

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

QUANG VAN NGUYEN)	
A#)	
)	
Petitioner,)	
)	CASE NO.:
vs.)	
)	
LADEON FRANCIS, <i>in his official capacity</i>)	
<i>As ICE Atlanta Field Office Director, and</i>)	
TODD LYONS, <i>in his official capacity as Acting</i>)	
<i>Director of ICE, and</i>)	
KRISTI NOEM, <i>DHS Secretary, and</i>)	
PAMELA BONDI, <i>U.S. Attorney General</i>)	
)	
Respondents.)	
<hr/>		

**VERIFIED PETITION FOR WRIT OF HABEAS CORPUS
AND COMPLAINT FOR DECLARATIVE AND INJUNCTIVE
RELIEF**

I. INTRODUCTION

1. This case challenges the imminent and unlawful re-detention of Petitioner, QUANG VAN NGUYEN (Petitioner), who is currently under an Order of Supervision (OSUP) and has complied with this OSUP for years without incident. Petitioner is neither a flight risk nor a danger to the community. The OSUP was issued to him by the Immigration and Naturalization Service (INS), which is the

predecessor agency to the Department of Homeland Security (DHS), on March 10, 2004. See Exhibit 1 OSUP.

2. Petitioner's next reporting date with ICE was coming up on January 5, 2026. However, earlier today, on December 22, 2025, he received a phone call from an ICE officer asking him to report today, without explanation. Petitioner is all but guaranteed to be detained when he shows up at the ICE office, without the opportunity to be heard and without release as ICE is now indiscriminately detaining almost everyone who comes to report.
3. In light of this recent shift in enforcement practice, Petitioner faces an imminent and credible threat of re-detention during his next scheduled check-in at the ICE Alabama Field Office. For over two decades, ICE has permitted Petitioner to remain under supervision as ICE was unable to remove him despite having a final removal order. However, based on counsel's direct knowledge of similarly situated individuals recently detained at check-ins and the termination of remote reporting options, there is now a substantial likelihood that Petitioner will be taken into custody despite his long record of compliance. Such an action would amount to an unlawful revocation of his Order of Supervision, executed without notice, hearing, or lawful findings, in violation of ICE's own procedures and the constitutional

guarantees of due process. See Exhibit 2 (Counsel Declaration filed in another case).

4. Respondents' actions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution, the Immigration and Nationality Act and implementing regulations, the Administrative Procedure Act, and the *Accardi* doctrine, which obligates administrative agencies to follow their own rules, procedures, and instructions.
5. Petitioner therefore brings this preventive action for injunctive, habeas corpus, and declaratory relief ordering Respondents to refrain from detaining him or revoking his Order of Supervision absent lawful justification and due process of law.

II. JURISDICTION

6. This Court has jurisdiction under 28 U.S.C. § 2241, 28 U.S.C. § 1331, and Article I, § 9, cl. 2 of the Constitution (Suspension Clause). This Court's subject matter jurisdiction further arises under Article III, Section 2 of the Constitution because Petitioner is raising the constitutional issues. Petitioner is seeking immediate judicial intervention to remedy imminent violations of his constitutional rights by Respondents. In addition to the United States Constitution, this

action arises under the Immigration & Nationality Act of 1952, as amended (INA), 8 USC § 1101 *et seq.*, and the Administrative Procedure Act (APA), 5 U.S.C. § 551, *et seq.* This Court may also exercise jurisdiction pursuant to 28 USC § 1331 because this action arises under federal law and may grant relief pursuant to the Declaratory Judgement Act, 28 USC § 2201 *et seq.*, and the All Writs Act, 28 USC § 1651.

7. The Eleventh Circuit has recognized district courts' jurisdiction to entertain habeas petitions raising colorable constitutional claims—including those alleging deprivation of liberty without due process, arbitrary or indefinite detention, and agency action contrary to law, based on Supreme Court precedent. Even though the government may detain individuals during removal proceedings, *Denmore v. Kim*, 538 U.S. 510, 523 (2003), there are limitations to this power of the executive branch. Limitations like the Due Process Clause restrict the Government's power to detain noncitizens. *Id.*; *Frech v. U.S. Att'y Gen.*, 491 F.3d 1277, 1281 (11th Cir. 2007) ("It is well settled that individuals in deportation proceedings are entitled to due process of law under the Fifth Amendment.") (citing *Reno v. Flores*, 507 U.S. 292, 306 (1993)). Courts must review immigration procedures and ensure that they comport with the Constitution. *See also J.G. v. Warden*,

Irwin Cnty. Detention Ctr., 501 F.Supp.3d 1331 (M.D. Ga. 2020).

8. In this case, Petitioner asserts substantial constitutional violations—including deprivation of liberty without due process, arbitrary and capricious agency action, and the imminent unlawful revocation of his long-standing Order of Supervision. These claims fall squarely within the scope of habeas review preserved by statute and recognized by controlling precedent. Accordingly, this Court has both the authority and the obligation to adjudicate the constitutional and statutory claims presented in this Petition and to grant appropriate relief to remedy ongoing violations of Petitioner's rights.

9. In *I.N.S. v. St. Cyr*, the Supreme Court held that federal courts retain *habeas corpus* jurisdiction under 28 USC § 2241, despite restrictions on judicial review enacted under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA) and the Anti-Terrorism and Effective Death Penalty Act of 1996 (AEDPA). 533 U.S. 289 (2001). Consequently, section 2241 habeas review remains available to Petitioner.

10. Federal district courts have long been vested with jurisdiction to review the legality of immigration detention under 28 U.S.C. § 2241. The Supreme Court has repeatedly affirmed that habeas corpus is available to challenge not only the fact of detention, but also **the**

manner in which detention is imposed, including whether the government has complied with statutory and regulatory requirements and afforded due process. *See Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Zadvydas*, 533 U.S. at 687. This jurisdiction is not displaced by the existence of a final order of removal or by the government’s assertion of discretionary authority; rather, it is preserved for claims that allege unlawful detention, deprivation of liberty without due process, or agency action contrary to law. The Suspension Clause further guarantees the availability of habeas review to test the legality of executive detention, particularly where, as here, the petitioner alleges ongoing deprivation of liberty in violation of constitutional and statutory safeguards. *See* U.S. Const. art. I, § 9, cl. 2; *Boumediene v. Bush*, 553 U.S. 723, 739 (2008).

III. VENUE

11. Venue is proper in the United States District Court for the Northern District of Georgia because Petitioner resides in Northern Georgia, within this District, and is under the supervision and authority of the ICE Atlanta Field Office. Respondents-Defendants are officers of United States agencies, Petitioner currently resides within this District, and there is no real property involved in this action.

IV. PARTIES

12. Petitioner, Petitioner Quang Nguyen, a 68-year-old refugee from Vietnam. He entered the United States in 1980 prior to 1995, and currently resides in Northern Georgia with his family. He is married to a U.S. citizen, has three U.S. citizen adult children, and two grandchildren. Mr. Nguyen has been reporting to ICE under an OSUP for over 20 years without incident and has consistently complied with all requirements. *See* Exhibit 1.
13. Respondent Ladeon Francis is the Atlanta Field Office Director for Immigration and Customs Enforcement (hereinafter “FOD”). As such, Respondent Francis is responsible for the supervision, detention, and enforcement actions concerning noncitizens under ICE Atlanta’s jurisdiction, including Petitioner. Respondent Francis is being sued in his official capacity.
14. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (hereinafter “ICE”). As such, Respondent Lyons is responsible for the oversight of ICE operations. Respondent Lyons is being sued in his official capacity.
15. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (hereinafter “DHS”). As Secretary of DHS, Secretary Noem is responsible for the general administration and

enforcement of the immigration laws of the United States.

Respondent Secretary Noem is being sued in her official capacity.

16. Petitioner Pamela Bondi is the Attorney General of the United States and is sued in her official capacity as U.S. government agencies are Respondents in this Petition.

17. Petitioner names certain federal officials in their official capacities solely to preserve alternative, non-habeas avenues for prospective relief—such as as-applied declaratory and injunctive orders under 28 U.S.C. § 1331, the APA’s waiver of sovereign immunity, 5 U.S.C. § 702, the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202, and the All Writs Act, 28 U.S.C. § 1651—necessary to enjoin enforcement of DHS regulations and their interpretation as applied to Petitioner, ensure compliance with DHS/EOIR custody regulations, prevent transfer or removal of Petitioner, and effectuate any release the Court orders at the agency level where policy and implementation authority reside. See, e.g., *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682 (1949); *Dugan v. Rank*, 372 U.S. 609 (1963).

18. Petitioner acknowledges that under *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), the proper respondent to the habeas claim is the immediate custodian, and Petitioner does not rely on these officials as “habeas

respondents.” Petitioner names federal officials in their official capacities solely to ensure the Court can issue effective relief on non-habeas claims, consistent with *Rumsfeld v. Padilla*. Respondents are named so the non-core claims, such as declaratory judgement and injunctive relief, can be granted effective, agency-directed relief to the officials with authority to implement it.

19. While the immediate custodian is necessary for habeas relief, Petitioner’s non-habeas and declaratory claims require the inclusion of additional federal officials to ensure that the Court can grant complete and effective relief and to prevent evasion of its orders. The failures in this case implicate high-level officials within DHS and ICE, including the ICE Atlanta Field Office Director, whose actions regarding detention and the unlawful revocation of the OSUP were independent of the immediate custodian. Naming all relevant federal officials is not a mere formality; it is a deliberate safeguard against jurisdictional gamesmanship, such as transferring Petitioner outside this Court’s jurisdiction to frustrate judicial review, or releasing him now and then redetaining him in the future without due process or against OSUP regulations. Including these officials is essential for both habeas and non-habeas claims seeking prospective declaratory and injunctive relief, given Petitioner’s ongoing unlawful detention

and the risk of re-detention by the same authorities. In the immigration detention context, only DHS/ICE officials—not local jailers—possess the legal authority to revoke an OSUP or release a detainee, which is why they must remain as parties. Maintaining these federal officials as Respondents ensures that any order of this Court can be implemented promptly and without dispute, as the relief sought necessarily runs to DHS/ICE at the federal agency level, where policy and implementation authority reside. These officials are, at a minimum, the proper parties under principles analogous to FRCP 19, as complete relief cannot be afforded in their absence when it is the officials' actions that are challenged. *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682, 690-91 (1949); *Dugan v. Rank*, 372 U.S. 609, 611, 621-22 (1963). Only these federal Respondents can effectuate the Court's orders and ensure that Petitioner's rights are protected. As federal officials, they are squarely within the Court's power to enjoin and direct, both for habeas and non-habeas relief. Their continued presence as Respondents is indispensable to prevent the government from evading judicial oversight and to guarantee that the Court's authority is not rendered hollow by unilateral and unlawful agency action.

IV. EXHAUSTION OF REMEDIES

20. No statutory exhaustion requirement applies to habeas cases. Moreover, ICE's all but certain anticipated action to revoke Petitioner's Order of Supervision (OSUP) and detain him without prior notice on December 22, 2025 leaves no administrative avenue to secure protection; additional agency steps would be futile. An administrative remedy may be inadequate where the administrative body is shown to be biased or has otherwise predetermined the issue before it. *Gibson v. Berryhill*, 411 U. S., at 575, n. 14; *Houghton v. Shafer*, 392 U. S. 639, 640 (1968). See also *Santiago-Lugo v. Warden*, 785 F.3d 467 (11th Cir. 2015). However, even if there were any available remedies, the habeas statute does not require the Petitioner to exhaust them.
21. Furthermore, even if applied, the doctrine of exhaustion of administrative remedies would have been futile on claim attacking constitutionality of ICE's actions. It would be futile to await further administrative remedies when proceedings before ICE cannot in any way address the constitutional claims at issue in this case, and where ICE seeks to quickly remove noncitizens like Petitioners without due process even to third countries under this administration.
22. Petitioner has exhausted all administrative remedies to the extent

required by law, and Petitioner's only remedy is by way of this judicial action.

V. STATEMENT OF FACTS AND PROCEDURAL HISTORY

23. Petitioner Quang Nguyen entered the United States as a refugee from the Vietnam War on May 15, 1980. He is married to a U.S. citizen, has three U.S. citizen children (ages 40, 39, 37), and two grandchildren. Mr. Nguyen is the primary caregiver for his wife, who is currently disabled with a broken hip and cannot walk. He resides in Northern Georgia. Mr. Nguyen has a significant medical history, including cancer (requiring lung surgery), high blood pressure, diabetes, and liver issues, and is on multiple medications. He is retired and receives \$400 per month plus Medicare. Mr. Nguyen is not proficient with computers or phones and has difficulty hearing and communicating in English. He has lived in the country for more than forty five years.
24. In September 1991, Mr. Nguyen was convicted of a crime (possibly RICO-related) in Georgia, and served time in prison. He has had no further criminal issues since his release and has completely rehabilitated. An immigration judge ordered his removal in 2003. Since his release on the OSUP, Mr. Nguyen has been reporting to ICE

under an OSUP for over 20 years, demonstrating continuous compliance.

25. Throughout this period, ICE has kept Petitioner under continuous supervision, indicating that the agency has not found him to be a flight risk or a danger to the community. The Order of Supervision on file explicitly references the maintenance of an Employment Authorization Document (EAD), and Petitioner is eligible for, consistent with his long record of compliance and rehabilitation.
26. Recently, Mr. Nguyen was required to wear an ankle monitor for the past few weeks, but he was not informed of the reason or duration. He was scheduled to report on January 5, 2026, but received a call today, December 22, 2025, to report immediately, with an imminent risk of detention. ICE has provided no information regarding the reason for the increased supervision or the impending detention or why his OSUP is being modified or revoked.
27. Recent media reports corroborate this pattern. Local press has reported that individuals under supervision have been detained during routine check-ins at the ICE Field Offices¹, and that noncitizens appearing for “document checks” have been taken into

¹ <https://georgiarecorder.com/2025/08/07/attorneys-push-for-the-release-of-georgia-immigration-activist-detained-by-ice-during-check-in/>

custody without prior notice or opportunity to be heard, raising serious due process concerns². Until recently, ICE allowed non-detained individuals like Petitioner to report by phone or through a computer-based monitoring systems, but this option was abruptly discontinued in mid-2025.

