

Gina Herrera  
Law student intern appearing pursuant to 8 C.F.R. 1292.1(a)(2)  
Law Offices of Robert G. Cummings  
2000 Broadway Street  
Redwood City, CA 94063  
415-283-9923

**DETAINED**

Robert G. Cummings  
Lead Attorney  
Law Offices of Robert G. Cummings  
2000 Broadway Street  
Redwood City, CA 94063  
650-363-7280

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO- OAKLAND DIVISION

VUONG, THIEN CHI,

Petitioner,

vs.

**ORESTES CRUZ**, Field Office Director,  
ICE/San Francisco;  
**TODD M. LYONS**, Acting director, United  
States Immigration and Customs Enforcement;  
**RON MURRAY**, Warden, Mesa Verde ICE  
Processing Center;  
**KRISTI NOEM**, Secretary of Homeland  
Security;  
**PAMELA JO BONDI**, Attorney General of the  
United States,  
Respondents.

Respondents .

Case No.

**EMERGENCY APPLICATION FOR  
TEMPORARY RESTRAINING  
ORDER  
AND ORDER FOR IMMEDIATE  
RELEASE UNDER FRCP 65(b)**

Petitioner Thien Chi Vuong has lived in the United States for nearly forty (40) years, since he lawfully entered in 1985. His family was permitted to migrate to the United States because his father fought for the U.S.-allied South Vietnamese Army (ARVN) during the Vietnam War one of the exact groups the United States later protected through humanitarian resettlement programs.

Petitioner grew up in this country, was raised in this country, and built his entire adult life here.

He has one non-violent conviction from 2007, for which he served his sentence. In the eighteen (18) years since, he has lived an unblemished, law-abiding life, demonstrating total rehabilitation. He became a business owner, employed U.S. workers, paid taxes every year, and became the primary emotional and financial support for his U.S. citizen family.

Today, Petitioner is in an ICE detention facility whose medical system has been found by this District and the Ninth Circuit to be dangerously inadequate, and he is suffering from:

- uncontrolled hypertension,
- diabetes,
- severe spinal disc herniations,
- nerve root compression,
- spinal stenosis, and
- daily neurological decline.

He is at imminent risk of a stroke, heart attack, diabetic crisis, paralysis, or death.

Meanwhile, the United States has been unable to remove him to Vietnam for over thirteen (13) years a country that does not accept individuals whose families fought against the communist government and alongside the United States.

Removal is not remotely foreseeable, yet ICE continues to detain him.

The Constitution does not permit this.

This Court's intervention is urgently required.

## I. INTRODUCTION

Petitioner respectfully moves for a Temporary Restraining Order (TRO) ordering his immediate release from ICE detention at Mesa Verde ICE Processing Center.

A TRO is necessary because:

1. Petitioner's medical conditions place him at a life-threatening level of danger, and Mesa Verde cannot treat or monitor him properly.
2. The government has been unable to remove him for 13+ years, and there is no realistic possibility of removal to Vietnam.
3. ICE's allegation of "refusal to cooperate" is false, contradicted by all evidence, and an improper pretext.

4. Under *Zadvydas v. Davis*, 533 U.S. 678 (2001), detention is unconstitutional when removal is not reasonably foreseeable.

5. Under *Winter v. NRDC*, 555 U.S. 7 (2008), the TRO standard is met:
- irreparable harm is immediate,
  - likelihood of success is overwhelming,
  - equities favor release,
  - public interest demands it.

## II. FACTUAL BACKGROUND

A. Petitioner Entered the United States Legally in 1985 as a Child Because His Father Fought for the U.S.

1. Petitioner entered the U.S. lawfully at age 9.
2. His father served in the U.S.–allied ARVN, which made his family eligible for U.S. protection.
3. Petitioner’s migration to the U.S. was directly tied to American military cooperation.
4. This fact also explains why Vietnam has refused to repatriate him.

B. Nearly Forty Years of U.S. Residence

5. Petitioner has lived in the U.S. since 1985 nearly four decades.
6. He is culturally, linguistically, and socially American.
7. His entire family is in the U.S. Including 3 U.S Citizen children.

C. 2007 Conviction and Total Rehabilitation

8. Petitioner had a single conviction in 2007, non-violent in nature.
9. He served his sentence.
10. He has had zero arrests, zero charges, zero incidents for 18 years.
11. He rebuilt his life in a remarkable way:
  - He opened a remodeling/construction business
  - He employs workers
  - He pays taxes
  - He financially supports his family
  - He has strong community ties

12. Multiple declarations describe him as responsible, peaceful, hardworking, and reliable.

D. Vietnam Has Not Accepted Him for 13+ Years

13. ICE attempted to remove him in 2011.
14. Vietnam did not issue a travel document.
15. Vietnam has not verified his nationality.
16. Vietnam routinely refuses repatriation of individuals from ARVN

families.

E. ICE Previously Recognized Removal Was Not Foreseeable

17. ICE released Petitioner under an Order of Supervision.
18. ICE issued C18 work authorization which only occurs for individuals

whose removal is not attainable.

19. Petitioner complied fully with supervision.

F. ICE's "Refusal to Cooperate" Accusation Is False

20. Petitioner submitted all paperwork.
21. Counsel responded immediately.
22. There is no refusal, and this accusation contradicts 13 years of prior

conduct.

G. Medical Emergency — Imminent Danger

23. Petitioner suffers from:
  - hypertension
  - diabetes
  - multiple spinal disc herniations
  - nerve root impingement
  - severe stenosis
24. MRI imaging shows risk of neurological collapse.
25. Mesa Verde cannot provide appropriate care.
26. The facility has a documented history of medical failures.

III. LEGAL STANDARD

A TRO requires:

1. Likelihood of success

2. Irreparable harm
3. Equities favor Petitioner
4. Public interest supports relief

All are met.

