UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

Tai Tan Huynh,

Petitioner,

v.

Warden, Baker Correctional Institution; Garrett Ripa, Field Office Director, Miami Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations; Todd Lyons, Acting Director, U.S. Immigration and Customs Enforcement; Kristi Noem, Secretary, U.S. Department of Homeland Security; Pamela Bondi, Attorney General of the United States,

Respondents.

Case No: 3:25-cv-1536

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. This case challenges the unlawful detention of Tai Tan Huynh, who is currently in the custody of Immigration and Customs Enforcement ("ICE") at the Baker Correctional Institution in Sanderson, Florida. Petitioner, a native and citizen of Vietnam, came to the United States as a refugee in 1992 when he was child. Petitioner is a devoted husband to his U.S.-citizen wife, and a loving father of four U.S.-citizen children—one of whom is an active-duty member of the United States

Air Force. Petitioner is neither a flight risk nor a danger to the community. Indeed, Respondents themselves released him from immigration custody two decades ago.

2. Petitioner was ordered removed in 2003 following a conviction in 1999 for reckless discharge of a firearm. However, he could not be removed to Vietnam based on the Vietnamese government's refusal to repatriate its nationals.

3. To this day, Petitioner's removal to Vietnam is not reasonably foreseeable.

4. For nearly two decades, Petitioner has consistently attended his required check-ins with immigration officials and has complied with ICE requests relating to procuring travel documents as required by his order of supervision.

5. Nevertheless, on June 14, 2025, ICE detained him at a routine check-in, and he has now been unlawfully detained for over six months. Petitioner was provided with no justification for his detention, nor any notice or opportunity to contest his re-detention.

6. Petitioner's continued detention violates 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), because his removal is not reasonably foreseeable. Despite Petitioner's efforts to secure a Vietnamese passport, the government of Vietnam has not issued him one—a reality known to ICE, and one that is consistent with the Vietnamese government's

longstanding refusal to accept Vietnamese nationals like Mr. Huynh who arrived in the United States before 1995.

7. Respondents' actions depriving Petitioner of his liberty violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution, the Immigration and Nationality Act ("INA") and implementing regulations, the Administrative Procedure Act ("APA"), and the *Accardi* doctrine, which obligates administrative agencies to follow their own rules, procedures, and instructions.

8. Petitioner brings this action seeking the Court to order Respondents to release Petitioner because his prolonged detention is unlawful and his re-detention constituted a violation of his due process rights.

JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 2201 (declaratory relief).

10. Venue is proper in the Middle District of Florida pursuant to 28 U.S.C. § 2241 because Petitioner is detained at the Baker Correctional Institution in Sanderson, Florida, which sits within this Court's jurisdiction.

REQUIREMENTS OF 28 U.S.C. § 2243

11. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to the respondents "forthwith," unless the petitioner is

not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

12. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

PARTIES

13. Petitioner TAI TAN HUYNH is a native and citizen of Vietnam who entered the United States as a refugee in 1992 as part of the Orderly Departure Program ("ODP"), an international refugee settlement program implemented after the Vietnam War. He is currently detained in ICE custody at the Baker Correctional Institution located in Sanderson, Florida.

14. Respondent WARDEN, Baker Correctional Institution, is the official responsible for overseeing the facility where Petitioner is currently detained. The individual who occupies this position is not publicly disclosed. This Respondent is a legal custodian of Petitioner and is sued in his or her official capacity.

15. Respondent GARRET RIPA is sued in his official capacity as the ICE Field Office Director for the Miami Office of Enforcement and Removal Operations.

The Miami Field Office is the Field Office that oversees the Baker Correctional Institution, where Petitioner is currently detained. Respondent Ripa is a legal custodian of Petitioner.

16. Respondent KRISTI NOEM is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security ("DHS"). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees ICE, the component agency responsible for Petitioner's detention. Respondent Noem is a legal custodian of Petitioner.

17. Respondent PAMELA BONDI is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice ("DOJ"). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review ("EOIR"), which administers the immigration courts and the Board of Immigration Appeals. Respondent Bondi is a legal custodian of Petitioner.