28. As a result, Petitioner is now required to appear in person today, December 22, 2025 creating a specific, credible, and imminent risk of re-detention despite his continued compliance and eligibility to remain under supervision.

29. Petitioner's removal to Vietnam is not reasonably foreseeable. Under the 2008 U.S.–Vietnam Repatriation Agreement, officially titled *Vietnam (08-322) – Agreement on the Acceptance of the Return of Vietnamese Citizens*, the Government of Vietnam agreed to accept for repatriation only those nationals who arrived in the United States on or after July 12, 1995. The agreement explicitly excludes all Vietnamese citizens who entered prior to that date, stating: ***“Vietnamese citizens are not subject to return to Vietnam under this Agreement if they arrived in the United States before July 12, 1995.”*** Petitioner entered the United States as a refugee in

² <https://atlprescollective.com/2025/05/22/ice-document-check-atlanta-due-process/>

August, 1989, more than six years before the cutoff date. Consequently, Vietnam has refused to issue travel documents for individuals in Petitioner's position for nearly two decades, rendering removal practically and legally impossible under the governing bilateral framework. See Exhibit 3 (Text of the 2008 Agreement and State Department guidance).

30. In November 21, 2020, the United States and Vietnam signed a Memorandum of Understanding (MOU) creating a process for deporting people who came to the United States before 1995. However, deportations back to Vietnam are still severely limited either because Vietnam would not issue travel documents or agree to accept them. Note that the treaty supersedes the MOU (as it is a higher ranking document). According to Asian American Advancing Justice in Atlanta, "In the past month, ICE has continued to be unable to deport some pre-1995 individuals and has released them from custody." **Even if he had a travel document, according to this agreement, the U.S. would not be able to remove him to Vietnam.**

31. In *Nguyen v. Scott*, No. 2:25-cv-01398, --- F.Supp.3d ---- 2025 WL 2419288 (WD. Wash, Aug. 21, 2025), the court granted a PI and in 2025 WL 2097979 granted an Ex parte TRO for a petitioner under

similar circumstances. Petitioner in that case has offered evidence that **from September 2021 through September 2023, the United States deported and repatriated only four pre-1995 immigrants to Vietnam despite of the 2020 MOU. Exhibit 4.** The government were only able to obtain travel documents for pre-1995 Vietnamese citizens in only 4 cases between the years 2021-2023.

32. ICE found that Petitioner was neither a flight risk nor danger to the community, as evidenced by his continuous release under an OSUP around 2004. Over the course of more than twenty-one years, Petitioner has fully complied with every reporting requirement, remained at the same verified residence in North Georgia, and consistently cooperated with ICE officers. He has no new criminal record, has demonstrated rehabilitation, and has maintained steady family and community ties. Petitioner is married to a U.S. citizen and has a U.S. citizen children who depend on him.

33. As of the filing of this Petition, Petitioner remains under ICE supervision and is required to report in person to the ICE Atlanta Field Office on December 22, 2025. He faces an imminent threat of being taken into custody due to DHS's anticipated and unlawful revocation of his Order of Supervision, despite his continued

compliance and long history of lawful compliance with the supervision.

34. Petitioner's removal to Vietnam is not reasonably foreseeable because Vietnam has refused to issue a travel document for him for the past 25 years. That has not changed now and ICE does not currently have a travel document for him. Therefore, ICE does not have a "Significant Likelihood of Removal in the Reasonably Foreseeable Future" (SLRRFF). There are also no changed circumstances.
35. ICE found that Petitioner was neither a flight risk nor danger to the community, as evidenced by his continuous release under an Order of Supervision since 2004. Over the course of more than twenty-one years, Petitioner has fully complied with every reporting requirement, remained at the same verified residence in Georgia and consistently cooperated with ICE officers. He has maintained steady family and community ties. Petitioner is married and has U.S. citizen children and grandchildren who depend on him.
36. As of the filing of this Petition, Petitioner remains under ICE supervision and is required to report in person to the ICE Atlanta Field Office December 22, 2025. He faces an imminent threat of being taken into custody due to DHS's anticipated and unlawful revocation

of his Order of Supervision, despite his continued compliance and long history of lawful compliance with the supervision.

VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

37. Habeas corpus relief extends to a person “in custody under or by color of the authority of the United States” if the person can show she is “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241 (c)(1), (c)(3); see also *Antonelli v. Warden, U.S.P. Atlanta*, 542 F.3d 1348, 1352 (11th Cir. 2008) (holding a petitioner’s claims are proper under 28 U.S.C. section 2241 if they concern the continuation or execution of confinement). The U.S. Constitution guarantees that the writ of habeas corpus is “available to every individual detained within the United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004), (citing U.S. Const., Art. I, § 9, cl. 2). This includes immigration-related detention. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).
38. “[H]abeas corpus is, at its core, an equitable remedy,” *Schlup v. Delo*, 513 U.S. 298, 319 (1995), that “[t]he court shall ... dispose of [] as law and justice require,” 28 U.S.C. § 2243. “[T]he court’s role was most extensive in cases of pretrial and noncriminal detention.” *Boumediene*

v. Bush, 553 U.S. 723, 779–80 (2008) (citations omitted). “[W]hen the judicial power to issue habeas corpus properly is invoked the judicial officer must have adequate authority to make a determination in light of the relevant law and facts and to formulate and issue appropriate orders for relief, including, if necessary, an order directing the prisoner’s release.” *Id.* at 787. The Petitioner seeking habeas relief must demonstrate he is in custody in violation of the Constitution or federal law. 28 U.S.C. § 2241(c)(3); *Walker v. Johnston*, 312 U.S. 275, 286 (1941).

Due Process Governs Decisions to Revoke an Order of Supervision

39. “The Due Process Clause applies to all persons within the United States, including. aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citation modified). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Id.* at 690 (2001).
40. Under substantive due process doctrine, a restraint on liberty like revocation of a non-citizen’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 or preventing flight prior to removal. *See Zadvydas v. Davis*, 533 U.S. 678, 690-92 (discussing constitutional limitations on civil detention).

41. “Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty,” like the decision to revoke a non-citizen’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).
42. Even if the government were permitted to revoke an OSUP and re-detain a noncitizen after a prolonged period of supervised release, it may do so only upon a showing of “changed circumstances” that make removal significantly likely in the reasonably foreseeable future. Courts have repeatedly held that ICE must identify specific, individualized changes—such as new evidence of flight risk, danger to the community, or a concrete development making removal newly feasible. Vague or generic assertions, or the mere passage of time, are

insufficient. See *Liu v. Carter*, 2025 WL 1696526 (D. Kan. Jun. 17, 2025); *Sun v. Noem*, 2025 WL 2800037 (S.D. Cal. Sep. 30, 2025); *Roble v. Bondi*, 2025 WL 2443453 (D. Minn. Aug. 25, 2025); *Sarail A. v. Bondi*, 2025 WL 2533673 (D. Minn. Sep. 3, 2025). Here, ICE has not identified any changed circumstances in Petitioner’s case; there is no evidence of new travel documents, agreements with the destination country, or any other development that would make removal likely. The record reflects only continued compliance and stability, not any new basis for detention.

**Statute and Regulation Govern Procedures for Revoking an
Order of Supervision**

43. A non-citizen 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”).
44. A non-citizen 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. *Id.* § 1231(a)(6).

45. 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 v. Davis*, 533 U.S. 678, 699-700.
46. The “removal period” defined in 8 U.S.C. §§ 1231(a)(1)-(a)(6) applies only **once**: it commences upon the final order of removal and runs for 90 days, during which detention is mandatory. After that period, if the government has not effected removal, the noncitizen must be released under an Order of Supervision (OSUP) unless continued detention is justified under the narrow circumstances set forth in § 1231(a)(6) and *Zadvydas v. Davis*, 533 U.S. 678, 682–84, 699–701 (2001). In Petitioner’s case, the removal period began and expired nearly 23 years ago, after which he was released on an OSUP. There is no statutory or precedential authority permitting the government to restart the 90- or 180-day removal period each time it re-detains a noncitizen who has already been subject to a final order and released under supervision. *Bailey v. Lynch*, No. 16-2600, 2016 WL 5791407 (D.NJ, Oct 3, 2016) (“The removal period does not restart simply

because an alien who has previously been released is taken back into custody.”)³ *Sied v. Nielsen*, 17-CV-06785-LB, 2018 WL 1876907, at *6 (N.D. Cal. Apr. 19, 2018), appeal dismissed, 18-16128, 2018 WL 6624692 (9th Cir. Sept. 14, 2018) (approving the approach, taken by “several courts” that “the six-month period does not reset when the government detains an alien under 8 U.S.C. § 1231(a), releases him from detention, and then re-detains him again”); *Hamama v. Adducci*, 2019 WL 2118784 (E.D. MI, May 15, 2019).

47. Courts across the country have rejected the government’s “reset” theory, holding that the six-month presumptively reasonable period under *Zadvydas* does not restart with each re-detention. The only recognized exception to this rule is where the noncitizen is the impediment to his own removal, such as by refusing to cooperate with travel document requirements. Allowing the government to restart the clock with each re-detention would render the limitations imposed by *Zadvydas* meaningless and would be contrary to the plain language and purpose of § 1231(a)(6) and Supreme Court precedent (*Zadvydas*). Even if the 90-day period could theoretically restart, the

³ The court determined that Bailey’s removal period began prior to his release on an order of supervision, making his subsequent re-detention not presumptively reasonable and subject to challenge under *Zadvydas*. The only exception to this rule is where an alien is the impediment to his own removal, such as not complying with travel document requirements.

six-month *Zadvydas* period does not, except where the noncitizen is the cause of the delay.

As explained in *Diaz-Ortega v. Lund*, 2019 WL 6003485 (W.D. La. Oct. 15, 2019):

“A plain reading of the existing text disfavors the restarting approach. Section 1231 references “[t]he” removal period, a single period triggered exclusively by the latest of three possible events. No other contingencies are provided. Absent a later triggering event – which would, by definition, begin “the” removal period – § 1231(a)(1)(B) dictates that the removal period necessarily begins when a removal order becomes final, and necessarily ends 90 days later.)

48. Even if the government were permitted to revoke an OSUP and re-detain a noncitizen after a prolonged period of supervised release, it may do so only upon a showing of “changed circumstances” that make removal **significantly likely in the reasonably foreseeable future**. This is not a mere formality: courts have repeatedly held that ICE must identify specific, individualized changes—such as new evidence of flight risk, danger to the community, or a concrete development making removal newly feasible. Vague or generic assertions, or the mere passage of time, are insufficient. Accordingly, there are no changed circumstances to justify re-detention or revocation.

49. Regulations purport to give additional reasons, beyond those listed at § 1231(a)(6), that an order of supervision may be revoked and a non-citizen 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 non-citizen “violates any of the conditions of release”). Because “[r]egulations cannot circumvent the plain text of the statute[,]” courts question whether these regulations are ultra vires of statutory authority. See, e.g., *You v. Nielsen*, 321 F. Supp. 3d 451, 463 (S.D.N.Y. 2018) (comparing regulations to 8 U.S.C. § 1231(a)(6), which authorizes detention past the removal period only if person is a risk to the community, unlikely to comply with the order of removal, or was ordered removed on specified grounds).

50. It is clear, however, that 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 intend 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 v. Kurzdorfer*, 781 F. Supp. 3d 137, 161 (finding a delegation order that “refers only to a limited set of powers under part 241 that do not include the power to revoke release” insufficient to grant authority to revoke an order of supervision).

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

Due Process and the Regulatory Process for OSUP Revocation

52. OSUP regulations and the processes and procedures to revoke them can be found under 8 C.F.R. § 241.4. Once the government has exercised its discretion to release an individual from immigration detention, revocation of that liberty interest is a significant act that

can only be carried out by high-level officials specifically designated in the regulations. Revocation of release under an OSUP implicates a protected liberty interest and must be accompanied by robust procedural and substantive safeguards. The agency must strictly follow its own regulations, as required by the *Accardi* doctrine, and must also provide constitutionally adequate notice and an opportunity to be heard before a neutral decisionmaker prior to revocation. The fact that only high-level officials may revoke these forms of release underscores the gravity of the liberty interest at stake and the need for accountability and individualized assessment.

53. A recent order by Judge Rochon in the Southern District of New York illustrated what procedural due process ICE must follow in order to revoke an OSUP and re-detain an individual like Petitioner. *See Zhu v. Genalo*, No. 1:25-cv-06523 (JLR), 2025 WL 2452352, at *5–9 (S.D.N.Y. Aug. 26, 2025).