#### IV. ARGUMENT

##### A. Petitioner Faces Immediate, Irreparable Harm

Medical risk = death risk.

Cases:

- Zepeda-Rivas, 455 F. Supp. 3d 102
- Roman v. Wolf, 977 F.3d 935
- Fraihat, 445 F. Supp. 3d 709
- Helling, Farmer

Petitioner's spinal injuries + hypertension + diabetes = catastrophic risk.

Mesa Verde cannot provide needed care.

##### B. Petitioner Will Succeed on the Merits (Zadvydas)

Zadvydas prohibits detention when removal is not reasonably foreseeable.

Here:

- 13 years of failed removal
- ARVN family = Vietnam refusal
- C18 EAD = DHS concession
- ICE OSUP = DHS concession

Cases supporting release:

- Zadvydas
- Clark
- Nadarajah
- Diouf II
- Prieto-Romero
- Thai v. Ashcroft

##### C. Balance of Equities

Petitioner's life vs. DHS's speculative detention interest.

The balance heavily favors release.

D. Public Interest Supports Release

Preventing constitutional and medical harm is always in the public interest.

V. REQUEST FOR RELIEF

Petitioner asks this Court to:

1. Order immediate release within 24 hours.
2. Place Petitioner on an Order of Supervision.
3. Prohibit re-detention absent court order.
4. Grant any further relief deemed proper.

Respectfully submitted,

Date: December 3, 2025

/S/RobertG.Cummings  
Robert G. Cummings  
Attorney for Petitioner

Gina Herrera  
Law student intern appearing pursuant to 8 C.F.R. 1292.1(a)(2)  
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UNITED STATES DISTRICT COURT  
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**PATRICIA CABANILLAS**, Field Office  
Director, ICE/San Francisco;  
**GREGORY JARCHOW**, Warden, Mesa Verde  
ICE Processing Center;  
**ALEJANDRO MAYORKAS**, Secretary of  
Homeland Security;  
**MERRICK GARLAND**, Attorney General of  
the United States,  
Respondents.

Respondents.

Case No.

**MEMORANDUM OF POINTS &  
AUTHORITIES**  
IN SUPPORT OF EMERGENCY  
APPLICATION FOR TEMPORARY  
RESTRAINING ORDER

**MEMORANDUM OF POINTS & AUTHORITIES IN SUPPORT OF  
EMERGENCY APPLICATION FOR TEMPORARY RESTRAINING ORDER**

I. INTRODUCTION

This case presents an urgent and life-threatening constitutional crisis in immigration detention.

Petitioner Thien Chi Vuong, A# 027-743-168, lawfully entered the United States as a nine-year-old child in 1985, because his father fought alongside U.S. forces as a soldier in the Army of the Republic of Vietnam (ARVN). He has lived in the United States for nearly forty years, speaks English fluently, built a life here, raised his U.S. citizen children here, and developed every meaningful tie to this country.

In 2007, Petitioner was convicted of a non-violent financial offense. He took responsibility, served his sentence, and has lived eighteen (18) years without a single arrest, charge, or accusation. He rebuilt himself into a fully rehabilitated, hard-working, tax-paying business owner who provides employment, economic activity, and support to his entire family and community.

He poses no danger.

He poses no flight risk.

He has been an outstanding member of society for almost two decades.

Yet ICE is detaining him at Mesa Verde ICE Processing Center, a facility this District and the Ninth Circuit have repeatedly held provides inadequate and unsafe medical care, especially to individuals with chronic, life-threatening health conditions.

Petitioner suffers from:

- uncontrolled hypertension,
- Type 2 diabetes,
- multiple cervical disc herniations,
- lumbar disc herniations,
- nerve root compression, and
- severe spinal stenosis.

His MRI images show structural neurological injury requiring specialized care. Inside Mesa Verde, he has experienced dizziness, numbness, headaches, elevated blood pressure, uncontrolled glucose, and daily neurological symptoms all of which place him at imminent risk of:

stroke, heart attack, diabetic crisis, paralysis, or death.

Meanwhile, removal to Vietnam is not possible. For 13+ years, Vietnam has:

- refused to issue travel documents,
- refused to confirm nationality,
- refused to accept repatriation,

especially for the families of ARVN soldiers and individuals who were U.S.-aligned.

ICE knows this. ICE acknowledged this when it placed Petitioner on an Order of Supervision and issued C18 employment authorization, which is used only when removal is not reasonably foreseeable.

Despite this, ICE recently re-detained him and has even falsely accused him of “refusal to cooperate,” an allegation contradicted by every document and every prior attempt to remove him.

Petitioner satisfies every factor of *Winter v. NRDC*, 555 U.S. 7 (2008), for a TRO. Indeed, he exceeds them.

Immediate release is the only lawful remedy.

## II. LEGAL STANDARD FOR TEMPORARY RESTRAINING ORDER

Under Fed. R. Civ. P. 65(b), a TRO may issue when:

1. Petitioner is likely to succeed on the merits,
2. Petitioner faces immediate, irreparable harm,
3. The balance of equities tips sharply in Petitioner’s favor, and
4. An injunction is in the public interest.

*Winter v. NRDC*, 555 U.S. 7, 20 (2008).

The Ninth Circuit applies a sliding-scale approach:

A TRO may issue if serious questions exist and the balance of hardships tips sharply toward the plaintiff, as long as irreparable harm and the public interest are also satisfied.

*Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134–35 (9th Cir. 2011).

Petitioner far exceeds these standards.