LEGAL FRAMEWORK FOR IMMIGRATION DETENTION

Fifth Amendment Right to Due Process

18. "It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from

imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

19. This fundamental due process protection applies to all noncitizens, including those who are removable or inadmissible. *See id.* at 721 (Kennedy, J., dissenting) ("[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious."). It also protects noncitizens who have been ordered removed from the United States and who face continuing detention. *Id.* at 690.

20. Furthermore, 8 U.S.C. § 1231(a)(1)-(2) authorizes detention of noncitizens during "the removal period," which is defined as the 90-day period beginning on "the latest" of either "[t]he date the order of removal becomes administratively final"; "[i]f the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court's final order"; or "[i]f the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement."

21. Although 8 U.S.C. § 1231(a)(6) permits detention "beyond the removal period" of noncitizens who have been ordered removed and are deemed to be a risk of flight or danger, the Supreme Court has recognized limits to such continued detention. In *Zadvydas*, the Supreme Court held that "the statute, read in light of the

Constitution's demands, limits [a noncitizen's] post-removal-period detention to a period reasonably necessary to bring about that [noncitizen's] removal from the United States." 533 U.S. at 689. "[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Id.* at 699.

22. In determining the reasonableness of detention, the Supreme Court recognized that, if a person has been detained for longer than six months following the initiation of their removal period, their detention is presumptively unreasonable unless deportation is reasonably foreseeable. Otherwise, it violates that noncitizen's due process right to liberty. 533 U.S. at 701. In this circumstance, if the noncitizen "provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.*; *Alounsy Khammanivong v. Joseph B. Edlow, et al.*, No. 2:25-CV-01069-SPC-DNF, 2025 WL 3534102, at *2 (M.D. Fla. Dec. 10, 2025) ("Because the six-month period for presumptively reasonable detention has expired, *Zadvydas*'s burden-shifting framework applies.").

Due Process Governs Decisions to Revoke an Order of Supervision

23. Under the substantive due process doctrine, a restraint on liberty like revocation of a noncitizen's order of supervision is only permissible if it serves a "legitimate nonpunitive objective." *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). The Supreme Court has only recognized two legitimate objectives of immigration

detention: preventing danger to the community and preventing flight prior to removal. *See Zadvydas*, 533 U.S. at 690-92.

24. "Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty," like the decision to revoke a noncitizen's order of supervision. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (citation modified). "The fundamental requirement of [procedural] due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Id.* at 333 (citation modified).

25. The Supreme Court "has held that the Constitution requires some kind of a hearing before the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). Only in a "special case" where post-deprivation remedies are "the only remedies the State could be expected to provide" can post-deprivation process suffice. *Zinermon*, 494 U.S. at 985. Moreover, only where "one of the variables in the *Mathews [v. Eldrige]* equation—the value of pre-deprivation safeguards—is negligible in preventing the kind of deprivation at issue" such that "the State cannot be required constitutionally to do the impossible by providing pre-deprivation process," can the Government avoid providing pre-deprivation process. *Id.*

Legal Framework Governing Revocation of an Order of Supervision

26. A noncitizen with a final order of removal "who is not removed within the [90-day] removal period . . . shall be subject to [an order of] supervision under regulations prescribed by the Attorney General." 8 U.S.C. § 1231(a)(3) (titled "Supervision after 90-day period").

27. A noncitizen may only be detained past the 90-day removal period following a removal order if found to be "a risk to the community or unlikely to comply with the order of removal" (or if the order of removal was on specified grounds not applicable here). *Id.* § 1231(a)(6).

28. But even where initial detention past the 90-day removal period is authorized, if "removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by [§ 1231(a)(6)]. In that case, of course, the alien's release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances . . . ." *Zadvydas*, 533 U.S. at 699-700.

29. Regulations purport to give additional reasons, beyond those listed at § 1231(a)(6), that an order of supervision may be revoked and a noncitizen may be re-detained past the removal period: "(1) the purposes of release have been served; (2) the alien violates any condition of release; (3) it is appropriate to enforce a removal order . . . ; or (4) the conduct of the alien, or any other circumstance,

indicates that release would no longer be appropriate." 8 C.F.R. § 241.4(*l*)(2); *see also id.* § 241.13(i) (permitting revocation of an order of supervision only if a noncitizen "violates any of the conditions of release").

