

74. Here, Mr. Vu was released on an OSUP in 2002 because ICE could not remove him in the reasonably foreseeable future.

75. ICE therefore "made a determination" that Mr. Vu's removal was not likely in the reasonably foreseeable future and the provisions of § 241.4 "do not apply." 8 C.F.R. § 241.4(b)(4); *see also Ahmad v. Whitaker*, No. C18-287-JLR-BAT, 2018 WL 6928540, at *2 (W.D. Wash. Dec. 4, 2018), report and recommendation adopted, No. C18-287-JLR, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019) (holding this language in an OSUP triggers the revocation rights under § 241.13(i)).

76. The OSUP does not discuss any flight risk or danger to the community. And ICE has produced no evidence that Mr. Vu was released on an OSUP because ICE determined he was not a danger or flight risk.

77. Rather, ICE released him on an OSUP because, as a Vietnamese refugee admitted prior to 1995, ICE could not remove him in the reasonably foreseeable future. *Id.*

78. ICE will then argue that its notice of revocation satisfied §241.13(l)(2) because ICE has a new policy to try to remove detainees to a third-country.

79. First, ICE's change in policy—a newfound desire to seek third-country removal for Vietnamese refugees who were admitted prior to 1995—is not a factual change in circumstance that makes Mr. Vu's removal more or less likely in the reasonably foreseeable future.

80. If ICE's *belief* that it could not remove a noncitizen to a third country alone was sufficient, the regulation would be rendered meaningless because a noncitizen could never succeed under the provisions in § 241.13(l)(3) to rebut ICE's "belief."

81. Courts have now reviewed and rejected unsubstantiated claims that changed circumstances exist sufficient to revoke an OSUP. *See Nguyen*, 2025 WL 1725791, at *4.

82. If this Court condones this argument, ICE's "beliefs" would control whether a noncitizen's removal is significantly likely in the reasonably foreseeable future and condone indefinite detention. Rather, if there has been a finding that there is no likelihood of removal in the reasonably foreseeable future, ICE "must respond with evidence to rebut that showing," speculation, conjecture, policy changes, and "beliefs" are not evidence. *Zadvydas*, 533 U.S. at 701.

83. Second, the notice of revocation does not identify ICE's "belief" as a change in circumstances and the notice provides no other reasons, rendering it wholly inadequate. *Roble*, 2025 WL 2443453, at *3. The *Roble* court addressed ICE's boiler plate, notice of revocation only last week by reasoning:

> Besides merely parroting the regulatory text governing re-detention, ICE's notice to Roble provides zero reasons as to what changed circumstances exist such that Roble's removal is now significantly likely in the reasonably foreseeable future. The notice does not state, for example, that ICE had received or was seeking a travel document for Roble. Nor does the notice state—as the Government now asserts a month after Roble was detained—that ICE was attempting to find a third country to accept Roble. Rather, the notice summarily asserts that changed circumstances render Roble's removal from the U.S. significantly likely in the reasonably foreseeable future. That language is not individualized to Roble; in fact, it applies to any noncitizen detained under 8 C.F.R. § 241.13(i)(2), since the notice simply mirrors the legal standard applicable to detaining a noncitizen released on an Order of Supervision. Providing a notice that simply recites the language of the regulation does not satisfy the Government's obligation to provide the "reasons" why Roble's Order of Supervision was revoked.

Id. at *3 (internal citations omitted). The language here is even vaguer than that which *Roble* rejected. It is insufficient to satisfy § 241.13(l)(2).

84. Finally, ICE chose to provide no actual evidence that any circumstances have changed that would render Mr. Vu's removal likely in the foreseeable future.

85. It is telling that ICE has yet to identify a third country[1] where it would try to send Mr. Vu. If ICE cannot even identify a third country for Mr. Vu's removal, there can be no chance of his removal in the reasonably foreseeable future to a third country.

86. To this end, ICE has yet to make any requests of third countries to accept Mr. Vu, and it has not requested that Mr. Vu complete any travel document requests. ICE's unsupported statements in its response are simply not enough under § 241.13(i).

87. Mr. Vu's detention is unlawful and this Court should grant this habeas like dozens of other courts in similar cases.

SECOND CAUSE OF ACTION
(Unconstitutional Prolonged, Post-Removal Detention)

88. Petitioner restates and realleges all allegations above as though restated here.

89. After a noncitizen receives a final order of removal, ICE can detain them during the removal period and 90-days beyond without constitutional question. *Zadvyas v. Davis*, 533 U.S. 678 (2001).

90. However, once the removal period has ended, *Zadvydas* only permits civil immigration detention so long as the noncitizen's removal is significantly likely in the reasonably foreseeable future. Any moment beyond, the detention no longer serves the lawful, civil purpose, the detention becomes punitive, and the detention becomes unconstitutional.

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[1] ICE's authority to remove Mr. Vu to a third country is not unlimited. *See generally* 8 U.S.C. § 1231(b). It is further limited by ICE's lack of authority to remove a noncitizen to a country where his life or freedom would be threatened. 8 U.S.C. § 1231(b)(3). Further, the Court has noted that, while a third country's acceptance of a deportee is not required, the Immigration and Nationality Act provides such a deportee protections from removal to a country where they would "face persecution or other mistreatment in the country designated" by ICE. *Jama v. Immigr. & Customs Enf't*, 543 U.S. 335, 34 (2005). By noting these remedies prohibit removal to a third country, it is clear Mr. Vu is entitled to an opportunity to pursue them if/when ICE identifies a third country for removal.

91. Mr. Vu's removal period ended in 2002.

92. Mr. Vu has now been detained for 197 days, beyond the six months that is presumptively reasonable under Zadvydas.

93. Further, Mr. Vu complied with ICE's request to send travel document requests to Vietnam, and Vietnam denied the request. Mr. Vu has no passport because he entered the United States as a refugee. He is effectively stateless and, therefore, his removal is not significantly likely in the reasonably foreseeable future.

94. Thus, under *Zadvydas* and the U.S. Constitution, his detention becomes unconstitutional the moment there is no significant likelihood of his removal in the reasonably foreseeable future.

95. Mr. Vu cannot be removed to Vietnam. And ICE has taken no steps to remove Mr. Vu to a third country.

96. Thus, his current detention is unconstitutional because ICE cannot demonstrate there is a significant likelihood of his removal in the reasonably foreseeable future. It is not sufficient that Mr. Vu's removal *may* be possible; it must be significantly likely.

97. Because Mr. Vu's removal is not significantly likely in the reasonably foreseeable future, his current detention is unlawful.

PRAYER FOR RELIEF

98. Take jurisdiction over this case;

99. Issue an order to show cause to require Respondent to file a Return within 3 days and schedule a hearing within 5 days of Respondent's return;

100. Grant Petitioner's request and issue a writ of habeas corpus requiring Respondent to release Mr. Vu immediately;

101. Order Respondent to pay Petitioner's reasonable attorney's fees under the Equal Access to Justice Act or any other provision of law; and

102. Enter any other order that justice so requires.

December 3, 2025

Respectfully submitted,

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pro hac vice pending

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