## II. ARGUMENT

### A. PETITIONER FACES IMMEDIATE, IRREPARABLE HARM

(Medical Crisis; Risk of Stroke, Paralysis, or Death)

1. Mesa Verde has been judicially found to provide inadequate medical care

This District and the Ninth Circuit have repeatedly found that Mesa Verde:

- fails to adequately monitor chronic illnesses;
- delays necessary treatment;
- lacks capacity for serious medical conditions;
- presents constitutional risks to detainees.

Cases include:

- *Zepeda-Rivas v. Jennings*, 455 F. Supp. 3d 102 (N.D. Cal. 2020)
- *Roman v. Wolf*, 977 F.3d 935 (9th Cir. 2020)
- *Fraihat v. ICE*, 445 F. Supp. 3d 709 (C.D. Cal. 2020)
- *Hernandez v. Sessions*, 872 F.3d 976 (9th Cir. 2017)

In *Zepeda-Rivas* and *Roman*, the court emphasized that medically vulnerable detainees face heightened risk of severe harm due to staff shortages, monitoring failures, and inadequate medical response.

Petitioner is significantly more vulnerable than many detainees released in those cases.

## 2. Petitioner's medical conditions are severe and life-threatening

Petitioner suffers from:

- uncontrolled hypertension (high stroke risk),
- diabetes (risk of glucose crisis),
- cervical herniations (C3–C7),
- lumbar herniations (L4–S1),
- nerve root impingement,
- stenosis,
- neurological decline.

MRI imaging confirms structural spinal compromise.

These conditions require:

- frequent blood pressure monitoring,
- glucose monitoring,
- pain management,
- neurologic evaluation,
- specialist care.

Mesa Verde cannot provide this.

Failure to treat these conditions risks:

- stroke,
- myocardial infarction,
- permanent nerve damage,
- diabetic ketoacidosis,
- paralysis,
- death.

Federal courts have consistently held that medical danger constitutes irreparable harm:

- *Helling v. McKinney*, 509 U.S. 25 (1993)
- *Farmer v. Brennan*, 511 U.S. 825 (1994)
- *Roman*, supra
- *Zepeda-Rivas*, supra
- *Fraihat*, supra

Petitioner easily satisfies the irreparable harm standard.

**B. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS**

(Zadvydas; constitutional violations; removal impossible)

1. Removal is not reasonably foreseeable under Zadvydas

The Supreme Court held:

After six months, once removal is not reasonably foreseeable, continued detention violates due process.

*Zadvydas v. Davis*, 533 U.S. at 701.

Here, it has been thirteen years since ICE first attempted to remove Petitioner.

Vietnam has not:

- issued a travel document;
- confirmed nationality;
- accepted repatriation.

Vietnam also routinely refuses repatriation of:

- ARVN veterans, or
- their immediate family members.

This is well-documented and recognized by DHS itself.

Thus, under:

- Zadvydas
- Clark v. Martinez, 543 U.S. 371 (2005)
- Diouf II, 634 F.3d 1081 (9th Cir. 2011)
- Prieto-Romero, 534 F.3d 1053 (9th Cir. 2008)
- Nadarajah, 443 F.3d 1069 (9th Cir. 2006)

continued detention is unconstitutional.

2. ICE's "refusal to cooperate" allegation is false and legally insufficient

ICE claims Petitioner "refused to cooperate."

This is false:

- Petitioner completed all forms.
- Counsel responded immediately.
- Petitioner has cooperated for 13+ years.
- ICE previously recognized cooperation when issuing C18 EAD.

The Ninth Circuit holds:

The government may not circumvent Zadvydas by characterizing detainee conduct as "refusal" when removal is impossible regardless of cooperation.

Thai v. Ashcroft, 366 F.3d 790 (9th Cir. 2004)

In Nadarajah, the Ninth Circuit held that DHS cannot detain someone indefinitely due to problems of its own making.

Removal is impossible because of Vietnam, not because of Petitioner.

3. Petitioner's 2007 conviction does not justify ongoing detention

(18 years of rehabilitation; business; taxes; community ties)

Detention cannot be based on stale criminal history.

The Ninth Circuit held:

- Detention must be based on current risk, not old convictions. (Hernandez v. Sessions)
- Past criminal conduct does not justify indefinite civil detention. (Singh v. Holder)
- Long-term rehabilitation weighs heavily against detention. (Rodriguez v. Robbins)

Petitioner has 18 years of:

- no arrests,
- no police contact,
- stable employment,
- tax payments,
- business ownership,
- family support,
- community letters.

This proves he is not dangerous.

#### C. BALANCE OF EQUITIES STRONGLY FAVORS RELEASE

On Petitioner's side:

- danger of death
- constitutional violations
- family dependence
- inability to remove
- 40 years of U.S. residence
- 18 years without crime
- father helped U.S. military

On ICE's side:

- speculative interest in detention
- no removal prospects

Equities overwhelmingly favor Petitioner.

#### D. PUBLIC INTEREST SUPPORTS RELEASE

The Ninth Circuit repeatedly holds:

Preventing constitutional harm is always in the public interest.

Rodriguez, Hernandez, Roman, Zepeda-Rivas

Releasing medically vulnerable individuals is in the public interest.

#### IV. CONCLUSION

For all the above reasons, Petitioner respectfully requests that this Court:

1. GRANT the TEMPORARY RESTRAINING ORDER, and
2. ORDER IMMEDIATE RELEASE within 24 hours, subject to reasonable conditions.

Respectfully submitted,

Date: December 3, 2025

/S/RobertG.Cummings  
Robert G. Cummings  
Attorney for Petitioner

Gina Herrera  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO- OAKLAND DIVISION

VUONG, THIEN CHI,

Case No.

Petitioner,

**PETITION FOR WRIT OF HABEAS  
CORPUS UNDER 28 U.S.C. § 2241 AND  
COMPLAINT FOR DECLARATORY &  
INJUNCTIVE RELIEF**

vs.