30. Regulations permit only certain officials to revoke an order of supervision: the ICE Executive Associate Director, a field office director, or an official "delegated the function or authority . . . for a particular geographic district, region, or area." *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 161 (W.D.N.Y. 2025) (citing 8 C.F.R. §§ 1.2, 241.4(*l*)(2) and explaining that the Homeland Security Act of 2002 renamed the position titles listed in § 241.4). If the field office director or a delegated official intends to revoke an order of supervision, they must first make findings that "revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate [Director]." 8 C.F.R. § 241.4(*l*)(2). And for a delegated official to have authority to revoke an order of supervision, the delegation order must explicitly say so. *See Ceesay*, 781 F. Supp. 3d at 161 (finding a delegation order that "refers only to a limited set of powers under [8 C.F.R.] part 241 that do not include the power to revoke release" insufficient to grant authority to revoke an order of supervision).

31. Upon revocation of an order of supervision, ICE must give a noncitizen notice of the reasons for revocation and a prompt interview to respond. 8 C.F.R. § 241.4(*l*)(1).

The APA Sets Minimum Standards for Final Agency Action

32. The Administrative Procedure Act authorizes judicial review of final agency action. 5 U.S.C. § 704.

33. Final agency actions are those (1) that "mark the consummation of the agency's decisionmaking process" and (2) "by which rights or obligations have been determined, or from which legal consequences will flow." *Bennett v. Spear*, 520 U.S. 154, 178 (1997) (citation modified).

34. ICE's revocation of an order of supervision is a final agency action subject to this Court's review.

35. The revocation marked the consummation of ICE's decisionmaking process regarding a noncitizen's custody.

36. The revocation is also an action by which rights or obligations have been determined or from which legal consequences flowed because it led ICE to detain a noncitizen in violation of his rights under the Constitution, statute, and regulation.

The *Accardi* Doctrine Requires Agencies to Follow Internal Rules

37. Under the *Accardi* doctrine, a foundational principle of administrative law, agencies must follow their own procedures, rules, and instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (setting aside an order of deportation where the Board of Immigration Appeals failed to follow

procedures governing deportation proceedings); *see also Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required."); *Port of Jacksonville Mar. Ad Hoc Comm., Inc. v. Hayes*, 485 F. Supp. 741, 743 (M.D. Fla.), *aff'd sub nom. Port of Jacksonville Mar. Ad Hoc Comm. v. Hayes*, 620 F.2d 567 (5th Cir. 1980) ("An agency's failure to follow its own regulations can be grounds for invalidating its action.") (citing *Accardi,* 347 U.S. 260).

38. *Accardi* is not "limited to rules attaining the status of formal regulations." *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991). Courts must also reverse agency action for violation of unpublished rules and instructions to agency officials. *See Morton v. Ruiz*, 415 U.S. 235 (affirming reversal of agency denial of public assistance made in violation of internal agency manual); *United States v. Heffner*, 420 F.2d 809, 812 (4th Cir. 1969) (under *Accardi*, reversing decision to admit evidence obtained by IRS agents for violating instructions on investigating tax fraud).

Limitations on Third Country Removal

39. By statute, the government is prohibited from removing a noncitizen to any third country where they may be persecuted or tortured, a form of protection known as withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A). Statutory

withholding of removal shields a noncitizen from removal to a particular country if he demonstrates that more likely than not, his "life or freedom would be threatened in that country because of [his] race, religion, nationality, membership in a particular social group, or political opinion." 8 U.S.C. § 1231(b)(3)(A).

40. Like statutory withholding, CAT withholding shields a noncitizen from being removed to a country if the noncitizen demonstrates that "it is more likely than not that he or she would be tortured if removed to the proposed country of removal." 8 C.F.R. § 1208.16(c)(2).

FACTUAL ALLEGATIONS AND RELEVANT BACKGROUND

Non-Repatriation of Pre-1995 Vietnamese Arrivals

41. At the end of the Vietnam War, the United States government established the Orderly Departure Program ("ODP") to resettle Vietnamese refugees in the United States. Refugees who resettled in the United States as part of the ODP, like Petitioner, obtained lawful permanent residence.