54. The immigration habeas petitioner in *Zhu* was in a substantially similar posture to Petitioner here: he had applied for asylum after entering the United States; had received a notice to appear that charged him with being removable; was not removed but instead was released on an Order of Supervision; and was periodically reporting to a Deportation Officer. *Id.* at *1. In August 2025, he encountered

ICE agents, seemingly somewhat by chance, outside his home during a field operation, and he was taken into custody and detained without notice. *Id.*

55. In his habeas petition, he argued, among other things, that “his redetention was unlawful because ICE did not provide him with notice or an explanation, as required by its regulations”—the same argument that Petitioner is making in this Court in connection with his request for a temporary restraining order requiring his release. In a comprehensive analysis, Judge Rochon carefully explained in detail the regulatory and case law background and then observed:

Notification of the reasons for Petitioner’s redetention is . . . required under 8 C.F.R. § 241.4(d), which provides that “[a] copy of any decision . . . to detain an alien shall be provided to the detained alien” and a decision to retain custody must “set forth the reasons” for that detention. 8 C.F.R. § 241.4(d). ***The failure to provide Petitioner with such notice thwarts his ability to contest the revocation.*** See *Santamaria Orellana v. Baker*, No. 25-cv-01788, 2025 WL 2444087, at *6–8 (D. Md. Aug. 25, 2025) (holding that ICE violated 8 C.F.R. § 241.4(d) by failing to provide noncitizen whose order of supervision was revoked with a notice or any written record as to the basis for the revocation of his release, which in turn violated his due process rights).

Id. at *8 (emphasis added); *see generally id.* at *5–8 (centering on 8 C.F.R. § 241.4, its various subsections, and the case law interpreting them). The Court went on to comment that “[h]ere, Petitioner received *no* process before being redetained, in violation of ICE’s own regulations and the Due Process Clause.” *Id.* at *9 (emphasis original). In consequence, the Court ordered his immediate release from custody. *Id.* Here, the Court should grant the same relief to Petitioner on a temporary basis while it adjudicates the merits of his habeas petition.

56. Other recent cases in accord with *Zhu* are: *Cifuentes Rivera v. Arnott*, No. 4:25-cv-00570-RK, Dkt. No. 19 (W.D. Mo. Oct. 7, 2025) (holding that under an Order of Supervision pursuant to immigration regulations, 8 C.F.R. §§ 241.4 and 241.13, the petitioner was entitled to an informal interview upon detention based on a revocation of her supervised release order, which she can “contest and challenge, the reasons for her detention”); *Diaz v. Wofford*, No. 1:25-CV-01079 JLT EPG, 2025 WL 2581575, at *3-5 (D. Ariz. Sept. 5, 2025) (granting preliminary injunction requiring petitioner’s immediate release and permanently enjoining the government from re-detaining petitioner without due process compliance based on application of section 1226 where the DHS’s failure to follow the regulation procedures in 8

C.F.R. 241.8 and failing to provide notice as required under 8 C.F.R. 241.4 where petitioner was released on own recognizance due to lack of space, was a derivative applicant on his wife's asylum application, and there was no evidence petitioner failed to comply with his terms of supervision); *M.S.L. v. Bostock*, No. 25-cv-01204, 2025 WL 2430267 (D. Or. Aug 21, 2025) (granting temporary restraining order requiring petitioner's immediate release where the DHS's failure to provide notice as required under 8 C.F.R. § 241.4 and there was no evidence petitioner failed to comply with her terms of supervision); see also *Rombot v. Souza*, 296 F. Supp. 3d 383 (D. Mass 2017) (holding ICE violated the Due Process Clause of the Fifth Amendment by detaining petitioner without advance notice, a hearing, or an interview, despite his full compliance with the conditions of his release. *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 162 (W.D.N.Y. 2023) (releasing habeas petitioner where revocation of an ICE order of supervision was ordered by someone without regulatory authority to do so). These cases confirm that revocation of liberty interests must comply with agency regulations, including notice and an opportunity to be heard, and that actions taken without proper authority are void. In the past several months in 2025, there have been many reported cases (including those in federal courts) where an OSUP was unlawfully

revoked by ICE, yet there are none known to undersigned counsel where ICE lawfully revoked an OSUP in 2025.

57. Under substantive due process doctrine, a restraint on liberty like revocation of a non-citizen'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 or preventing flight prior to removal. *See Zadvydas v. Davis*, 533 U.S. 678, 690-92 (discussing constitutional limitations on civil detention).
58. "Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty," like the decision to revoke a non-citizen'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). In addition to ICE's regulations that govern OSUP revocation, *Mathews v. Eldridge* requires a pre-deprivation hearing. Petitioner does not even have a determination from the appropriate district director that there is a "significant likelihood that the alien

may be removed in the reasonably foreseeable future.” So the first condition to the revocation has not yet occurred.

59. Even if the government were permitted to revoke an OSUP and re-detain a noncitizen after a prolonged period of supervised release, it may do so only upon a showing of “changed circumstances” that make removal significantly likely in the reasonably foreseeable future. Courts have repeatedly held that ICE must identify specific, individualized changes—such as new evidence of flight risk, danger to the community, or a concrete development making removal newly feasible. Vague or generic assertions, or the mere passage of time, are insufficient. See *Liu v. Carter*, 2025 WL 1696526 (D. Kan. Jun. 17, 2025); *Sun v. Noem*, 2025 WL 2800037 (S.D. Cal. Sep. 30, 2025); *Roble v. Bondi*, 2025 WL 2443453 (D. Minn. Aug. 25, 2025); *Sarail A. v. Bondi*, 2025 WL 2533673 (D. Minn. Sep. 3, 2025). Here, ICE has not identified any changed circumstances in Petitioner’s case; there is no evidence of new travel documents, agreements with the destination country, or any other development that would make removal likely. The record reflects only continued compliance and stability, not any new basis for detention.

Only High Level Authorized Officials Can Revoke an OSUP

60. 8 C.F.R. § 241.4(1)(2) instructs that an OSUP can be revoked by the service if, and only if, the Executive Associate Commissioner (District Director) decides to revoke it when, in the opinion of the revoking official:

- (i) The purposes of release have been served;
- (ii) The alien violates any condition of release;
- (iii) It is appropriate to enforce a removal order or to commence removal proceedings against an alien; or
- (iv) The conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate.

61. Internal delegation orders cannot override these regulatory assignments. Section 4(D)(3) of DHS Delegation Order 7030.2 2 (Exhibit 9) expressly provides that any re-delegation to District Directors for Interior Enforcement “shall not be construed to delegate ... any authority or responsibility exceeding that provided to INS District Directors by chapter 8 of the Code of Federal Regulations as in force on February 28, 2003.” The relevant CFR provisions do not include ICE Officers as low as the ones working at SDC among those empowered to revoke OSUPs. Thus, any attempt to re-delegate this authority—whether by general delegation order or internal agency memorandum—is ultra vires and invalid.

62. In other cases undersigned counsel has appeared in, Respondents have filed Exhibit 10, ERO Delegation order from 2019 purporting to delegate OSUP revocation duties to lower level deportation officers. Undersigned counsel submits that the 2019 ERO delegation order is ultra vires.
63. ERO's authority to issue such delegation orders is entirely derivative of, and strictly limited by, the higher-level DHS Delegation Order 7030.2, which governs all delegations of authority within DHS—including those to ICE and its subcomponents such as ERO. Because ERO is a subcomponent of ICE, and ICE is subordinate to DHS, any delegation of authority by ERO must be expressly permitted by DHS Delegation Order 7030.2. If 7030.2 does not specifically authorize the delegation of OSUP revocation authority—or does not permit the high-level officials named in 8 C.F.R. § 241.4 to further delegate that authority to lower-level officials—then ERO DO 0001.1 cannot lawfully confer such powers. In other words, a subordinate delegation order like 2019 ERO DO 0001.1 cannot expand or create authority beyond what is expressly permitted by the higher-level DHS Delegation Order 7030.2. Therefore, any purported delegation of OSUP revocation authority in ERO DO 0001.1 exceeds the scope of authority permitted by DHS Delegation Order 7030.2 and is invalid.

64. The Supreme Court has repeatedly affirmed that when Congress or an agency regulation enumerates particular officials to exercise a power, only those officials may act. In *United States v. Giordano*, 416 U.S. 505, 514–16 (1974), the Court held that delegation to others was not permitted where the statute authorized only the Attorney General or specially designated Assistant Attorneys General to approve wiretap applications (wiretap found unlawful when ordered by unauthorized person). The Court explained that the enumeration of authorized officials is both exclusive and exhaustive; delegation to others is impermissible absent explicit authorization. This principle was reaffirmed in *FEC v. Cruz*, 596 U.S. 289, 301 (2022), which held that an agency “literally has no power to act—including under its regulations—unless and until Congress authorizes it to do so by statute.”
65. District courts have applied these principles in the immigration context, holding that revocations of release by officials not named in the regulation are invalid and require restoration of release status. *See, e.g., Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 162 (W.D.N.Y. 2023); *Zhu v. Genalo*, 2025 WL 2452352, at *2–3 (S.D.N.Y. Aug. 26, 2025). *See also United States v. Wyder*, 674 F.2d 224, 227 (4th Cir. 1982); *Santamaria Orellana v. Baker*, 2025 WL 2841886, at *3 (D.

Md. Oct. 7, 2025) (holding that regulation that gave Executive Associate Commissioner authority to revoke an alien's release and require return to ICE custody could not be exercised by Deportation Officer). The court in *Santamaria Orellana*, citing *Giordano*, noted that “[a] statutory or regulatory provision requiring that a decision affecting personal rights be made only by a designated senior official is fairly deemed to be an important procedural safeguard”. *Id.* at *5. The court also directly addressed Due Process: “Respondents nevertheless argue that the failure to adhere to this regulation does not amount to a due process violation. This Court, however, has already found in its earlier ruling in this case that the identified violations of the requirements of 8 C.F.R. § 241.4, including the requirement that an authorized official approve a Notice of Revocation of Release under 8 C.F.R. § 241.4(l)(2), implicate due process.” *Id.* at *4.

Changed Circumstances Required for Re-arrest Petitioner

66. Even if the government were permitted to revoke an OSUP and re-detain a noncitizen after a prolonged period of supervised release, it may do so only upon a showing of “changed circumstances” that make removal significantly likely in the reasonably foreseeable future

(SLRRFF). *See* 8 C.F.R. § 241.13(i). This is not a mere formality: Courts have repeatedly held that **ICE must identify specific, individualized changes**—such as new evidence of flight risk, danger to the community, or a concrete development making removal newly feasible. *Roble v. Bondi*, 2025 WL 2443453 at *4 (D. Minn. Aug. 25, 2025) (the regulations place the burden on ICE to first establish changed circumstances that make removal significantly likely in the reasonably foreseeable future); *Hernandez Escalante v. Noem*, No. 9:25-cv-00182-MJT, 2025 WL 2206113, at *3 (E.D. Tex. Aug. 2, 2025) (“The[] regulations clearly indicate, upon revocation of supervised release, it is [ICE’s] burden to show a significant likelihood that the [noncitizen] may be removed.”). Vague or generic assertions, or the mere passage of time, are insufficient. *See Phongsavanh v. Williams*, No. 4:25-CV-00426-SMR-SBJ, 2025 WL 3124032, at *4 (S.D. Iowa Nov. 7, 2025); *Liu v. Carter*, 2025 WL 1696526 (D. Kan. Jun. 17, 2025); *Sun v. Noem*, 2025 WL 2800037 (S.D. Cal. Sep. 30, 2025); *Sarail A. v. Bondi*, 2025 WL 2533673 (D. Minn. Sep. 3, 2025) (notification of “changed circumstances” without explanation is insufficient).

67. Here, ICE has not identified any changed circumstances in Petitioner’s case; there is no evidence of new travel documents for

him, nor any other concrete development that would make his removal significantly likely.

National Uniformity: Circuit Authority on “In Custody” Status

68. This Court may grant a writ of habeas corpus only to an individual who is “in custody.” 28 U.S.C. § 2241(c). Whether a person is “in custody” within the meaning of § 2241 is a question of subject-matter jurisdiction. **To satisfy this “in custody” requirements, a petitioner need not be in physically detained.** *Hensley v. Mun. Ct., San Jose Milpitas Jud. Dist., Santa Clara Cnty., California*, 411 U.S. 345, 350 (finding that a petitioner released on his own recognizance satisfied the “in custody” requirement of the federal habeas corpus statute in noting the Supreme Court has “consistently rejected interpretations of the habeas corpus statute that would suffocate the writ in stifling formalisms or hobble its effectiveness with the manacles of arcane and scholastic procedural requirements”); *see also Harris v. Nelson*, 394 U.S. 286, 29 (1969) (“The very nature of the writ demands that it be administered with the initiative and flexibility essential to insure that miscarriages of justice within its reach are surfaced and corrected.”); *see also Jones v. Cunningham*, 371 U.S. 236, 240 (1963) (“History, usage, and

precedent can leave no doubt that, besides physical imprisonment, there are other restraints on a man's liberty, restraints not shared by the public generally, which have been thought sufficient in the English-speaking world to support the issuance of habeas corpus.”).