**PATRICIA CABANILLAS**, Field Office  
Director, ICE/San Francisco;  
**GREGORY JARCHOW**, Warden, Mesa Verde  
ICE Processing Center;  
**ALEJANDRO MAYORKAS**, Secretary of  
Homeland Security;  
**MERRICK GARLAND**, Attorney General of  
the United States,  
Respondents.

Respondents.

**PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND  
COMPLAINT FOR DECLARATORY & INJUNCTIVE RELIEF**

Petitioner Thien Chi Vuong, through counsel, respectfully submits this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging the legality of his continued immigration detention in violation of the Fifth Amendment and *Zadvydas v. Davis*, 533 U.S. 678 (2001). Petitioner also seeks declaratory and injunctive relief.

## I. INTRODUCTION

Petitioner has lived in the United States for nearly forty years, after entering lawfully as a nine-year-old child in 1985 due to his father's military service on behalf of the United States-aligned South Vietnamese Army (ARVN) during the Vietnam War.

The United States resettled Petitioner's family because of their cooperation with U.S. forces. His upbringing, family, identity, work, community life, and nearly all connections are here in America.

Petitioner has one non-violent conviction from 2007. He took responsibility, served his sentence, rebuilt his life, and has lived eighteen (18) years with zero arrests or criminal behavior. He became a remodeling-business owner, generated legitimate income, paid taxes, employed local workers, and provided for his entire family.

He is a deeply rehabilitated, contributing member of society.

Yet ICE has detained him in Mesa Verde ICE Processing Center, despite his suffering from:

- uncontrolled hypertension
- diabetes
- severe cervical and lumbar disc herniations
- nerve root compression
- spinal stenosis
- neurological symptoms (numbness, dizziness, radiculopathy)

Mesa Verde has been found by this District and the Ninth Circuit to provide dangerously inadequate medical care.

Meanwhile, removal to Vietnam is not reasonably foreseeable. The government has attempted to remove Petitioner since 2011, for 13+ years, without success. Vietnam will not accept individuals whose families cooperated with the U.S.-allied ARVN forces—a well-documented phenomenon.

ICE previously released Petitioner under Order of Supervision and issued him C18 employment authorization, reflecting DHS's own finding that removal is not foreseeable.

Petitioner's detention is unconstitutional under:

- Zadvydas v. Davis
- Clark v. Martinez
- Diouf v. Napolitano (Diouf II)
- Prieto-Romero v. Clark
- Nadarajah v. Gonzales
- Thai v. Ashcroft

Given the life-threatening medical danger he faces, the impossibility of removal, and his decades-long rehabilitation, Petitioner must be released immediately.

## II. JURISDICTION & VENUE

1. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner challenges the legality of his detention.
2. Federal question jurisdiction also arises under 28 U.S.C. § 1331.
3. Petitioner seeks declaratory and injunctive relief under 5 U.S.C. § 706 and the Fifth Amendment.

Venue is proper in NDCA because:

4. The San Francisco ICE Field Office Director (Cabanillas) is a proper respondent whose custody decisions govern Petitioner's detention.
5. Removal decisions, medical supervision decisions, and release authority for Northern California detainees originate from the San Francisco ICE Field Office.
6. NDCA has repeatedly exercised jurisdiction over Mesa Verde cases under the "appropriately situated respondent" doctrine, including Zepeda-Rivas and Roman v. Wolf.
7. Venue is also proper under 28 U.S.C. § 1391(e) because Respondents are federal officials operating within this district.

## III. PARTIES

Petitioner:

THIEN CHI VUONG, A# 

Mesa Verde ICE Processing Center

Bakersfield, California

Respondents:

- Patricia Cabanillas – Field Office Director, ICE San Francisco

- Gregory Jarchow – Warden, Mesa Verde
- Alejandro Mayorkas – DHS Secretary
- Merrick Garland – Attorney General

#### IV. FACTUAL ALLEGATIONS

##### A. Petitioner Lawfully Entered the U.S. in 1985

— As a Child Whose Father Fought for the U.S.-Allied South Vietnamese Army

1. Petitioner entered the U.S. legally in 1985
2. His father fought for the Army of the Republic of Vietnam (ARVN), a U.S.-aligned military force during the Vietnam War.
3. The U.S. specifically resettled ARVN families under HO / ODP humanitarian programs.
4. Vietnam historically refuses repatriation of ARVN-associated individuals and their children.

##### B. Petitioner Has Lived in the United States for Nearly 40 Years

5. Petitioner has resided continuously in the U.S. since childhood.
6. His entire life—family, community, work, health care, and support network—is here.
7. He speaks English fluently and has minimal connection to Vietnam.

##### C. Petitioner Has U.S. Citizen Children, Parents, Siblings, and a Grandchild

8. Petitioner's immediate and extended family are all in the U.S.
9. He is a primary caregiver and source of support.

##### D. Petitioner's 2007 Conviction

— Followed by 18 Years of Perfect Rehabilitation

10. In 2007, Petitioner pled guilty to a non-violent financial offense.
11. He accepted responsibility and completed his sentence.
12. Since release, for 18+ years, Petitioner has had:
  - no arrests
  - no criminal charges
  - no police contact

13. Courts recognize that long-term rehabilitation eliminates detention justifications.

Cases: Rodriguez, Hernandez, Singh.

E. Petitioner Is a Business Owner, Taxpayer, and Outstanding Community Member

14. After completing his sentence, Petitioner rebuilt his life.

15. He founded and operated a construction/remodeling business.

16. He regularly paid federal and state taxes.

17. He employed U.S. residents.

18. Numerous declarations attest to his honesty, work ethic, and peaceful character.

19. He is seen as a provider, father, and pillar of stability.

F. Removal to Vietnam Is Not Reasonably Foreseeable

— 13+ Years of Failed DHS Attempts

20. DHS attempted to remove Petitioner beginning in 2011.

21. For over thirteen years, Vietnam has:

- not accepted him,
- not confirmed nationality,
- not issued travel documents.