42. As a result of the lack of diplomatic relations between the United States and Vietnam, Vietnamese nationals were generally not removed to Vietnam because the Vietnamese government refused to repatriate them.

43. Under a 2008 U.S.-Vietnam Memorandum of Understanding ("MOU") on the Acceptance of the Return of Vietnamese Citizens, Vietnam agreed to accept deportees only if they entered the United States *on or after July 12, 1995*—the date

the two countries re-established diplomatic relations. The MOU provides that Vietnam has no obligation to issue travel documents or accept the return of individuals who arrived before that date.

44. Thus, DHS typically cannot secure travel documents and cannot effectuate removal within a reasonably foreseeable period for pre-1995 Vietnamese nationals with final orders of removal like Mr. Huynh.

45. Consequently, these individuals are not removed to Vietnam because the Vietnamese government declines to accept them under the controlling bilateral repatriation agreement and, like Mr. Huynh, were typically released pursuant to an order of supervision.

Petitioner's Background

46. In 1992, at fifteen years of age, Mr. Huynh fled Vietnam and was admitted to the United States as a refugee along with his mother and three sisters as part of the ODP. *See* **Exhibit A**. Mr. Huynh has resided in the United States ever since.

47. Mr. Huynh has a U.S.-citizen daughter, from a prior marriage, who is an active-duty member of the United States Air Force. *See* **Exhibit B**. During her time in the U.S. Air Force, Mr. Huynh's daughter has been recognized for her meritorious service and been awarded an Air Force Achievement medal.

48. Mr. Huynh and his U.S.-citizen wife have three U.S.-citizen children:

8, 12, and 14 years of age. His two daughters, age 12 and 14, respectively, have been recognized as exceptional students at Sarasota Military Academy Prep in Sarasota, Florida, and are also planning on serving in the U.S. Armed Forces.

Petitioner's Immigration History

49. By arriving through the ODP refugee resettlement program, Mr. Huynh obtained LPR status.

50. On information and belief, Mr. Huynh was convicted in 1999 in South Dakota for the offense of reckless discharge of a firearm in violation of SDCL § 22-14-7(1), and was sentenced to six-months work release.

51. Mr. Huynh was subsequently placed in removal proceedings. On information and belief, Mr. Huynh was detained by immigration officials; however, was released on bond after one day in detention.

52. On February 11, 2003, an immigration judge ordered Mr. Huynh removed to Vietnam. An appeal to the Board of Immigration Appeals was dismissed on July 21, 2004.

53. On March 3, 2008, ICE issued Mr. Huynh a Form I-220B, Order of Supervision. *See* **Exhibit C**. The order of supervision stated: "Because the Bureau has not effected your deportation or removal during the period prescribed by law, it is ordered that you be placed under supervision," and delineated the conditions of Mr. Huynh's release from custody.

54. As part of the conditions of his release, Mr. Huynh was directed to appear at routine check-ins. At the outset, Mr. Huynh was required to check in approximately once a month. But considering his consistent compliance with his check-ins, Mr. Huynh was eventually required to check in once a year.

55. However, at a May 23, 2025, check-in, Mr. Huynh was enrolled into the Intensive Supervision Appearance Program ("ISAP") without explanation. *See* **Exhibit D**. He was, for the first time, required to wear an ankle monitor. As part of the ISAP, Mr. Huynh was compelled to attend check-ins and separate home visits once every four weeks.

56. Additionally, ICE provided him with a letter entitled *Plan of Action for Self-departure*. The letter required that Mr. Huynh provide a travel itinerary to ICE officials by July 23, 2025, for departure to Vietnam by no later than August 25, 2025.

57. In complying with ICE's letter, Mr. Huynh submitted a passport application with the Consulate General of Vietnam in Houston, Texas on June 13, 2025. *See* **Exhibit E**. The consulate, however, returned the passport application to Petitioner and declined to process it, citing his order of removal.

58. Additionally, on June 18, 2025, an airline ticket was purchased for Mr. Huynh for departure to Vietnam on July 28, 2025.

59. Concurrent to those efforts, Mr. Huynh filed a Form I-131, Application for Travel Documents, Parole Documents, and Arrival/Departure Records, to apply

for parole-in-place based on being the father of an active-duty member of the United States Air Force.[1] *See* **Exhibit F**. The application was filed with United States Citizenship and Immigration Services ("USCIS") on June 30, 2025, and remains pending.