69. Rather, it is sufficient that a petitioner has some other type of **restriction** on their liberty to proceed on a habeas action. See *Rumsfeld v. Padilla*, 542 U.S. 426, 427 (2004) (acknowledging that the Supreme Court has broadened its understanding of custody “to include restraints short of physical liberty”). Federal courts across the country have consistently recognized that significant restraints on liberty—such as those imposed by orders of supervision, electronic monitoring, and frequent reporting—constitute “in custody” for habeas purposes under 28 U.S.C. § 2241. See e.g., *Romero v. Sec’y, U.S. Dep’t of Homeland Sec.*, 20 F.4th 1374, 1379 (11th Cir. 2021) (A non-detained foreign national subject to pre-deportation supervision and removal was “in custody” as described in 28 U.S.C. § 2241); see also *U. S. ex rel. Marcello v. Dist. Dir. of Immigr. & Naturalization Serv., New Orleans, La.*, 634 F.2d 964, 971 n. 11 (5th Cir. 1981) (finding that a noncitizen subject to pre-deportation supervision and a deportation order was “in custody” as required by 28 U.S.C. § 2241).
70. Indeed, Petitioner’s prior unlawful detention, as well as the restraints

on his liberty due to terms of his order of supervision and continued threat of removal based on his final order of removal notwithstanding his valid Deferred Action grant, continue to burden him with concrete, redressable injuries. *Peralta-Cabrera v. Gonzales*, 501 F.3d 837, 842–43 (7th Cir. 2007) (citations omitted) (explaining that the action was not moot even though the noncitizen had been removed from the United States because he continues to suffer legal consequences from his removal); *see also Rosales v. Bureau of Immigr. & Customs Enf't*, 426 F.3d 733, 735 (5th Cir. 2005) (citations omitted) (agreeing with precedent from the Second, Sixth, Ninth, and Tenth Federal Circuit Courts that “a final deportation order subjects a [noncitizen] to a restraint on liberty sufficient to place [the noncitizen] ‘in custody’ as required by the civil habeas statute 28 U.S.C. § 2241”). Based on the foregoing binding legal precedents from nearly every circuit court of appeals, Petitioner continues to remain “in custody” as required by 28 U.S.C. § 2241 as he is subject to a final order of removal, subject an OSUP and Petitioner is under constant threat of deportation, either one of these conditions would be sufficient to place him “in custody” pursuant to the habeas laws. Petitioner is seeking an order from this Court that prevents ICE from unlawfully re-detaining him and removing him based on the law. This uniformity across various

Federal Circuit courts around the country, as well as U.S. Supreme Court, underscores that people like Petitioner are considered “in custody” for the habeas statute even if he is not currently detained.

71. In conclusion, even though Petitioner is not incarcerated, he is still “in custody” for the purposes of the habeas statute at 28 U.S.C. § 2241, because he is subject to conditions and significant constraints on his liberty, which suffices for “in custody” requirement. The “in-custody” requirement is construed “very liberally.” *Clements v. Florida*, 59 F.4th 1204, 1213 (11th Cir. 2023) (quoting *Howard v. Warden*, 776 F.3d 772, 775 (11th Cir. 2015)). There are countless authorities on the matter, including for example, two binding authorities from the 11th circuit, *Romero v. Sec’y, U.S. Dep’t of Homeland Sec.*, 20 F.4th 1374, 1379 (11th Cir. 2021) (A non-detained foreign national subject to pre-deportation supervision and removal was “in custody” as described in 28 U.S.C. § 2241); see also *U. S. ex rel. Marcello v. Dist. Dir. of Immigr. & Naturalization Serv., New Orleans, La.*, 634 F.2d 964, 971 n. 11 (5th Cir. 1981) (finding that a noncitizen subject to pre-deportation supervision and a deportation order was “in custody” as required by 28 U.S.C. § 2241). Therefore, the custody requirement is not only satisfied by showing that a petitioner is in physical custody, but it can also be satisfied where a petitioner identifies “a significant restraint”

on individual liberty that is not shared by the general public.” *Whitfield v. United State Secretary of State*, 853 F. App’x 327, at 329 (11th Cir. 2021) (quoting *Howard v. Warden*, 776 F.3d 772, 775 (11th Cir. 2015)).

72. In *Hensley v. Mun. Ct.*, 411 U.S. 345, 351 (1973), the Supreme Court explained that the “custody requirement of the habeas corpus statute is designed to preserve the writ of habeas corpus as a remedy for severe restraints on individual liberty.” 411 U.S. at 351. The Court found that petitioner was in custody because he was subject to restraints on his liberty such that he could not “come and go as he pleas[ed],” and these restraints are not “shared by the general public.” *Whitfield*, 853 F. App’x at 329 (quoting *Howard v. Warden*, 776 F.3d 772, 775 (11th Cir. 2015)).

The APA Sets Minimum Standards for Final Agency Action

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

74. 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).

75. ICE’s revocation of an order of supervision—or the imminent threat thereof—is a final agency action subject to this Court’s review.

76. Any revocation or re-detention decision would mark the consummation of ICE’s decision-making process regarding Petitioner’s custody and supervision.

77. Such an action would also be one by which rights or obligations have been determined, or from which legal consequences would flow, because it would lead to Petitioner’s detention in violation of his rights under the Constitution, statute, and regulation.

The *Accardi* Doctrine Requires Agencies to Follow Internal Rules

78. 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.”).

79. *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); *U.S. 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)
80. Where a release notification issued alongside an order of supervision instructs that a non-citizen with a final order of removal will be given an opportunity to prepare for an “orderly departure,” ICE’s failure to follow that instruction is an *Accardi* violation. See *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 169; *Ragbir v. Sessions*, 2018 WL 623557 (S.D.N.Y. Jan. 29, 2018), vacated and remanded on other grounds sub nom. *Ragbir v. Barr*, 2019 WL 6826008 (2d Cir. July 30, 2019); *Rombot v. Souza*, 296 F. Supp. 3d 383 (D. Mass. 2017) (ordering

release of petitioners to give an opportunity to prepare for orderly departure).

81. ICE's Detention and Removal Operations Field Policy Manual (DROPPM) ⁴, Exhibit 11, prescribes mandatory procedures for the revocation of orders of supervision or release, including: (1) a complete review of the circumstances surrounding the alleged violation; (2) prompt service of a Notice of Revocation of Release stating the reasons for revocation; and (3) an informal interview with the noncitizen to afford an opportunity to respond to the reasons for revocation. In Petitioner's case, ICE failed to conduct a timely review, failed to provide prompt and accurate notice.
82. Chapter 17.12(b) of the DROPPM prescribes a non-discretionary process for revocation of an OSUP. Specifically, **before revocation, ICE must conduct a complete review of the circumstances surrounding the alleged violation; promptly serve the alien with a Notice of Revocation of Release stating the reasons for revocation; and conduct an informal interview with the alien to afford an opportunity to respond to the reasons for revocation.** *Id.* If the alien is not released after the informal

⁴ As the full DROPPM is 629 pages, only the cover pages and two pages referenced herein re OSUP are included.

interview, ICE must initiate the Post Order Custody Review (“POCR”) process. This process is not a mere technicality. The interview requirement is designed **to ensure that revocation decisions are based on accurate, individualized information and that the affected individual has a meaningful opportunity to contest the alleged violation before liberty is withdrawn.** The absence of this process increases the risk of arbitrary and capricious actions and erroneous deprivation of liberty, and it undermines the reliability and fairness of the agency’s actions. Disclaimer language such as “Nothing in this manual may be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States, its agencies or officers, or any other person” does not foreclose Petitioner’s argument. *Appalachian Power Co. v. EPA*, 208 F.3d 1015, 1022–23 (D.C. Cir. 2000).

83. The DROPPM and related regulations also require that revocation be based on individualized findings of changed circumstances, such as new evidence of flight risk, danger to the community, or a significant likelihood of removal in the reasonably foreseeable future. No such findings were made in Petitioner’s case. Instead, the record reflects that he had a long history of compliance, no new criminal conduct,

and strong family and community ties. ICE's assertion that his ankle monitor was tampered with was unsupported and contradicted by the facts.

84. Even where statutory frameworks grant ICE broad discretion in detention and release decisions, federal courts retain jurisdiction to review whether the agency complied with its own regulations, procedures and prior written commitments in the OSUP and its revocation procedures. This is supported by Eleventh Circuit precedent (*Gonzalez v. Reno*, 325 F.3d 1228 (11th Cir. 2003) (“[A]gencies must respect their own procedural rules and regulations...[and] the courts retain the authority to check...for procedural compliance”, 1349), *Kurapati v. USCIS*, 775 F.3d 1255 (11th Cir. 2014), as well as various district court cases, for example *Barrios v. Ripa*, No. 1:25-cv-22644-GAYLES, 2025 WL 2280485 (S.D. Fla. Aug. 8, 2025), *Rombot v. Souza*, 296 F. Supp. 3d 383, 389 (D. Mass. 2017) (Arbitrary OSUP revocation without adherence to agency rules is unlawful).

VII. CAUSES OF ACTION AND CLAIMS FOR RELIEF

COUNT ONE

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

85. Petitioner realleges and incorporates all paragraphs above as if fully set forth here.
86. All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment.
87. The Due Process Clause of the Fifth Amendment provides that “[n]o person shall be ... deprived of life, liberty, or property, without due process of law.” U.S. CONST. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). This vital liberty interest is at stake when an individual is subject to detention by the federal government.
88. Under the civil-detention framework set out in *Zadvydas* and its progeny, the Government may deprive a non-citizen of physical liberty only when the confinement serves a legitimate purpose—such as ensuring appearance or protecting the community—and is reasonably related to, and not excessive in relation to, that purpose.

89. When ICE issued Petitioner an order of supervision, it found that Petitioner is neither a danger to the community nor a flight risk.
90. Now, despite Petitioner's full compliance with every condition of his Order of Supervision for approximately twenty-two years, ICE has given no notice of any change in circumstances that would warrant revocation. There are no criminal issues, Petitioner has complied with the OSUP, and there are no new adverse factors to justify detention.
91. Moreover, according to a bi-national treaty, 2008 U.S.-Vietnam Repatriation Agreement, officially titled *Vietnam (08-322) – Agreement on the Acceptance of the Return of Vietnamese Citizens*, **ICE cannot remove Petitioner from the United States**. This agreement **explicitly excluded** Vietnamese nationals who arrived in the United States **before July 12, 1995** from being subject to deportation. This exclusion was based on the historical context: many of these individuals were refugees fleeing post-war persecution and had been protected from deportation under this agreement. The relevant clause states: **“Vietnamese citizens are not subject to return to Vietnam under this Agreement if they arrived in the United States before July 12, 1995.”**
92. Because Petitioner's removal is not reasonably foreseeable, any re-detention would not bear a reasonable relationship to the two

regulatory purposes of immigration detention: preventing danger to the community or flight prior to removal.

93. Respondents' threatened revocation of Petitioner's order of supervision, and the imminent prospect of his re-detention, therefore violate substantive due process under the Fifth Amendment to the U.S. Constitution.

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

94. Petitioner realleges and incorporates all paragraphs above as if fully set forth here.
95. To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319, (1976). Pursuant to *Mathews*, courts weigh the following three factors: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the

additional or substitute procedural requirement would entail.”

Mathews, 424 U.S. at 335.

96. The first factor, the private interest at issue, favors Petitioner as Petitioner’s liberty interest is paramount. “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 v. Davis*, 533 U.S. 678, 690. ICE had already decided 21 years ago in 2004 that Petitioner is not a flight risk, and does not pose a danger to the community. Petitioner has complied with all reporting requirements over the past 21 years and does not have any adverse factors or new criminal behavior that would have led to the recent arrest. Being free from physical detention by one’s own government “is the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). The right to be free of detention of indefinite duration pending a bail determination, is “without question, a weighty one.” *Landon v. Plasencia*, 459 U.S. at 34, 103 S.Ct. 321.

97. The second factor, the risk of erroneous deprivation of liberty and the probable value of procedural safeguards, also favors Petitioner. To safeguard against erroneous deprivations of liberty, statute specifies the limited number of reasons that an order of supervision can be

revoked. Regulations specify who may lawfully revoke the order and the procedures that must be followed when doing so, including giving notice and an opportunity to be heard. Respondents violated those laws here, leaving the risk of erroneous deprivation of liberty high (as they failed to provide notice and an opportunity to be heard). Requiring Respondents to give notice and an opportunity to respond prior to revoking an order of supervision is of great value because it reduces the probability of needless detention of a person, like Petitioner, who is neither dangerous nor a flight risk. Likewise, the risk of erroneous deprivation of liberty is great due to the lack of a non-independent adjudicator as ICE officers under the current Trump administration are subject to daily arrest quotas of noncitizens. *Marcello v. Bonds*, 39 U.S. 302, 305-306 (1955).

98. The third factor, the government's interest, also favors Petitioner. When the government ignores law (and agency breaks its own regulations, policies and procedures) 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.

99. Moreover, according to a bi-national treaty, **ICE cannot remove Petitioner from the United States in the reasonably foreseeable future.** This agreement **explicitly excluded** Vietnamese nationals who arrived in the United States **before July 12, 1995** from being subject to deportation. The government must be held to follow its own agreements and therefore cannot foreseeably remove Petitioner.
100. Because Petitioner does not have a passport or any travel document, ICE cannot remove him in the reasonably foreseeable future.
101. For these reasons, revoking or acting to revoke Petitioner's order of supervision—without prior notice, findings, or an opportunity to be heard, and in light of current ICE practices of detaining supervised individuals during routine check-ins—would violate procedural due process under the Fifth Amendment to the U.S. Constitution.

COUNT THREE

**Violation of Administrative Procedure Act, 5 U.S.C. § 706(2)(A),
(B)
Contrary to Law and Constitutional Right**

102. Petitioner realleges and incorporates all paragraphs above as if fully set forth here.
103. 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).
104. 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).
105. Respondents’ anticipated revocation of Petitioner’s order of supervision, and the policies and practices giving rise to his imminent risk of detention, are contrary to the agency’s constitutional power under the Fifth Amendment’s Due Process Clause, as explained above.
106. Any such revocation or detention would also not be in accordance with the INA and implementing regulations governing who may lawfully

revoke an order of supervision and under what circumstances, as cited and discussed in the Statutory Framework section above.

107. Petitioner's order of supervision has remained valid for approximately twenty one years, and there is no indication that any authorized ICE official has made findings required under 8 C.F.R. § 241.4(l)(2) that revocation is in the public interest or that circumstances warrant referral to the Executive Associate Director. Nor is there any evidence that the authority to revoke has been lawfully delegated in Petitioner's case.

108. Before taking any action to revoke the order or re-detain Petitioner, Respondents have not made findings that he is dangerous or unlikely to comply with a removal order, as required by statute.