22. DHS released him under an Order of Supervision.

23. DHS issued him C18 employment authorization, acknowledging removal is not foreseeable.

24. Petitioner fully complied with supervision.

G. ICE's "Refusal to Cooperate" Allegation Is False

25. ICE recently alleged Petitioner refused cooperation.

26. This is factually incorrect:

- Petitioner signed all documents provided
- Counsel responded promptly
- Petitioner has a long record of compliance
- Vietnam's refusal is unrelated to Petitioner

27. Courts reject "manufactured refusal" as a basis for detention.

Cases: Thai v. Ashcroft, Pelich v. INS, Nadarajah.

#### H. Petitioner Suffers From Life-Threatening Medical Conditions

28. Petitioner suffers from:
  - uncontrolled hypertension
  - Type 2 diabetes
  - multiple cervical herniations
  - multiple lumbar herniations
  - nerve root compression
  - stenosis
  - neurological decline
29. MRI imaging confirms structural damage.
30. Inside Mesa Verde, he has reported:
  - headaches
  - dizziness
  - numbness
  - neuropathy
  - pain
  - difficulty walking
31. Mesa Verde has been repeatedly found medically inadequate.
32. Petitioner is at immediate risk of stroke, diabetic crisis, paralysis, or death.

#### V. LEGAL CLAIMS

##### CLAIM 1 — UNCONSTITUTIONAL DETENTION

(Due Process, *Zadvydas v. Davis*)

Detention is permissible only when removal is reasonably foreseeable.

See *Zadvydas*, *Clark*, *Prieto-Romero*, *Diouf II*.

Here, removal has been impossible for 13+ years.

ICE cannot show significant likelihood of removal.

Detention is unconstitutional.

##### CLAIM 2 — PROLONGED DETENTION WITHOUT PROCESS

(Due Process – Procedural)

18 years of rehabilitation, strong community ties, and medical issues require individualized review under:

- Diouf II
- Singh v. Holder
- Hernandez v. Sessions

ICE has provided no bond hearing, no review, no process.

### CLAIM 3 — CONDITIONS OF CONFINEMENT VIOLATE DUE PROCESS

(Medical Danger; Helling; Farmer; Fraihat)

Detention at Mesa Verde exposes Petitioner to serious risk of death.

This violates:

- Helling v. McKinney (objective risk)
- Farmer v. Brennan (deliberate indifference)
- Roman v. Wolf
- Zepeda-Rivas

### CLAIM 4 — ICE'S REFUSAL-TO-COOPERATE DETERMINATION IS

UNLAWFUL

(Due Process & Zadvydas Standards)

ICE's allegation is:

- false
- unsupported
- a violation of due process
- legally irrelevant where removal is impossible

See Thai, Pelich, Nadarajah.

### VI. PRAYER FOR RELIEF

Petitioner requests:

1. Immediate release within 24 hours.
2. Supervision under 8 C.F.R. § 241.5.
3. Declaration that detention violates Zadvydas.
4. Declaration that detention violates the Fifth Amendment.
5. Prohibition of re-detention absent court approval.
6. Any other relief the Court deems proper.

### VII. VERIFICATION

Petitioner verifies under penalty of perjury that the facts herein are true and correct.

Respectfully submitted,

Date: December 3, 2025

/S/RobertG.Cummings  
Robert G. Cummings  
Attorney for Petitioner

**DECLARATION OF ROBERT G. CUMMINGS**

**Attorney for Petitioner SBN 204438**

I, Robert G. Cummins, hereby declare:

1. I am an attorney licensed to practice law in the State of California (SBN 204438). I am the principal attorney of the Law Offices of Robert G. Cummings, located at 2000 Broadway Street, Redwood City, CA 94063. I represent Petitioner Thien Chi Vuong in this matter.

2. I make this declaration in support of Petitioner's Emergency Application for a Temporary Restraining Order and Petition for a Writ of Habeas Corpus.

3. I have reviewed all available immigration, medical, family, and background documents pertaining to Mr. Vuong, and I have personally communicated with Petitioner's family and reviewed MRI imaging, medical evaluations, immigration records, and ICE correspondence.

**PETITIONER'S BACKGROUND: U.S. ENTRY DUE TO FATHER'S MILITARY SERVICE**

4. Petitioner lawfully entered the United States on June 2, 1985, at nine years old, due to his father's military service for the Army of the Republic of Vietnam (ARVN)—the U.S.-aligned South Vietnamese military during the Vietnam War.

5. This military service is well documented as a basis for humanitarian resettlement due to persecution by the post-war Communist government, and this is why Petitioner's family was admitted to the United States.

6. Individuals from ARVN families—particularly children of U.S.-aligned soldiers—face significant repatriation resistance from the Socialist Republic of Vietnam. In my experience representing many Vietnamese nationals, Vietnam routinely refuses travel documents for such individuals.

**PETITIONER'S 2007 CONVICTION AND COMPLETE REHABILITATION**

7. Petitioner was convicted in 2007 for a non-violent, financial offense relating to real estate. He served his sentence, accepted responsibility, and there is no record of violence or any threat to the community.

8. Since completing his sentence, Petitioner has had no arrests, no charges, and no criminal conduct whatsoever for eighteen (18) years.

9. In my professional experience, this is extraordinary rehabilitation — a level of transformation and stability that the Ninth Circuit recognizes as eliminating any basis for civil detention in immigration matters. (See *Hernandez v. Sessions*, *Singh v. Holder*, *Rodriguez v. Robbins*.)