60. On June 10, 2025, Mr. Huynh's U.S.- citizen spouse filed a Form I-130, petition for alien relative, on his behalf. *See* **Exhibit G**. The petition remains pending.

61. Additionally, Mr. Huynh filed a Form I-246, Application for Stay of Removal, with ICE to permit adjudication of his request for parole-in-place; however, on information and belief, the stay request was denied. *See* **Exhibit H**.

62. While Mr. Huynh was scheduled for a check-in on July 23, 2025, ICE contacted him and requested he attend a check-in on June 14, 2025.

63. On that date, Mr. Huynh was detained by ICE—all despite (1) ICE had made no finding that Petitioner has violated the order of supervision in any manner; (2) his efforts to comply with the self-departure plan; (3) the pending parole-in-place application based on his daughter's active duty status with the U.S. Air Force; (4) the pending I-130 petition filed on his behalf as the spouse of a United States citizen; and (5) ICE's failure to identify any new facts to suggest that Mr. Huynh poses any

[1] *See* USCIS, *Discretionary Options for Military Members, Enlistees and Their Families*, available at: https://www.uscis.gov/military/discretionary-options-for-military-members-enlistees-and-their-families (last accessed on Dec. 11, 2025).

risk of danger or flight, or that his removal can now be effectuated.

64. On information and belief, the ICE officer who ordered Mr. Huynh re-detained lacked authority to do so pursuant to 8 C.F.R. § 241.4(*l*)(2), and provided Petitioner with no notice or opportunity to contest his re-detention.

65. On information and belief, after Mr. Huynh's detention, an ICE officer informed prior counsel for Mr. Huynh that ICE was waiting on the Vietnamese government to issue Mr. Huynh a passport.

66. After being held at the Krome Detention Center for five days, Mr. Huynh was transferred to the Glades County Detention Center, where—on July 26, 2025—he suffered a violent assault that left him with multiple broken ribs.

67. Mr. Huynh was ultimately transferred to Baker Correctional Institution, where he is currently being held.

CAUSES OF ACTION

COUNT ONE

Violation of the Fifth Amendment of the U.S. Constitution Substantive Due Process – Prolonged Detention

68. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 to 67.

69. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

70. As his detention commenced on June 14, 2025, Petitioner has been detained by Respondents for over six months.

71. Petitioner's prolonged detention is not likely to end in the reasonably foreseeable future.

72. Despite his efforts to procure a travel document, one has not been issued to him by the Vietnamese government. This fact is readily known to the Respondents, particularly as Vietnam has long refused to repatriate pre-1995 arrivals like Mr. Huynh.

73. Nothing has changed in this regard, and Respondents have failed to present any evidence that they can effectuate his removal to Vietnam. *See, e.g.*, *Tran v. Bondi*, No. C25-01897-JLR, 2025 WL 3140462, at *3 (W.D. Wash. Nov. 10, 2025) ("ICE is not permitted to hold [petitioner] indefinitely while it waits for travel documents from Vietnam."); *Hoac v. Becerra*, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025) (rejecting the government's argument that ICE's intent to apply for travel documents for Vietnam constituted changed circumstances because they failed to provide "any details about why a travel document could not be obtained in the past, nor have they attempted to show why obtaining a travel document is more likely this time around").

74. Upon information and belief, ICE made no progress toward procuring the Vietnamese government's cooperation to effectuate Mr. Huynh's removal, either

in the two decades following the order of removal, or in the more than six months he has now been detained.

75. ICE has provided no indication that facilitation of removal to a third country will occur, and has not indicated that any steps have been taken for such removal.

76. It is not constitutionally permissible for ICE to detain Petitioner, and only then begin the process of attempting to identify a third country which will accept him. *See, e.g.*, *Momennia v. Bondi, et al.*, No. CIV-25-1067-J, 2025 WL 3011896 *10 (W.D. Okla. Oct. 15, 2025) ("mere intent to find a third country is too speculative to permit indefinite detention"); *Sun v. Noem*, 2025 WL 2800037, at *2-3 (S.D. Cal. Sept. 30, 2025) ("Respondents say they are 'putting together a travel document [TD] request to send to [the] Cambodian embassy,' and that '[o]nce ICE receives the TD, it will begin efforts to secure a flight itinerary for Petitioner.' The Court finds these kind of vague assertions—akin to promising the check is in the mail—insufficient to meet ICE's own requirement to show 'changed circumstances' or 'a significant likelihood that the alien may be removed in the reasonably foreseeable future.'") (record citations omitted).