109. Even assuming that regulations purporting to offer additional justifications for revocation of an order of supervision are not ultra vires, Respondents did not comply with them. Respondents could not make findings that Petitioner's conduct indicated release would no longer be appropriate or that Petitioner violated any condition of release, because Petitioner had not. Nor could Respondents make findings that the purposes 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. Moreover, according to a

bi-national treaty, **ICE cannot remove Petitioner from the United States in the reasonably foreseeable future.** This agreement **explicitly excluded** Vietnamese nationals who arrived in the United States **before July 12, 1995** from being subject to deportation. The government must be held to follow its own agreements and therefore cannot foreseeably remove Petitioner.

110. Nor have Respondents provided Petitioner with notice of any intent to revoke supervision or an opportunity to respond as required by 8 C.F.R. § 241.4(l)(1).

111. Accordingly, any attempt to revoke Petitioner's order of supervision or place him in detention would be unlawful and must be set aside because it would be contrary to the agency's constitutional power and not in accordance with the INA and implementing regulations.

COUNT FOUR
Violation of the Administrative Procedure Act, 5 U.S.C. §
706(2)(A)
Arbitrary and Capricious

112. Petitioner realleges and incorporates all paragraphs above as if fully set forth here.

113. Under the APA, a court shall "hold unlawful and set aside agency action . . . found to be arbitrary [or] capricious." 5 U.S.C. § 706(2)(A).

114. Any attempt by Respondents to revoke Petitioner's order of supervision or to detain him at his next check-in would be arbitrary and capricious because it would violate statute, regulation, and the Constitution, as described above.
115. An agency decision that "runs counter to the evidence before the agency" is also arbitrary and capricious. *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins.*, 463 U.S. 29, 43 (1983).
116. Any such decision by Respondents would run counter to the evidence before the agency, which shows that Petitioner has consistently complied with his supervision, has never violated a condition of his order, and presents no evidence of flight risk or danger to the community.
117. Moreover, any decision to revoke or detain would have "failed to consider important aspects of the problem" before Respondents, making it arbitrary and capricious for multiple other reasons. *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1910 (2020).
118. First, Respondents would fail to consider the serious constitutional concerns raised by revoking Petitioner's order of supervision without notice and opportunity to respond.
119. Second, Respondents would fail to consider the increased

administrative burden to the agency caused by revoking the order of supervision of Petitioner, who is neither a flight risk nor a danger to the community and for whom the agency does not have travel documents needed to effectuate removal, including financial and administrative costs incurred by the agency due to unnecessary detention. Moreover, according to a bi-national treaty, **ICE cannot legally remove Petitioner from the United States even if they had obtained a travel document for Petitioner.** See Exhibit 8.

120. Third, Respondents would fail to consider reasonable alternatives to revoking Petitioner's order of supervision that were before the agency, like simply continuing release under the order of supervision and scheduling a future time and date to appear for removal. This alternative would vindicate the government's interests in effectuating a removal order and save it the expense of detention not needed to guarantee Petitioner's appearance.
121. Fourth, Respondents would fail to consider Petitioner's substantial reliance interest, created by the agency's consistent practice over two decades of allowing him to remain under supervision and instructing that individuals under such orders will be given an opportunity to arrange for an orderly departure once travel documents are obtained.
122. A noncitizen released from immigration custody acquires a protected

liberty interest in remaining at liberty, grounded in the government's own determination that the individual is neither a flight risk nor a danger to the community. This interest is heightened by the individual's reliance on that status to build family, community, and employment ties. Before this liberty can be withdrawn, both the regulatory and constitutional framework require meaningful process—including advance notice and an opportunity to be heard before a neutral decisionmaker. As the Supreme Court has emphasized, “The essence of due process is the requirement that a person in jeopardy of serious loss be given notice of the case against him and opportunity to meet it.” *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976) (cleaned up).

123. Numerous recent cases from district courts across the country have reached the same conclusion: noncitizens released on recognizance cannot be arbitrarily re-detained without individualized findings, notice, and a meaningful opportunity to be heard. These courts have granted habeas relief and injunctive orders where the government failed to honor the reliance interests and procedural safeguards inherent in its own release decisions. Arbitrary re-detention, absent evidence of noncompliance, flight risk, or danger, is unlawful and

subject to judicial remedy.⁵

124. For these and other reasons, any attempt by Respondents to revoke Petitioner's order of supervision or detain him during his next check-in would be arbitrary and capricious and should be declared unlawful and enjoined.

COUNT FIVE
Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(C)
In Excess of Statutory Authority

125. Petitioner realleges and incorporates all paragraphs above as if fully set forth here.

⁵ *Zhu v. Genalo*, No. 1:25-cv-06523 (JLR), 2025 WL 2452352, at *5–9 (S.D.N.Y. Aug. 26, 2025); *Cifuentes Rivera v. Arnott*, No. 4:25-cv-00570-RK, Dkt. No. 19 (W.D. Mo. Oct. 7, 2025) (holding that under an Order of Supervision pursuant to immigration regulations, 8 C.F.R. §§ 241.4 and 241.13, the petitioner was entitled to an informal interview upon detention based on a revocation of her supervised release order, which she can “contest and challenge, the reasons for her detention”); *Diaz v. Wofford*, No. 1:25-CV-01079 JLT EPG, 2025 WL 2581575, at *3-5 (D. Ariz. Sept. 5, 2025) (granting preliminary injunction requiring petitioner’s immediate release and permanently enjoining the government from re-detaining petitioner without due process compliance based on application of section 1226 where the DHS’s failure to follow the regulation procedures in 8 C.F.R. 241.8 and failing to provide notice as required under 8 C.F.R. 241.4 where petitioner was released on own recognizance due to lack of space, was a derivative applicant on his wife’s asylum application, and there was no evidence petitioner failed to comply with his terms of supervision); *M.S.L. v. Bostock*, No. 25-cv-01204, 2025 WL 2430267 (D. Or. Aug 21, 2025) (granting temporary restraining order requiring petitioner’s immediate release where the DHS’s failure to provide notice as required under 8 C.F.R. § 241.4 and there was no evidence petitioner failed to comply with her terms of supervision); see also *Rombot v. Souza*, 296 F. Supp. 3d 383 (D. Mass 2017) (holding ICE violated the Due Process Clause of the Fifth Amendment by detaining petitioner without advance notice, a hearing, or an interview, despite his full compliance with the conditions of his release. *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 162 (W.D.N.Y. 2023) (releasing habeas petitioner where revocation of an ICE order of supervision was ordered by someone without regulatory authority to do so). *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 intend 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].”

126. Under the APA, a court shall “hold unlawful and set aside agency action . . . found to be . . . in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2)(C).
127. “An agency . . . literally has no power to act—including under its regulations—unless and until Congress authorizes it to do so by statute.” *FEC v. Cruz*, 596 U.S. 289, 301 (2022) (internal quotation marks and citation omitted).
128. 8 U.S.C. § 1231(a)(6) only authorizes detention past the 90-day removal period for a person who is found to be a danger to the community, unlikely to comply with a removal order, or whose removal order is on certain grounds specified in the statute. Even then, 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 v. Davis*, 533 U.S. 678, 699-700.
129. Regulations that purport to give Respondents authority to revoke an order of supervision on grounds other than those listed § 1231(a)(6) are ultra vires and in excess of statutory authority because “[r]egulations cannot circumvent the plain text of the statute.” *You v.*

Nielsen, 321 F. Supp. 3d. 451, 463 (S.D.N.Y. 2018). Any attempt by Respondents to revoke Petitioner’s order of supervision or detain him under such regulations would therefore be in excess of statutory authority and must be held unlawful and set aside, particularly where removal is not reasonably foreseeable under the 2008 U.S.–Vietnam Repatriation Agreement. *See* Exhibit 8.

COUNT SIX
Ultra Vires Action

130. Petitioner realleges and incorporates all paragraphs above as if fully set forth here.
131. There is no statute, constitutional provision, or other source of law that authorizes Respondents to revoke Petitioner’s order of supervision or place him in detention absent the findings required by 8 U.S.C. § 1231(a)(6) and its implementing regulations.
132. Petitioner has a non-statutory right of action to declare unlawful, set aside, and enjoin Respondents’ ultra vires actions.

COUNT SEVEN
Violation of the *Accardi* Doctrine

133. Petitioner realleges all paragraphs above as if fully set forth here.
134. 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”).

135. Respondents’ anticipated actions to revoke Petitioner’s order of supervision or detain him would violate agency regulations governing who and upon what findings such actions may lawfully occur. “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.” *Cesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 162 (citing *Rombot v. Moniz*, 296 F. Supp. 3d 386, 386-89); 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).
136. Respondents routinely fail to follow internal agency instructions contained in Petitioner’s release notification, which require that individuals under supervision be given an opportunity to prepare for an orderly departure prior to any change in custody status.
137. Under *Accardi*, any action by Respondents to revoke Petitioner’s order of supervision or to disregard the instructions contained in his

release notification would violate agency procedures, rules, or instructions and should be set aside.

CONCLUSION

138. The imminent and unlawful detention of Petitioner violates Petitioner's due process rights. But for intervention by this Court, Petitioner has no means of stopping re-detention or effectuating release from ICE custody.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- (1) Assume jurisdiction over this matter;
- (2) Grant Petitioner a writ of habeas corpus;
- (3) Enjoin Petitioner's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this Petition;
- (4) Order that Petitioner remain under his current Order of Supervision and not be taken into ICE custody absent full compliance with statutory and regulatory due process protections;
- (5) **Enjoin** Respondents from re-detaining Petitioner or revoking his

Order of Supervision absent strict compliance with all governing regulations, including a showing of specific, individualized changed circumstances making his removal significantly likely in the reasonably foreseeable future, supported by a written decision from a duly authorized official

- (6) Order Respondents to file a response (Order to Show Cause) within 3 days of the filing of this petition;
- (7) Award attorney's fees and court costs to Petitioner; and
- (8) Grant such other and further relief as this Court deems proper or equitable under the circumstances.

Respectfully Submitted,

This 22nd, day of December, 2025.

/s/ Karen Weinstock
Karen Weinstock
Attorney for Petitioner
Weinstock Immigration Lawyers, P.C.
1827 Independence Square
Atlanta, GA 30338
Phone: (770) 913-0800
Fax: (770) 913-0888
kweinstock@visa-pros.com

28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with Petitioner and have reviewed various immigration documents for Petitioner. On the basis of those discussions, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 USC § 2242.

This 22nd, day of December, 2025.

/s/ Karen Weinstock
Karen Weinstock
Attorney for Petitioner
Weinstock Immigration Lawyers, P.C.
1827 Independence Square
Atlanta, GA 30338
Phone: (770) 913-0800
Fax: (770) 913-0888
kweinstock@visa-pros.com

CERTIFICATE OF COMPLIANCE

I hereby certify, pursuant to Local Rules 5.1 and 7.1(D), that the filing(s) filed herewith have been prepared using Century Schoolbook, 13 point font.

/s/ Karen Weinstock
Karen Weinstock
Attorney for Petitioner
Weinstock Immigration Lawyers, P.C.
1827 Independence Square
Atlanta, GA 30338
Phone: (770) 913-0800
Fax: (770) 913-0888
kweinstock@visa-pros.com

U.S. Department of Justice
Immigration and Naturalization Service

Order

1010 East Whatley Road
Oakdale, LA 71463

File No: _____

Date: _____

Name: Quang Van NGUYEN 11/11/03

On 05/28/2003, you were ordered:
(Date of final order)

- Excluded or deported pursuant to proceedings commenced prior to April 1, 1997.
 Removed pursuant to proceedings commenced on or after April 1, 1997.

Because the Service has not effected your deportation or removal during the period prescribed by law, it is ordered that you remain under supervision and permitted to be at large under the following conditions:

- That you appear in person at the time and place specified, upon each and every request of the Service, for deportation or removal.
- That upon request of the Service, you appear for medical or psychiatric examination at the expense of the Government.
- That you provide information under oath about your nationality, circumstances, habits, associations, and other information as the Service considers appropriate.
- That you do not travel outside THE STATE OF GEORGIA for more than 30 days in any calendar year, having notified this Service office of the dates and places of such proposed travel.
(Specify geographic limits, if any)
- That you furnish written notice to this Service office of any change of residence or employment within 30 days.
- That you report in person on the 1st working day of each month to this Service office at IMMIGRATION AND CUSTOMS ENFORCEMENT, 6233 Dayton Blvd, Hixson, GA 30141, unless you are granted written permission to report on another date.

- That you assist the Immigration and Naturalization Service in obtaining any necessary travel documents.
- Other: _____
- See attached sheet containing other specified conditions (Continue on separate sheet if required)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CONG THANH LE)
A# [REDACTED])

Petitioner,)

vs.)

LADEON FRANCIS, *ICE Atlanta*)
Field Office Director; and)
TODD LYONS, *in his official capacity as Acting*)
Director of Immigration and Customs)
Enforcement; and)
KRISTI NOEM, *Secretary of Homeland Security*)
And PAMELA BONDI, *U.S. Attorney General.*)

Respondents.)

CASE NO.:

DECLARATION OF COUNSEL

IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

I, **Karen Weinstock**, hereby declare under penalty of perjury pursuant to the laws of the United States that the following is true and correct to the best of my knowledge and belief:

1. I am an attorney licensed to practice law in the State of New York and the Managing Attorney at **Weinstock Immigration Lawyers, P.C.** located in Atlanta, Georgia. I have represented immigration clients before various U.S. government agencies, including, but not limited to, DHS (previously INS), U.S. Citizenship and Immigration Services (USCIS), the Executive Office for Immigration Review (EOIR), and U.S. Immigration and Customs Enforcement (ICE) for over twenty-four (24) years.