#### PETITIONER'S BUSINESS OWNERSHIP, TAX PAYMENTS, AND COMMUNITY CONTRIBUTIONS

10. After rehabilitating, Petitioner founded and operated a legitimate, fully licensed construction/remodeling business, generating steady income, paying taxes, employing workers, and contributing economically to his community.

11. Petitioner consistently filed tax returns and maintained business records, invoices, insurance, licenses, and worker payments.

12. Numerous declarations from clients, family, and community members confirm his reputation as honest, hardworking, and trustworthy.

13. Petitioner has been the primary caregiver and financial support for his aging parents, U.S. citizen children, and extended family.

#### PETITIONER'S MEDICAL EMERGENCY

14. I reviewed Petitioner's MRI imaging, medical reports, and declarations describing his symptoms. He suffers from:

- severe hypertension,
- Type 2 diabetes,
- multiple cervical spinal disc herniations,
- lumbar disc herniations,
- nerve root impingement,
- and stenosis.

15. His MRI indicates structural spinal disease requiring specialist care, urgent neurological monitoring, and consistent medication management.

16. He reports daily symptoms: numbness, weakness, dizziness, headaches, sharp nerve pain, and difficulty walking — all of which are red flags for stroke or irreversible nerve injury.

17. In my experience litigating detention cases, Mesa Verde ICE Processing Center is incapable of adequately treating these conditions.

18. This District and the Ninth Circuit have repeatedly held that Mesa Verde's medical care is constitutionally inadequate, including:

- Zepeda-Rivas v. Jennings, 455 F. Supp. 3d 102 (N.D. Cal. 2020)
- Roman v. Wolf, 977 F.3d 935 (9th Cir. 2020)
- Fraihat v. ICE, 445 F. Supp. 3d 709 (C.D. Cal. 2020)

#### VIETNAM'S REFUSAL TO REPATRIATE PETITIONER

19. Petitioner has been under a final order of removal since approximately 2011.

20. For over thirteen (13) years, Vietnam has never accepted him.

21. ICE previously placed him under an Order of Supervision and issued him C18 work authorization, confirming removal was *not reasonably foreseeable*.

22. Petitioner fully complied with supervision.

#### ICE'S FALSE "REFUSAL TO COOPERATE" ALLEGATION

23. ICE recently alleged Petitioner "refused to cooperate."

24. That allegation is contradicted by:

- Petitioner's completion of all forms,
- counsel's immediate response to ICE,
- Petitioner's compliance for 13+ years,
- DHS's prior issuance of a C18 EAD,
- and the fact that Vietnam's refusal has nothing to do with Petitioner's

conduct.

25. This type of unsupported allegation cannot lawfully justify detention under *Zadvydas*, *Thai v. Ashcroft*, or *Nadarajah v. Gonzales*.

#### PETITIONER FACES IMMINENT, IRREPARABLE HARM

26. Petitioner's medical conditions place him at imminent risk of:

- stroke
- heart attack
- diabetic crisis
- spinal nerve damage
- paralysis
- death

27. Mesa Verde is not equipped for his urgent medical needs.

CONCLUSION

28. Petitioner poses no danger, no flight risk, and removal is impossible.

29. Continued detention is life-threatening and unconstitutional.

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

Executed on December 3, 2025

Fremont, California

/S/RobertGCummings  
Robert G. Cummins  
Attorney for Petitioner

**DECLARATION OF GINA HERRERA**

**Law Student under supervision, Law Offices of Robert G. Cummings**

I, Gina Herrera, declare:

1. I am a supervised law student assisting in the representation of Petitioner.
2. I have communicated extensively with Petitioner's family regarding his health, background, immigration history, and compliance.
3. I reviewed tax documents, business licenses, invoices, MRI records, medical documents, and letters of support for Petitioner.
4. Petitioner operates a legitimate construction/remodeling business. Records show years of tax filings, client invoices, and proof of work.
5. I reviewed declarations from multiple family members confirming Petitioner's role as a primary provider and caregiver.
6. I reviewed MRI reports indicating:
  - o disc herniations,
  - o nerve compression,
  - o spinal stenosis.
7. I personally reviewed ICE's allegation of "refusal to cooperate."
8. The documents show Petitioner signed all required forms.
9. Counsel responded timely to ICE.
10. The family confirmed Petitioner has always cooperated.
11. I reviewed consular evidence showing Vietnam has never issued a travel document in 13+ years.
12. Family confirmed Petitioner's father fought for the U.S.-aligned ARVN, a group persistently rejected for repatriation by Vietnam.
13. Family reported Petitioner's worsening health inside detention.
14. They fear he could suffer catastrophic medical harm.

I declare under penalty of perjury the foregoing is true and correct.

Executed December 3, 2025

San Francisco, CA

/S/GinaHerrera  
Gina Herrera  
Law Student, Law Offices of Robert G. Cummings

**DECLARATION OF PETITIONER THIEN CHI VUONG**

I, Thien Chi Vuong, declare under penalty of perjury:

1. I entered the United States legally in 1985 at age 9, because my father fought for the South Vietnamese Army alongside the United States.
2. I have lived in the United States for nearly 40 years.
3. I have one conviction from 2007. I served my sentence and since then have had no arrests or problems for almost 18 years.
4. I started and operated my own construction and remodeling business. I paid taxes and supported my family.
5. I have children, siblings, and parents who depend on me.
6. I suffer from severe medical problems including hypertension, diabetes, spinal herniations, and nerve damage.
7. I experience numbness, dizziness, headaches, and weakness in detention.
8. I am not receiving the medical care I need.
9. I completed all travel document forms. I never refused to cooperate with ICE.
10. Vietnam has not accepted me for many years.
11. I fear I will die or become paralyzed if I remain in detention.
12. I want to continue supporting my family and receive proper medical care outside of custody.