77. Should Respondents seek to remove Petitioner to a third country, Petitioner must be afforded the opportunity to present a fear-based claim prior to deportation to any such country where he fears persecution or torture. The failure to

do so constitutes a violation of a fundamental due process protection under the Due Process Clause of the Fifth Amendment and the laws implementing the United States' obligations under international law. *See Aden v. Nielsen*, 409 F. Supp. 3d 998, 1004 (W.D. Wash. 2019) ("DHS may designate a removal country outside of removal proceedings but . . . it must provide due process and comply with 8 U.S.C. § 1231(b) when doing so"); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) ("Failing to notify individuals who are subject to deportation that they have the right to apply . . . for withholding of deportation to the country to which they will be deported violates both INS regulations and the constitutional right to due process.").

78. When, as here, removal is not reasonably foreseeable, detention cannot be reasonably related to the purpose of effectuating removal, and thus violates Mr. Huynh's due process rights. *See Zadvydas*, 533 U.S. at 690, 699-700; *Perez v. Noem*, No. 2:25-CV-00429-JES-NPM, 2025 WL 3484752, at *2 (M.D. Fla. Dec. 4, 2025) (ordering release under *Zadvydas*, where no significant likelihood noncitizen will be removed in the reasonably foreseeable future, and noncitizen had been detained for over six months).

COUNT TWO

Violation of the Fifth Amendment of the U.S. Constitution

Substantive Due Process – Revocation of Release

79. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 to 67.

80. When ICE issued Petitioner an order of supervision, it found that he is neither a danger to the community nor a flight risk, and that his removal was not reasonably foreseeable.

81. When Respondents re-detained Petitioner, ICE provided no indication that a change in circumstances warrants his re-detention or the revocation of the order of supervision.

82. The government's only interest in holding an individual in immigration detention can be to prevent danger to the community or to ensure a noncitizen's removal can be effectuated. *See Zadvydas*, 533 U.S. at 690.

83. The government has made no showing that ICE has detained Petitioner due to his danger to the community, flight risk, or a change in the foreseeability of his removal to Vietnam, as his circumstances have not changed since his release from ICE custody over twenty years ago. Petitioner cannot be removed to Vietnam as it refuses to issue him travel documents. Further, Respondents have not specified any efforts to facilitate his removal to a third country (much less an opportunity to present a fear-based claim to prevent such removal), and as such, removal is not foreseeable.

84. Because Respondents had no legitimate, non-punitive objective in re-detaining, Petitioner's detention violates substantive due process under the Fifth Amendment to the U.S. Constitution.

COUNT THREE

Violation of the Fifth Amendment of the U.S. Constitution
Procedural Due Process

85. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 to 67.

86. The Constitution does not permit ICE to revoke Petitioner's lawful release and re-incarcerate him without notice of the basis for the revocation of his order of supervision and a *pre-deprivation* hearing where he can contest that revocation. This lack of process means that Petitioner's continued re-detention violates Due Process.

87. *Mathews v. Eldridge*, 424 U.S. 319 (1976), instructs courts to balance three factors to determine whether procedural due process is satisfied: (1) the private interest at issue; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probable value, if any, of additional procedural safeguards; and, (3) the government's interest, including fiscal and administrative burdens that additional or substitute procedural requirements entail. *Id.* at 333.

88. The first factor, the private interest at issue, favors Petitioner. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects." *Zadvydas*, 533 U.S. at 690. By living freely for over twenty years after his release, Petitioner developed a substantial liberty interest

in avoiding re-detention. *Young v. Harper*, 520 U.S. 143, 146-47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482-83 (1972). Petitioner has resided in the United States since he was fifteen years old after fleeing Vietnam as a refugee. He has a United States citizen spouse and children and has established deep roots in the United States. His unlawful detention has already cost him over six months away from his family, and he has suffered significant physical harm after he was assaulted and hospitalized for multiple broken ribs while in the custody of Respondents.