2. In the course of my practice, I have represented numerous clients under *Orders of Supervision* (OSUP) issued by ICE, including in Atlanta. These individuals, including long-term residents with final orders of removal, have been required to report periodically to the ICE Atlanta Field Office, located at 180 Ted Turner Dr. SW, Atlanta, GA 30303.
3. For many years, ICE (including ICE Atlanta office) permitted clients on OSUPs to check in remotely by phone or through the online reporting platform introduced after the COVID-19 pandemic. ICE also had reporting machines installed outside the 180 Ted Turner building so people could report there in person, instead of going up to see an ICE officer.
4. Recently, beginning in mid-2025, however, ICE Atlanta terminated remote reporting options for clients and began requiring in-person attendance at the field offices for all check-ins, including for individuals who had complied with their OSUPs for years and even decades.
5. Since that change, my firm and other local immigration attorneys have witnessed a significant increase in the detention of long-term supervised individuals on OSUPs at or immediately following their check-ins, even when they had no new criminal charges or violations and no changed circumstances. Several of my clients—each of whom had been reporting for years without incident—were detained in the spring and summer of 2025 without prior notice or written explanation.
6. In particular, I am aware of at least a dozen individuals (including clients) who were detained by ICE during routine check-ins between May and September 2025 at the Atlanta ICE Field Office under identical or very similar circumstances: each had a valid OSUP, had complied with

their OSUP for years, had never violated its terms, and was detained after appearing in person when remote reporting was no longer available. Neither person was given a proper notice, none were given an opportunity to respond and none of the OSUPs that I have seen revoked were done properly following due process or ICE's own agency procedures by the proper delegated officials. All of these clients were given a standardized letter without any individualized assessment and sometimes even containing wrong information such as the noncitizen violated terms, which was factually incorrect.

7. These OSUPs were revoked and only after the fact ICE conducted an informal interview without a real opportunity to be heard in a constitutionally protected way that is compliant with Due Process. For example, in another client's situation, they conducted an interview two months after the client had been detained, by a low level ICE officer who had no authority to revoke the OSUP, after it has been revoked. ICE had no travel documents for that client even after spending two months in detention.
8. In a Writ of Habeas training session I led on zoom to train Atlanta immigration attorneys on October 10, 2025, I asked through an informal show of hands if anyone had a client NOT detained recently when they reported on an OSUP. No hand was raised, meaning all clients for all approximately 50 attorneys in attendance were detained when they showed up for reporting. This informal survey represents hundreds of clients assuming each attorney represented multiple clients.
9. These detentions represent a clear shift in ICE Atlanta's enforcement practices from prior years. Before 2025, clients with long-term

supervision and consistent compliance were rarely detained without a change in circumstances or specific findings of danger or flight risk.

10. Mr. Cong Thanh Le, whom I represent, has been under an ICE Order of Supervision since approximately 2003-2004 and has informed me that he fully complied with its terms for more than twenty (20) years. He also informed me that he has no new criminal convictions or violations. ICE has scheduled his next in-person check-in for Thursday, November 5, 2025, at the Atlanta Field Office (180 Ted Turner Dr. SW).
11. Based on my experience and ICE's recent pattern of detaining similarly situated individuals, it is my professional opinion that Mr. Le faces a specific, credible, and imminent risk of detention at his next check-in despite his longstanding compliance and absence of any new adverse factors. He is all but guaranteed to be detained at that time without due process, without notice and opportunity to be heard, and against the agency's own regulations and procedures pertaining OSUP revocations.
12. The facts stated herein are based on my personal knowledge and professional experience as an attorney representing Mr. Le and other OSUP clients before ICE Atlanta.

Executed on this 4th day of November, 2025, in Atlanta, Georgia.

/s/ Karen Weinstock

Karen Weinstock, Esq.
Weinstock Immigration Lawyers



**Advisory for Advocates:
Memorandum of Understanding Regarding Deportation of Pre-1995 Vietnamese
July 2021**

On November 21, 2020, the United States and Vietnam signed a Memorandum of Understanding (MOU), creating a process for deporting people who came to the United States from Vietnam before July 12, 1995 (pre-1995 Vietnamese). Advancing Justice - Asian Law Caucus requested a copy of the MOU through the Freedom of Information Act (FOIA) and later sued the government to obtain a copy, with representation by pro bono counsel Nossaman LLP.

In response to the litigation, the government provided a redacted copy of the MOU. We will continue to work to obtain information regarding the portions of the MOU that have been redacted but wanted to inform advocates of what we do know about the agreement and how it may impact pre-1995 Vietnamese immigrants facing deportation.

Advocates and attorneys are the target audience for this advisory. The information in this advisory is based on the redacted MOU, ICE's statements in a separate lawsuit filed by Advancing Justice - Atlanta and Advancing Justice - Asian Law Caucus (*Trinh v. Homan*, in the Central District of California), and patterns we have seen as legal service providers. We will be working on a separate advisory for impacted community members.

Background

In 2008, the United States and Vietnam entered into an agreement that created a process to deport people to Vietnam who came after July 12, 1995 - the date the United States and Vietnam re-established diplomatic relations. The agreement did not create a process to deport Vietnamese citizens who came before that date. For nearly a decade, both the United States and Vietnam followed the agreement, making deportations of pre-1995 Vietnamese community members very rare. Up to 10,000 pre-1995 people have been released from detention after Vietnam failed to issue travel documents, and have been able to return to their families and communities.

Under the Trump Administration, the United States placed renewed pressure on Vietnam to accept pre-1995 Vietnamese refugees for deportation. ICE also carried out mass raids on the Vietnamese community in 2017. However, while ICE deported a small number of pre-1995 Vietnamese community members in early 2018, it was still unable to deport the vast majority of

pre-1995 Vietnamese people with removal orders. The United States continued putting pressure on Vietnam. In late 2019, Vietnam started issuing travel documents for pre-1995 Vietnamese people more regularly, but still in small numbers.

The pressure from the United States eventually led to the signing of the 2020 MOU that created a process to deport pre-1995 individuals. Like the 2008 MOU covering the deportation of post-1995 individuals, the 2020 MOU allows for "consideration of humanitarian and family unity aspects of repatriation." The 2020 MOU allows Vietnam to interview a pre-1995 individual before issuing a travel document if necessary but does not require interviews.

What is happening now?

We have not seen drastic changes in deportation patterns since the agreement was signed. In March 2021, lawyers for ICE in *Trinh v. Homan* confirmed that Vietnam had not issued travel documents for pre-1995 individuals at a higher rate since the 2020 MOU was signed and that ICE did not plan to re-detain pre-1995 Vietnamese individuals in mass raids based on the 2020 MOU.

In March 2021, ICE sent a deportation flight to Vietnam which included around eight pre-1995 individuals. To our knowledge, there has not been a deportation flight since. We have not seen mass raids of people with removal orders like the one that took place in 2017 or that other communities have seen. In the past month, ICE has continued to be unable to deport some pre-1995 individuals and has released them from custody.

Frequently Asked Questions

Which pre-1995 Vietnamese immigrants face the highest risk of receiving travel documents and being deported?

ICE appears to now be regularly applying for travel documents for pre-1995 Vietnamese immigrants **as they are ordered removed**. ICE also sometimes seeks a travel document when a pre-1995 Vietnamese immigrant **with an old removal order is arrested on new criminal charges and transferred to ICE custody again**.

We have **not** seen any widespread efforts by ICE to target pre-1995 Vietnamese immigrants with old removal orders who have not reentered ICE custody recently. In general, the Vietnamese government approves some but not nearly all travel document requests that are made for pre-1995 Vietnamese immigrants.

Who is ICE targeting for deportation?

On February 18, 2021, ICE issued a memo outlining temporary priorities for immigration enforcement including who to place in removal proceedings, detain, and remove. Additional

guidance is expected in the near future. Most relevant to pre-1995 Vietnamese immigrants, the memo instructs ICE to focus enforcement efforts on individuals who have an aggravated felony conviction and pose a current danger to the community. The memo outlines a number of factors to be considered when determining whether someone poses a danger.

While ICE does appear to have, for the most part, focused enforcement on individuals with aggravated felony convictions, it has found the vast majority of people with convictions to pose a danger despite evidence to the contrary. Individuals can submit evidence of rehabilitation, family ties, and other factors outlined in the memo to request prosecutorial discretion.

As explained above, as to pre-1995 Vietnamese immigrants, ICE has primarily targeted those who were recently ordered removed based on criminal convictions or who have old removal orders but recently reentered ICE custody from criminal custody.

How should I advise my pre-1995 Vietnamese client with a pending criminal case regarding the likelihood of deportation?

Pre-1995 Vietnamese immigrants are not safe from deportation. The same considerations in play for other noncitizen defendants—e.g., avoiding a deportable conviction, avoiding an aggravated felony conviction, avoiding transfer to ICE custody, etc.—are relevant for pre-1995 Vietnamese immigrants. These considerations must be weighed against the client's other priorities.

How should I advise my pre-1995 Vietnamese client in removal proceedings regarding the likelihood of deportation?

As pre-1995 Vietnamese immigrants are not safe from deportation, there is value in pursuing any immigration relief that may be available. Whether a client should endure a lengthy period of detention to pursue relief likely depends on several factors, including the strength of their claims, their risk tolerance for deportation, and their family's needs.

Is ICE re-detaining pre-1995 Vietnamese immigrants with final orders of removal?

Generally speaking, no. We have seen re-detentions in two scenarios. First, when a pre-1995 Vietnamese immigrant on an order of supervision is arrested on new criminal charges, ICE may re-detain them when they leave criminal custody. Second, when a travel document is issued for a pre-1995 Vietnamese immigrant on an order of supervision, ICE will re-detain them to carry out the deportation. As mentioned above, most of the travel documents appear to be for pre-1995 Vietnamese immigrants who were recently ordered removed and/or were recently in ICE custody.

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE DEPARTMENT OF HOMELAND SECURITY OF THE UNITED STATES OF AMERICA
AND
THE MINISTRY OF PUBLIC SECURITY OF THE SOCIALIST REPUBLIC OF VIET NAM
ON
THE ACCEPTANCE OF THE RETURN OF VIETNAMESE CITIZENS WHO ARRIVED
IN THE UNITED STATES BEFORE JULY 12, 1995 AND WHO HAVE BEEN ORDERED
REMOVED FROM THE UNITED STATES**

The Department of Homeland Security of the United States of America (DHS), and the Ministry of Public Security of the Socialist Republic of Viet Nam (MPS), hereinafter collectively referred to as the "Participants",

DESIRING to continue friendly relations between the two countries, and to establish procedures on the prompt and orderly acceptance of Vietnamese citizens who have been ordered removed by U.S. competent authority and who arrived in the United States before July 12, 1995, the date on which diplomatic relations were established between the United States and Viet Nam:

ACKNOWLEDGING that U.S. law establishes processes for aliens to administratively and judicially challenge their removal from the United States, and where appropriate, obtain relief from the order of removal; and

SEEKING to establish common procedures based on the international responsibility of countries to accept the return of their citizens; and, for countries seeking the removal of aliens, to follow recognized principles of international law, to allow for a case-by-case determination of removal, and to recognize the right of the receiving country to determine citizenship and the relevant conditions and factors,

HAVE reached the following understandings:

**Section 1
Purpose and Scope**

The purpose of this Memorandum of Understanding (MOU) is to establish a process of review and issuance of travel documents for Vietnamese citizens ordered removed from the United States and to facilitate the acceptance of all such Vietnamese citizens, consistent with the terms of this MOU.

The scope of this MOU is intended to apply to individuals who arrived in the United States before July 12, 1995. Individuals who arrived on or after that date are covered by the Agreement between the Government of the United States of America and the Government of the Socialist Republic of Viet Nam on the Acceptance of the Return of Vietnamese Citizens, signed at Hanoi on January 22, 2008 (the "Agreement").

**Section 2
Designated Entities and Points of Contact**

1. The Participants have identified the designated entities of each Participant to implement the provisions of this MOU (hereinafter referred to as "designated entities") as follows:

- Designated Entity:
 - o MPS: Immigration Department, Ministry of Public Security of Viet Nam
 - o DHS: Immigration and Customs Enforcement (ICE), U.S. Department of Homeland Security

 - Points of Contact:
 - o MPS: Chief of Division of Immigration Management of Vietnamese Citizens
Immigration Department, Ministry of Public Security of Viet Nam
Address: 44-46 Tran Phu, Ba Dinh, Hanoi, Viet Nam
Tel: +84.24. (b)(7)(E)
Email: (b)(7)(E)
Fax: +84.24. (b)(7)(E)

 - o DHS: Assistant Attaché for Removals, U.S. Embassy Hanoi
Address: 7 Lang Ha, Ba Dinh, Hanoi
Tel: +84.24. (b)(7)(E)
Email: (b)(7)(E)
2. The Participants intend to inform one another of any changes to the designated entities and points of contact in writing in a timely manner.

**Section 3
General Provisions**

1. The Participants intend to implement this MOU in accordance with their respective domestic laws, regulations, and international obligations.
2. This MOU constitutes an understanding only between the Participants and does not give rise to any rights or obligations under domestic or international law.
3. This MOU does not create or confer any rights, privileges, or benefits on any individual.
4. The Participants intend to carry out the removal and acceptance of return of individuals in an orderly and safe manner, and with full respect for the human dignity of the individuals repatriated, and with consideration of humanitarian and family unity aspects of repatriation.

**Section 4
Eligibility for Acceptance of Return**

Pursuant to the provisions of this MOU, MPS intends to issue travel documents where needed, and otherwise to accept the removal of an individual subject to a final order of removal from the United States who meets all the following conditions:

1. Has Vietnamese citizenship and does not have citizenship of any other country at the same time;
2. Has violated U.S. law and has been ordered removed by a U.S. competent authority (and, if sentenced to a prison term, the individual must have completed any term of imprisonment before removal or a U.S. competent authority must have ordered a

3

- reduction in the sentence or the individual's release from prison);
- 3. Resided in Viet Nam prior to arriving to the United States and currently has no right to reside in any other country or territory.