Executed under penalty of perjury on December 3, 2025.

Mesa Verde ICE Processing Center

/S/ThienChiVuong  
Thien Chi Vuong  
Petitioner

### DECLARATION OF MY NGOC VUONG

I, My Ngoc Vuong, declare:

1. I am the younger sister of Petitioner Thien Chi Vuong. I make this declaration in support of his Emergency Motion for Temporary Restraining Order and Petition for Writ of Habeas Corpus.

2. Our family has lived in the United States since 1985. Thien has always been a devoted son, brother, and father. He checks in on all of us regularly, especially our elderly parents who are now in their late seventies. He takes care of repairs in our homes, helps us when we need support, and plays a central emotional role in keeping our family together.

3. His arrest and detention have devastated us. We had just discussed our family Thanksgiving plans days before he was detained, and it is heartbreaking to imagine holidays without him. His absence has created a significant emotional and practical void in our family.

4. During multiple phone calls with Thien while he has been detained, he described dangerous and inadequate medical care.

5. In a phone call on November 29, 2025, at approximately 1:34 PM, he told me that since his detention on November 16, 2025, ICE medical staff were supposed to administer his medications three times per day, including medication for high blood pressure, high cholesterol, allergies, Type 2 diabetes, and chronic pain.

6. However, he reported that these medications are not being consistently provided, that certain pills appear to have been changed without explanation, and that some medications are less effective or entirely unavailable.

7. For example, on Monday, November 24, 2025, at around 3:00 PM, a male nurse refused to give him his medications. He waited four hours until approximately 7:00 PM before receiving them—yet instead of pain medication, he was given three high blood pressure pills, which he identified as incorrect.

8. On Tuesday, November 25, 2025, staff told him that they were “out of pain medication,” leaving him without pain management for the rest of the week.

9. On Friday, November 28, 2025, around 9:30 AM, Thien told me that ICE officers (identified as Officer M. Long and Officer Treadwell) refused to allow him to return to his housing area for his routine medications, even though other detainees were permitted to go back.

10. He was held in a place called a “holding tank” for approximately 2.5 hours, during which time his medical needs were ignored.

11. Thien suffers from severe chronic neck and back pain, which he described as “hurting like hell.” He did not receive any pain medication until around 1:15 PM, after he reported severe pain to a nurse.

12. His chronic medical conditions include:

- High blood pressure
- High cholesterol
- Type 2 diabetes
- Chronic neck and lower back pain
- Environmental allergies
- Blurred vision

13. In a call on November 30, 2025, Thien reported that he has blurred vision because he has not received his prescribed medicated eye drops (VIZZ) for presbyopia. Instead, he was given only over-the-counter Visine, which does not treat the underlying condition.

14. He also explained that his diabetic medication appears inadequate, and uncontrolled diabetes may be worsening his vision.

15. Thien described the diet provided in detention as unsafe for someone with diabetes and hypertension. Meals often include high-sugar or high-salt foods such as pancakes with syrup, peanut butter and jelly sandwiches, hot dogs, and burritos.

16. He receives “half meals” that are not nutritionally appropriate.

17. He explained that these foods, especially high-sodium processed meats and sugary items, put his health at further risk.

18. I am extremely worried that my brother will suffer a stroke, diabetic crisis, heart event, or permanent nerve damage if he remains in ICE custody.

19. Thien is fully rehabilitated, peaceful, responsible, and dedicated to his family. We need him home urgently.

20. If released, I will personally assist him with medical appointments, transportation, and compliance with any ICE requirements.

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

Executed on Demceber 3, 2025

San Francisco, California

/S/MyNgocVuong  
My Ngoc Vuong  
Sister of Petitioner



**DECLARATION OF JUSTIN TRUNG VUONG (Son)**

I, Justin Trung Vuong, declare:

1. I am the eldest son of Petitioner Thien Chi Vuong. I make this declaration in support of my father's emergency request for release.

2. My father has been a constant presence in my life. He raised me to be strong, honest, and responsible. Even during the hardest times in his own life, he always did his best for me and for my siblings.

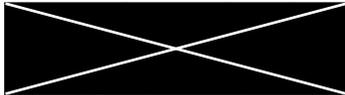
3. When I was struggling with depression, I remember that he showed up at my home with tears in his eyes. He apologized for anything he felt he'd done wrong, listened to me, supported me, fed me, and helped me handle my responsibilities. That moment demonstrated how deeply he loves and cares for his family.

4. My father is someone I rely on for emotional guidance, encouragement, support, and direction.

5. He is not a dangerous person. He is responsible, kind, and dedicated.

6. Our family is suffering without him.

7. If he is released, he will live with me at:



8. I will personally ensure he attends every ICE check-in, meets all requirements, and complies with supervision.

9. I deeply miss my father and fear for his health inside detention.

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

Executed on December 3, 2025

San Jose, California

/S/JustinTrungVuong  
Justin Trung Vuong  
Son of Petitioner



Gina Herrera  
Law student intern appearing pursuant to 8 C.F.R. 1292.1(a)(2)  
Law Offices of Robert G. Cummings  
2000 Broadway Street  
Redwood City, CA 94063  
415-283-9923

**DETAINED**

Robert G. Cummings  
Lead Attorney  
Law Offices of Robert G. Cummings  
2000 Broadway Street  
Redwood City, CA 94063  
650-363-7280

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO- OAKLAND DIVISION

VUONG, THIEN CHI,

Petitioner,

vs.

**PATRICIA CABANILLAS**, Field Office  
Director, ICE/San Francisco;  
**GREGORY JARCHOW**, Warden, Mesa Verde  
ICE Processing Center;  
**ALEJANDRO MAYORKAS**, Secretary of  
Homeland Security;  
**MERRICK GARLAND**, Attorney General of  
the United States,  
Respondents.