89. Petitioner retains a weighty liberty interest even though he was under conditional release prior to his re-arrest. *See, e.g.*, *Rosado v. Figueroa*, No. cv 25-02157-PHX-DLR, 2025 WL 2337099, at *12 (D. Ariz. Aug. 11, 2025) ("Although ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody, they have a protected liberty interest in remaining out of custody.").

90. The lack of any notice or meaningful opportunity to contest the revocation of his order of supervision demonstrates that the second factor is in Petitioner's favor. Respondents' unlawful detention and revocation of his release resulted in the erroneous deprivation of Petitioner's substantial interest in being free from custody.

91. The third factor, the government's interest, also favors Petitioner. When the government ignores law that ensures notice and an opportunity to respond to a person at risk of revocation of an order of supervision, it is more likely to waste limited financial and administrative resources on unnecessary detention of people who are neither flight risks nor dangerous. This waste drags down the efficiency of the entire immigration system. And because the government must also spend resources defending against a habeas corpus petition in federal court to compel Respondents to comply with law, requiring Respondents to instead provide notice and a meaningful opportunity to respond prior to revoking an order of supervision reduces fiscal and administrative burdens on the government.

92. For these reasons, re-detaining Petitioner without providing notice and a meaningful opportunity to respond violated procedural due process under the Fifth Amendment to the U.S. Constitution. *Grigorian v. Bondi*, No. 25-CV-22914-RAR, 2025 WL 2604573 *10 (S.D. Fla. Sept. 9, 2025) (holding that release is "compel[led]" because "[t]he failure to provide Petitioner with an informal interview promptly after his detention or to otherwise provide a meaningful opportunity to contest the reasons for revocation violates both ICE's own regulations and the Fifth Amendment Due Process Clause"); *Momennia*, 2025 WL 3011896 *8 ("Based on ICE's violations of its own regulations, the undersigned concludes that Mr. Momennia's detention is unlawful and that his release is appropriate under 28 U.S.C.

§ 2241(c)(3)."); *see also Yee S. v. Bondi*, 2025 WL 2879479, at *6 (D. Minn. Oct. 9, 2025) (ordering release because Petitioner has shown that ICE's re-detention of him . . . violated the law because ICE did not comply with its own regulations under section 241.13(i)(2)"); *Roble v. Bondi*, 2025 WL 2443453, at *5 (D. Minn. Aug. 25, 2025) (holding that "[i]t goes without saying that ICE, like all government agencies, must follow its own regulations" and ordering release based on violation of 8 C.F.R. § 241.13(i)).

COUNT FOUR
Violation of Administrative Procedure Act

93. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 to 67.

94. Under the APA, a court shall "hold unlawful and set aside agency action . . . found to be . . . not in accordance with law" or "contrary to constitutional right, power, privilege, or immunity." 5 U.S.C. § 706(2)(A), (B).

95. The APA's reference to "law" in the phrase "not in accordance with law," "means, of course, *any* law, and not merely those laws that the agency itself is charged with administering." *FCC v. NextWave Pers. Commc'ns Inc.*, 537 U.S. 293, 300 (2003) (emphasis in original).

96. Respondents' re-detention and revocation of Petitioner's order of supervision is contrary to the agency's constitutional power under the Fifth Amendment's Due Process Clause.

97. Any such revocation violates the Immigration and Nationality Act and implementing regulations governing who may lawfully revoke an order of supervision and under what circumstances.

98. Petitioner's re-detention did not occur pursuant to the revocation of his order of supervision by the ICE Executive Associate Director, or by any individual with authority to do so. There is no indication that the officer who re-detained Petitioner and revoked the order made the requisite findings, required under 8 C.F.R § 241.14(*l*)(2), that revocation was in the public interest and that circumstances did not reasonably permit referral to the Executive Associate Director. Nor, upon information and belief, had the officer been delegated authority to revoke an order of supervision.