4. (b)(7)(E)

[Redacted]

Section 5

(b)(7)(E)

1. To the extent consistent with U.S. law, DHS intends to provide Vietnamese citizens ordered removed reasonable time, as determined by DHS's designated entity, to arrange their personal affairs prior to removal to Viet Nam.

(b)(7)(E)

[Redacted]

Section 6

(b)(7)(E)

[Redacted]

(b)(7)(E)

[Redacted]

Section 7

Return of Individual Removed in Error

Upon notice from MPS's designated entity that an individual returned to Viet Nam by the United States was removed in error, the United States intends to receive the return of that individual to the United States within ten (10) calendar days without any special procedure.

Section 8
Procedures for Verification and Issuance of Travel Documents

1. When U.S. Government believes that a removable person is a citizen of Viet Nam and meets all the criteria within Section 4 of this MOU, DHS intends to request appropriate travel documents from MPS and to forward the appropriate files to MPS.
2. The Participants expect the documentation package to include: a cover letter that requests MPS to accept the return of one of its citizens, a self-declaration form of the individual to be removed (the form provided in the annex to the MOU); a copy of the final order of removal, sentence imposed, copies or summary of criminal judgment and conviction documents if the crimes were the basis for removal, decision of discharge from prison or reduction of sentence, (documents in English are expected be translated into Vietnamese and certified by a competent authority); and copies of other identity or citizenship documents as appropriate and available, including:

- Expired Passports
- National Identity Cards
- Citizenship Certificates
- Birth Certificates
- Expired Emergency Travel Documents
- Identity Verification Form
- A set of fingerprints and photograph(s)

On a case-by-case basis, MPS's designated entity may request additional information derived from official records to confirm an individual's identity and citizenship. DHS's designated entity intends to coordinate and provide a response on such requests, consistent with U.S. law, regulation, and policy.

3. Within thirty (30) calendar days from the receiving date of a request for a travel document from DHS, MPS intends to issue the travel document when the individual meets the eligibility criteria listed in Section 4 of this MOU. When the individual for whom the travel document has been requested does not meet these eligibility criteria, MPS intends to notify DHS of the eligibility criteria that have not been met, and/or if any additional information is needed to determine eligibility.
4. Once a request for travel document has been received, assessed, and deemed insufficient, MPS intends to notify DHS of its assessment as soon as possible, and expects to do so no later than thirty (30) calendar days of receiving the request.
5. On a regular basis, a working group consisting of representatives from the Participants' designated entities is expected to meet to discuss and resolve cases for which MPS has not issued a travel document within thirty (30) calendar days from the receiving date of a request. MPS intends to issue a travel document immediately upon resolution of such cases.
6. In the context of this working group, the Participants may provide information and documentation previously unavailable to each other regarding the humanitarian and family unity factors of the individual ordered removed identified in Section 5 and Section 6. No one factor or combination of factors included in this MOU is expected to be dispositive of the individual's removal and acceptance to Viet Nam. However, if after reviewing this new

information, the Participants have still not reached resolution, then both Participants intend to continue finding additional information, documents and discuss a way to resolve the case.

7. MPS's designated entity may conduct an interview of the individual subject to a final order of removal if necessary. DHS's designated entity is expected to facilitate such interviews in the United States, as appropriate. MPS commits to issuing travel documents no later than thirty (30) days following the interview for cases that meet the eligibility criteria described in Section 4 of this MOU and the Participants have considered the factors listed in Section 5 and Section 6 of this MOU.
8. MPS intends to issue travel documents with a six-month period of validity for the individual ordered removed. If a travel document expires prior to an individual's removal, MPS's designated entity, upon receiving a written request from DHS's designated entity containing an explanation for the reason that the individual was not removed within the validity period of the travel document, intends to reissue the travel document or authorize a Vietnamese diplomatic representative in the United States to reissue the travel document for an additional six-month period at no additional cost.
9. Each Participant's designated entity is expected to transmit requests for travel documents and supporting documentation to the other Participant's designated entity through the points of contact, or through another entity as necessary.

Section 9

Return Procedures after Issuance of Travel Documents

1. Once furnished with a valid travel document, DHS's designated entity intends to remove Vietnamese citizens under final orders of removal from the United States to Viet Nam. DHS's designated entity intends to use commercial or chartered flights.
2. DHS's designated entity intends to provide at least ten (10) calendar days' notice (for commercial flights) or fifteen (15) calendar days' notice (for chartered flights) the information of the removed individual and any DHS escorting officials, removal manner, flight number, arrival schedule and airport.

Section 10

Costs Expected to be Born by the United States

1. DHS intends to pay for the same expenses for repatriation and in the same amounts stipulated in Section 5 of the Agreement. DHS intends to use best efforts to explore other funding mechanisms outside of this MOU to assist in the reintegration of repatriated Vietnamese citizens.
2. DHS intends to provide Vietnamese citizens subject to final orders of removals information regarding their potential eligibility for Social Security benefits from the United States.

Section 11

Confidentiality

1. The Participants intend to respect and protect the privacy of any individual who may be impacted by the activities under this MOU, pursuant to their domestic laws and international obligations.

- 2. To the extent allowed by applicable domestic law and regulations, the Participants intend to keep the contents of this MOU non-public and intend to continue to keep its contents non-public after participation under this MOU has ceased, consistent with Section 13 of this MOU.

Section 12
Modification of the MOU and Resolution of Misunderstandings

- 1. When an issue arises, the Participants may jointly decide to modify this MOU in writing.
- 2. Any misunderstanding that may arise concerning this MOU is expected to be resolved through consultations between the Participants. The Participants may continue to communicate and cooperate in any manner that has been previously arranged between the Participants in order to discuss and resolve any misunderstanding.

Section 13
Validity and Discontinuation

- 1. Cooperation under this MOU is expected to commence on the date of signature.
- 2. Either Participant may suspend or discontinue cooperation under this MOU at any time, but is expected to endeavor to provide the other Participant written notice at least sixty (60) calendar days prior to suspending or discontinuing such cooperation.

Signed at Hanoi, on this 21st day of November 2020, in duplicate, in the English and Vietnamese languages, both texts being equally valid.

**FOR THE DEPARTMENT OF
HOMELAND SECURITY OF THE
UNITED STATES OF AMERICA**

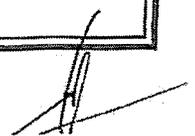


Daniel J. Kritenbrink
U.S. Ambassador Extraordinary and Plenipotentiary
to the Socialist Republic of Viet Nam

**FOR THE MINISTRY OF PUBLIC SECURITY
OF THE SOCIALIST REPUBLIC
OF VIET NAM**



Sr. Lt. Gen. Bùi Văn Nam
Deputy Minister

ERO-LESA Statistical Tracking Unit
For Official Use Only (FOUO)/Pre-decisional

Pre-1995 Vietnamese Nationals Quarterly - Trinh Settlement - FY2022-06 Mar

ICE National Docket data is snapshot in time as of 3/14/2022 (IIDS run date 3/15/2022; EID as of 3/14/2022).
 Travel Document data is updated through 3/14/2022 (IIDS run date 3/15/2022; EID as of 3/14/2022).

For this report, Pre-1995 Vietnamese Nationals are defined as individuals with Citizenship of Vietnam and latest known entry date (for the individual) is prior to 7/12/1995.

ICE Detention data exclude ORR transfers/facilities, as well as U.S. Marshals Service Prisoners.

Days in Custody (Date of Report – latest stay Book In Date) and may include includes transfer time (72 hrs or less between detentions).

ICE National Docket and Removal data is limited to Cases where non-citizen has been detained for 91+ days.

Travel Document data is limited to latest Travel Document Issued in FY2022 YTD for the Case to allow time for Officers to enter the data in the system of record.

ICE Detained of Pre-1995 Vietnamese Nationals
With Detention Stay of 91+ Days

AFN	Last Name	First Name	Middle Name	Citizenship Country	Entry Date	Final Order Yes	Final Order No	Final Order Date	Stay Book In Date	Stay Book Out Date	Travel Document Request Date	Travel Document Issue Date	Days in Custody
				VIETNAM	10/3/79	YES		10/26/21	10/5/21		11/4/21	1/6/22	134
				VIETNAM	2/23/81	YES		10/5/21	9/23/21		10/18/21	3/4/22	173
				VIETNAM	9/27/81	YES		1/12/22	7/27/21		2/24/22		231
				VIETNAM	2/4/82	NO			1/17/18				1,518
				VIETNAM	8/31/90	NO			7/2/21				256
				VIETNAM	6/27/91	NO			11/30/21				105
				VIETNAM	9/26/91	YES		12/9/21	11/24/21		12/17/21		111

Travel Documents Issued to Pre-1995 Vietnamese Nationals

AFN	Last Name	First Name	Middle Name	Citizenship Country	Entry Date	Final Order Yes	Final Order No	Final Order Date	Stay Book Out Date	Travel Document Request Date	Travel Document Issue Date	Departed Date
				VIETNAM	10/3/79	YES		10/26/21		11/4/21	1/6/22	2/16/22
				VIETNAM	2/23/81	YES		10/5/21		10/18/21	3/4/22	

ERO-LESA Statistical Tracking Unit

For Official Use Only (FOUO)/Pre-decisional

Pre-1995 Vietnamese Nationals Quarterly - Trinh Settlement FY2022-09 Jun

ICE National Docket data is snapshot in time as of 6/12/2022 (IIDS v1.34 run date 6/13/2022; EID as of 6/12/2022).

Travel Document data is updated through 6/12/2022 (IIDS v1.34 run date 6/13/2022; EID as of 6/12/2022).

For this report, Pre-1995 Vietnamese Nationals are defined as individuals with Citizenship of Vietnam and latest known entry date (for the individual) is prior to 7/12/1995.

ICE Detention data exclude ORR transfers/facilities, as well as U.S. Marshals Service Prisoners.

Days in Custody (Date of Report – latest stay Book In Date) and may include includes transfer time (72 hrs or less between detentions).

ICE National Docket and Removal data is limited to Cases where non-citizen has been detained for 91+ days.

Travel Document data is limited to latest Travel Document Issued in FY2022 YTD for the Case to allow time for Officers to enter the data in the system of record.

**ICE Detained of Pre-1995 Vietnamese Nationals
With Detention Stay of 91+ Days**

Alien File Number	Last Name	First Name	Middle Name	Citizenship Country	Entry Date	Final Order Date	Book In Date	TD Request	TD Issuance	Days in Custody
				VIETNAM	10/7/1980	YES 2/28/22	2/2/22	4/14/22		131
				VIETNAM	2/4/1982	NO	1/17/18			1,608
				VIETNAM	9/20/1983	YES 4/7/22	2/23/22			110
				VIETNAM	8/31/1990	NO	7/2/21			346
				VIETNAM	12/4/1990	YES 2/28/22	1/21/22	3/10/22		143

Travel Documents Issued to Pre-1995 Vietnamese Nationals

Alien File Number	Last Name	First Name	Middle Name	Citizenship Country	Entry Date	Final Order Date	Book In Date	TD Request	TD Issuance	Departed Date
				VIETNAM	2/23/1981	YES 10/5/21	4/27/22	10/18/21	3/4/22	4/27/22
				VIETNAM	1/29/1994	YES 1/14/20	1/28/22	2/15/22	4/15/22	6/22/2022

Travel Documents Issued to Pre-1995 Vietnamese Nationals case does not appear on report

Alien File Number	Last Name	First Name	Middle Name	Citizenship Country	Entry Date	Final Order Date	Book In Date	TD Request	TD Issuance	Departed Date
				VIETNAM	10/3/1979	YES 10/26/21	10/5/21	11/4/21	12/17/21	2/16/22

ERO-LESA Statistical Tracking Unit
For Official Use Only (FOUO)/Pre-decisional
Pre-1995 Vietnamese Nationals Quarterly - Trinh Settlement FY2022-12 Sep

ICE National Docket data is snapshot in time as of 9/11/2022 (IIDS v1.34 run date 9/12/2022; EID as of 9/11/2022).
 Travel Document data is updated through 9/11/2022 (IIDS v1.34 run date 9/12/2022; EID as of 9/11/2022).

For this report, Pre-1995 Vietnamese Nationals are defined as individuals with Citizenship of Vietnam and latest known entry date (for the individual) is prior to 7/12/1995.
 ICE Detention data exclude ORR transfers/facilities, as well as U.S. Marshals Service Prisoners.
 Days in Custody (Date of Report – latest stay Book In Date) and may include includes transfer time (72 hrs or less between detentions).
 ICE National Docket and Removal data is limited to Cases where non-citizen has been detained for 91+ days.
 Travel Document data is limited to latest Travel Document Issued in FY2022 YTD for the Case to allow time for Officers to enter the data in the system of record.