Respondents.

Case No.

**PROPOSED] TEMPORARY  
RESTRAINING ORDER  
AND ORDER FOR IMMEDIATE  
RELEASE**

Before the Court is Petitioner Thien Chi Vuong's Emergency Application for a  
Temporary Restraining Order seeking his immediate release from ICE civil detention pursuant to  
Fed. R. Civ. P. 65(b) and 28 U.S.C. § 2241.

Having considered the Petition, supporting declarations, medical evidence, immigration records, applicable law, and the urgent and undisputed medical risks at issue, the Court FINDS as follows:

## FINDINGS

### 1. Immediate and Irreparable Harm

The Court finds Petitioner is suffering from:

- uncontrolled hypertension;
- Type 2 diabetes;
- multiple cervical and lumbar disc herniations;
- nerve root compression;
- spinal stenosis;
- blurred vision;
- chronic neurological symptoms.

The evidence shows Mesa Verde's medical system is incapable of providing adequate care, placing Petitioner at risk of stroke, heart attack, diabetic crisis, paralysis, or death.

Irreparable harm is established under *Helling v. McKinney*, *Farmer v. Brennan*, *Zepeda-Rivas v. Jennings*, *Roman v. Wolf*, and *Frailhat v. ICE*.

### 2. Likelihood of Success on the Merits

The Court finds Petitioner has demonstrated a strong likelihood of success under:

- *Zadvydas v. Davis*, 533 U.S. 678 (2001)
- *Clark v. Martinez*, 543 U.S. 371 (2005)
- *Nadarajah v. Gonzales*, 443 F.3d 1069 (9th Cir. 2006)
- *Diouf v. Napolitano (Diouf II)*, 634 F.3d 1081 (9th Cir. 2011)
- *Prieto-Romero v. Clark*, 534 F.3d 1053 (9th Cir. 2008)

The United States has been unable to remove Petitioner to Vietnam for over thirteen (13) years, and there is no significant likelihood of removal in the reasonably foreseeable future.

The Court also finds ICE's "refusal to cooperate" allegation unsupported in the record and legally insufficient.

### 3. Balance of Equities

Petitioner faces life-threatening medical danger.

ICE has no significant interest in detaining a non-dangerous, medically fragile individual who has been fully rehabilitated for over 18 years and whose removal cannot be effectuated.

The equities weigh strongly in Petitioner's favor.

#### 4. Public Interest

The public interest is served by preventing constitutional violations and preventing severe medical harm or death in civil immigration detention.

IT IS HEREBY ORDERED:

1. Petitioner THIEN CHI VUONG shall be released from ICE custody within twenty-four (24) hours of this Order.
2. Respondents may release Petitioner on appropriate conditions of supervision under 8 C.F.R. § 241.5.
3. Respondents are enjoined from re-detaining Petitioner unless and until they obtain leave of this Court.
4. Respondents shall immediately ensure Petitioner's medications and medical records are provided to him upon release.
5. The Court retains jurisdiction to enforce this Order.

IT IS SO ORDERED.

Date: \_\_\_\_\_

Hon.  
United States District Judge  
Northern District of California

Gina Herrera  
Law student intern appearing pursuant to 8 C.F.R. 1292.1(a)(2)  
Law Offices of Robert G. Cummings  
2000 Broadway Street  
Redwood City, CA 94063  
415-283-9923

**DETAINED**

Robert G. Cummings  
Lead Attorney  
Law Offices of Robert G. Cummings  
2000 Broadway Street  
Redwood City, CA 94063  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO- OAKLAND DIVISION

VUONG, THIEN CHI,

Petitioner,

vs.

**PATRICIA CABANILLAS**, Field Office  
Director, ICE/San Francisco;  
**GREGORY JARCHOW**, Warden, Mesa Verde  
ICE Processing Center;  
**ALEJANDRO MAYORKAS**, Secretary of  
Homeland Security;  
**MERRICK GARLAND**, Attorney General of  
the United States,  
Respondents.

Respondents.

Case No.

**[PROPOSED] ORDER GRANTING  
WRIT OF HABEAS CORPUS  
AND ORDER FOR IMMEDIATE  
RELEASE**

**[PROPOSED] ORDER GRANTING WRIT OF HABEAS CORPUS AND ORDER FOR  
IMMEDIATE RELEASE**

The Court has reviewed the Petition for a Writ of Habeas Corpus, supporting evidence, declarations, and all filings.

The Court FINDS:

1. Petitioner's detention violates the Due Process Clause.
2. Removal to Vietnam is not reasonably foreseeable, as required under *Zadvydas v. Davis*.
3. ICE has failed to show any lawful basis for continued detention.
4. Petitioner suffers from severe medical conditions incompatible with civil detention.

5. Petitioner has demonstrated profound rehabilitation and poses no danger or flight risk.

6. Continued detention would violate controlling Ninth Circuit precedent including:

- Nadarajah v. Gonzales,
- Diouf II,
- Prieto-Romero,
- Hernandez v. Sessions,
- Singh v. Holder.

IT IS HEREBY ORDERED:

1. The Petition for Writ of Habeas Corpus is GRANTED.
2. Respondents shall IMMEDIATELY RELEASE Petitioner Thien Chi Vuong from ICE custody.
3. Respondents shall place Petitioner under reasonable conditions of supervision under 8 C.F.R. § 241.5.
4. Respondents shall not re-detain Petitioner without express authorization from this Court.
5. This Court retains jurisdiction over enforcement and compliance.

IT IS SO ORDERED.

Date: \_\_\_\_\_

Hon.  
United States District Judge  
Northern District of California