99. Before re-detaining Petitioner, Respondents did not make findings that Petitioner is dangerous or unlikely to comply with a removal order, as required by statute. *See, e.g.*, *Ernesto Alfonso Perez v. Matthew Mordant, et al.*, No. 2:25-CV-00947-SPC-DNF, 2025 WL 3466956, at *5 (M.D. Fla. Dec. 3, 2025) (finding ICE violated the APA because "ICE has not shown it considered any relevant facts when revoking Alfonso Perez's parole and detaining him").

100. Respondents did not make findings that Petitioner's conduct indicated release would no longer be appropriate or that Petitioner violated any condition of release. Nor could Respondents make findings that the purpose of release had been

served or that it was appropriate to enforce a removal order, because it had yet to make final arrangements for Petitioner's removal.

101. Nor did the Respondents give Petitioner notice of the reasons for revocation and opportunity to be heard.

102. The revocation should be held unlawful and set aside because it was contrary to the agency's constitutional power and not in accordance with the INA and implementing regulations. *Grigorian*, 2025 WL 2604573 *9 ("The opportunity to contest detention through an informal interview is not some ticky-tacky procedural requirement; it strikes at the heart of what due process demands.") (citing *Niz-Chavez v. Garland*, 593 U.S. 155, 172 (2021)).

COUNT FIVE
Violation of the *Accardi* Doctrine

103. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 to 67.

104. Under the *Accardi* doctrine, Petitioner has a right to set aside agency action that violated agency procedures, rules, or instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 ("If petitioner can prove the allegation [that agency failed to follow its rules in a hearing] he should receive a new hearing"); *Gonzalez v. Reno*, 212 F.3d 1338, 1349 (11th Cir. 2000) ("Agencies must respect their own procedural rules and regulations . . . [and] the courts retain the authority to check . . . for procedural compliance . . . .").

105. Respondents' revocation of Petitioner's order of supervision without notice or an opportunity to be heard violated the statute and the applicable regulations—8 C.F.R. §§ 241.4(*l*) and 241.13(i)—because they failed to provide Petitioner with a particularized notice of the reason for the revocation of his release or an opportunity to respond to the allegations contained therein.

106. Further, Respondents violated agency regulations governing who and upon what findings it may properly revoke an order of supervision when it revoked Petitioner's order. "As a result, this Court cannot conclude that [the revoking officer] had the authority to revoke release" and Petitioner "is entitled to release on that basis alone." *Ceesay*, 781 F. Supp. 3d at 162 (citing *Rombot v. Moniz*, 296 F. Supp. 3d 386, 386-89 (D. Mass. 2017)); *Grigorian*, 2025 WL 2604573 *10; *Momennia*, 2025 WL 3011896 *8; *see also, e.g.*, *Zhu v. Genalo*, 2025 WL 2452352 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, 2025 WL 2430267 (D. Or. Aug. 21, 2025) (releasing habeas petitioner where revocation of an ICE order of supervision was ordered by someone without regulatory authority to do so).

107. Under *Accardi* and the Due Process Clause of the U.S. Constitution, Respondents' re-detention and revocation of the order of supervision should be set aside for violating agency procedures, rules, or instructions.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

(a) Assume jurisdiction over this matter;

(b) Declare that Petitioner's ongoing prolonged detention and the revocation of his release violated the Due Process Clause of the Fifth Amendment, the Immigration and Nationality Act, and the APA;

(c) Grant the writ of habeas corpus and order that Respondents release Petitioner from immigration detention;

(d) Enjoin the Respondents from transferring Petitioner outside the jurisdiction of the U.S. District Court for the Middle District of Florida;

(e) Award petitioner costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412; and

(f) Grant any additional relief that this Court deems just and proper.

Dated: December 15, 2025

Respectfully submitted,

/s/ Edward F. Ramos
EDWARD F. RAMOS
Florida Bar No. 98747
eramos@kktplaw.com

JOHN P. PRATT
Florda Bar No. 135186
jpratt@kktplaw.com

KURZBAN KURZBAN
TETZELI & PRATT, P.A.
131 Madeira Avenue
Coral Gables, Florida 33134
Tel: (305) 444-0060
Fax: (305) 444-3503

Attorneys for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, TAI TAN HUYNH, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge and belief.

Dated this 15th day of December, 2025.

/s/ Edward F. Ramos
EDWARD F. RAMOS