ICE Detained of Pre-1995 Vietnamese Nationals
With Detention Stay of 91+ Days

Alien File Number	Last Name	First Name	Middle Name	Citizenship Country	Entry Date	Final Order Date	Final Order Yes No	Stay Book In Date	Travel Doc Request Date	Travel Doc Issue Date	Days in Custody
				VIETNAM	5/25/1975		NO	3/17/22			179
				VIETNAM	10/9/1978		NO	6/13/22			91
				VIETNAM	8/31/1990	9/6/2022	YES	7/2/21			437

Travel Documents Issued to Pre-1995 Vietnamese Nationals

Alien File Number	Last Name	First Name	Middle Name	Citizenship Country	Entry Date	Final Order Date	Final Order Yes No	Stay Book In Date	Travel Doc Request Date	Travel Doc Issue Date	Days in Custody
				VIETNAM	2/23/1981	10/5/2021	YES	4/27/22	10/18/21	3/4/22	4/27/22
				VIETNAM	1/29/1994	1/14/2020	YES	6/22/22	2/15/22	4/15/22	6/22/22

**ERO-LESA Statistical Tracking Unit
 For Official Use Only (FOUO)/Pre-decisional
 Pre-1995 Vietnamese Nationals Quarterly - Trinh Settlement FY2013-03 Dec**

ICE National Docket data is snapshot in time as of 12/14/2022 (IIDS v1.34 run date 12/15/2022; EID as of 12/14/2022).
 Travel Document data is updated through 12/14/2022 (IIDS v1.34 run date 12/15/2022; EID as of 12/14/2022).
 For this report, Pre-1995 Vietnamese Nationals are defined as individuals with Citizenship of Vietnam and latest known entry date (for the individual) is prior to 7/12/1995.

ICE Detention data exclude ORR transfers/facilities, as well as U.S. Marshals Service Prisoners.
 Days in Custody (Date of Report – latest stay Book In Date) and may include includes transfer time (72 hrs or less between detentions).
 ICE National Docket and Removal data is limited to Cases where non-citizen has been detained for 91+ days.
 Travel Document data is limited to latest Travel Document Issued in FY2022 YTD for the Case to allow time for Officers to enter the data in the system of record.

**ICE Detained of Pre-1995 Vietnamese Nationals
 With Detention Stay of 91+ Days**

Alien File Number	Last Name	First Name	Middle Name	Citizenship Country	Entry Date	Final Order Yes	Final Order Date	Stay Book In Date	Travel Document Request	Travel Document Issue Date	Days in Custody
				VIETNAM	5/25/75	NO		3/17/22			271
				VIETNAM	10/9/78	YES	9/26/22	6/13/22	9/30/22		183
				VIETNAM	2/4/79	YES	9/20/22	9/9/22	9/30/22		95
				VIETNAM	1/29/90	YES	9/28/22	8/12/22	10/5/22		123
				VIETNAM	3/26/92	YES	10/6/22	7/14/22	10/18/22		152
				VIETNAM	8/31/90	YES	9/6/22	7/2/21			529
				VIETNAM	11/14/89	YES	7/11/22	6/21/22	10/25/22		177
				VIETNAM	9/26/90	NO		8/8/22			127

Travel Documents Issued to Pre-1995 Vietnamese Nationals

Alien File Number	Last Name	First Name	Middle Name	Citizenship Country	Entry Date	Final Order Yes	Final Order Date	Stay Book In Date	Travel Document Request	Travel Document Issue Date	Departed Date
				VIETNAM	8/23/80	YES	3/22/21	11/16/22	4/13/21	8/5/22	11/16/22
				VIETNAM	2/23/81	YES	10/5/21	4/27/22	10/18/21	3/4/22	4/27/22
				VIETNAM	1/29/94	YES	1/14/20	6/22/22	2/15/22	4/15/22	6/22/22

Department of Homeland Security
Delegation Number: 7030 .2

Delegation of Authority to the Assistant Secretary for U.S. Immigration and Customs Enforcement

1. Purpose

This delegation vests in the Assistant Secretary for U.S. Immigration and Customs Enforcement (ICE) and through him to Customs officers, immigration officers, officers and agents of the Federal Protective Service (FPS), and other officers or employees of ICE the authorities described herein in order to accomplish the mission of ICE. This delegation is made through, and the exercise of any authorities therein is subject to the authority, direction, and control of, the Under Secretary for Border and Transportation Security.

2. Delegations

Pursuant to the authority vested in the Secretary of Homeland Security by law, including the Homeland Security Act of 2002 ("the Act"), I hereby delegate to the Assistant Secretary for ICE:

- (A) All authority vested in me by section 403(1) of the Homeland Security Act of 2002 and transferred to ICE by the Department of Homeland Security Reorganization Plan of January 30, 2003; and subject to a delegation of authority from the Department of the Treasury issued pursuant to section 412(a)(1) of the Act. Authorities delegated to ICE by the transfer of authorities under the Act or by delegation from the Secretary of the Treasury include 19 U.S.C. 482, 507, 1401, 1467, 1486, 1499, 1581, 1582, 1584, 1587, 1589a, 1590, 1595, 1628, 1703, and 2081. These authorities are subject to the limitations and reservations specified below and are solely for the purpose of enforcing the laws investigated by the U.S. Customs Service as of the date of the transfer to the Department of Homeland Security.
- (B) Authority vested in the Secretary of the Treasury, and delegated to the Secretary of Homeland Security by the delegation of authority from the Department of the Treasury issued pursuant to section 412(a)(1) of the Act, to examine documents, and to summons persons or tangible items

under 19 U.S.C. 1509; authority to subpoena persons or items under 21 U.S.C. 967, 22 U.S.C. 2778(e), 31 U.S.C. 5318, 50 U.S.C. 1702, and regulations promulgated there under authorizing investigation and enforcement by the U.S. Customs Service; and any other law for which the Assistant Secretary for ICE has investigative jurisdiction through the transfer of the U.S. Customs Service, Office of Investigations, to the ICE.

- (C) All authority vested in me by section 441 of the Homeland Security Act of 2002 respecting the Detention and Removal Program, the Intelligence Program, and the Investigations Program (6 U.S.C. 251(2) – (4)) of the former Immigration and Naturalization Service, and transferred to the ICE by the Department of Homeland Security Reorganization Plan of January 30, 2003.
- (D) All authority vested in me by sections 403(3) and 1706 of the Homeland Security Act of 2002 respecting the FPS and transferred to the ICE by the Department of Homeland Security Reorganization Plan of January 30, 2003.
- (E) All authority vested in me by the Homeland Security Act of 2002 and the Reorganization Plan of November 25, 2002, as modified January 30, 2003, respecting the investigation of misconduct committed by officers, agents, or employees of U.S. Customs and Border Protection (CBP), ICE, and U.S. Citizenship and Immigration Services (CIS).
- (F) In consultation with the Commissioner of CBP, as appropriate, authority to issue an award of compensation to an informer under section 619, Tariff Act of 1930, as amended, (19 U.S.C. 1619), only with the approval of the Secretary of Homeland Security when claimed in connection with any decision which has been acted upon or approved by the Secretary of Homeland Security.
- (G) Authority to investigate criminal violations of section 333 of Title 31 involving the misuse of the name or symbol of ICE or the title or name of any employee of the ICE; or the name or symbol of the Department of the Treasury or the Secretary or any Treasury employee in connection with activities within the jurisdiction of the ICE.
- (H) Authority under section 103(a)(1) of the Immigration and Nationality Act of 1952, as amended (“the INA”), 8 U.S.C. 1103(a)(1), to enforce and administer the immigration laws (as defined in section 101(a)(17) of the INA) 18 U.S.C. 1101(a)(17) with respect to matters within the jurisdiction of ICE.

- (I) Authority to investigate alleged civil and criminal violations of the immigration laws, including but not limited to alleged fraud with respect to applications or determinations within the jurisdiction of the CBP or the CIS, and make recommendations for prosecutions or other appropriate action when deemed advisable.
- (J) Authority to register and fingerprint aliens in the United States, and exercise other functions relating to registration and changes of addresses as provided by section 262-66 of the INA, 8 U.S.C. 1302-06.
- (K) Authority to place removable aliens in removal proceedings.
- (L) Authority to cancel a notice to appear for removal proceedings before jurisdiction vests with the Executive Office for Immigration Review of the Department of Justice (the "EOIR").
- (M) Authority to parole an applicant for admission into the United States under section 212(d)(5) of the INA, 8 U.S.C. 1182(d)(5).
- (N) Authority to exercise prosecutorial discretion in immigration enforcement matters (including permitting withdrawal of an application for admission or voluntary return, and granting deferred action).
- (O) All authorities provided by section 287 of the INA, 8 U.S.C. 1357 (except for subsection 287(g)), and 8 C.F.R. Part 287 (except for subsections 287.10 and 287.11);
- (P) Authority to consent on behalf of the Department of Homeland Security to a plea or other agreement in connection with criminal proceedings promising non-removal or other immigration benefits (see 28 C.F.R. 0.197); Provided that, such authority shall be exercised in consultation with the Director of CIS and the Commissioner of CBP with respect to any benefits, actions or determinations under their respective jurisdictions.
- (Q) Authority to administer and enforce sections 274A (8 U.S.C. 1324a), 274C (8 U.S.C. 1324c), and 274D (8 U.S.C. 1324d) of the INA, including authority to issue orders.
- (R) Authority to grant voluntary departure under section 240B of the INA, 8 U.S.C. 1229c.
- (S) Authority provided by section 235(d) of the INA (8 U.S.C. 1225(d)), including but not limited to administering oaths, taking evidence, and

requiring by subpoena the attendance and testimony of witnesses and the production of books, papers, and documents.

- (T) Authority under the immigration laws, including but not limited to sections 235, 236, and 241 of the INA (8 U.S.C. 1225, 1226, and 1231), to issue and execute detainers and warrants of arrest or removal, detain aliens, release aliens on bond and other appropriate conditions as provided by law, and remove aliens from the United States.
- (U) Authority to approve surety bonds issued pursuant to the immigration laws, to determine whether such surety bonds have been breached, and to take appropriate action to protect the interests of the United States with respect to such surety bonds.
- (V) Authority to exercise departure control authorities under section 215 of the INA, (8 U.S.C. 1185) and 8 C.F.R. Part 215.
- (W) Authority to grant stays of removal under 8 C.F.R. 241.6.
- (X) Authority to permit self-removal under 8 C.F.R. 241.7.
- (Y) Authority to reinstate exclusion, deportation and removal orders under section 241 of the INA, 8 U.S.C. 1231, and 8 C.F.R. 241.8.
- (Z) Authority, in consultation and cooperation with the Commissioner of CBP, the Director of CIS, the Under Secretary for Management, and the Director of the Office of Shared Services, to administer the program to collect information relating to nonimmigrant foreign students and other exchange program participants (SEVIS), as provided by section 442(a)(4) of the Homeland Security Act of 2002.
- (AA) Authority to enforce the forfeiture and civil penalty provisions of the immigration laws, including but not limited to section 274 of the INA, 8 U.S.C.1324.
- (BB) Authority, in consultation with appropriate components of the Department of Justice, the Department of Homeland Security, and other governmental entities, to make determinations in matters within the jurisdiction of the ICE with respect to "S", "T", and "U" nonimmigrants.
- (CC) Authority to take action under 8 C.F.R. 235.8(b) with respect to certain inadmissible aliens.
- (DD) Authority to make certifications under section 294 of the INA, 8 U.S.C. 1363a, with respect to undercover investigations and to exercise authorities authorized under section 294 pursuant to such certifications.

- (EE) Authority to design and implement the managerial rotation program described in section 441(a)(4) of the Homeland Security Act of 2002 with respect to employees of ICE.
- (FF) Authority to establish offices and station officers and employees of the ICE in foreign countries as provided by section 103(a)(7) of the INA, 8 U.S.C. 1103(a)(7), and other applicable law, and to perform such other activities with respect to the international operations of the Department of Homeland Security as the Secretary may direct.
- (GG) Authority to maintain a central file as provided by section 290 of the INA, 8 U.S.C. 1360, and other records systems and files necessary and appropriate for the operations of ICE, in accordance with applicable law.
- (HH) With respect to the transferred functions of the FPS, authority to:
 - (1) Protect buildings, grounds, and property that are owned, occupied, or secured by the Federal Government;
 - (2) At the request of any Federal agency having charge or control of property owned or occupied by the Federal Government, detail officers and agents for the protection of property and persons on the property;
 - (3) Designate employees of the Department of Homeland Security as officers and agents; detail officers and agents on request of other agencies; and use facilities and services of existing Federal, State and local law enforcement agencies, with the consent of those agencies;
 - (4) Authorize officers and agents of FPS who have been duly authorized to perform investigative functions, while engaged in the performance of their duties in conducting investigations, the power to administer oaths to any person;
 - (5) Purchase, repair, and clean uniforms of officers and agents;
 - (6) Authorize issuance of arms and ammunition for the protection force of FPS;
 - (7) Procure and contract for guard services and other goods and services related to the FPS mission, in accordance with applicable Department of Homeland Security management directives governing these topics;
 - (8) Recommend to the Secretary assignment of Home to Work vehicle transportation to designated officers and investigators of the FPS;

- (9) Authorize take-home-authority for weapons assigned to officers and agents in accordance with applicable guidelines;
 - (10) Issue and authorize re-delegation of authority to issue property passes to employees for taking Government-owned property off-site; and
 - (11) Administer the radio frequency program for the FPS.
- (II) Authority effective November 2, 2003 to exercise the authorities, functions and duties in connection with the administration of the Federal Air Marshal Program under 49 U.S.C. 44917 and supervise its personnel; and
- (JJ) Perform other such functions as I may direct.

In exercising the authority delegated by this Order, the Assistant Secretary of ICE shall be governed by the Homeland Security Act of 2002; all applicable federal laws, rules and regulations; and the policies, procedures, direction, authority and control of the Secretary, the Deputy Secretary, the Under Secretary for Border and Transportation Security, the Under Secretary for Management, or other officer authorized by the Secretary to prescribe such policies and procedures or exercise such authority, direction and control. Nothing in this Order shall be construed to limit or detract from the authority of the Secretary under section 102(a)(2) and (3) of the Homeland Security Act of 2002 and other applicable law.

3. Reservations

The above delegations of authority to the Assistant Secretary for ICE in no way limit the functions, rights, privileges, powers, and duties vested in the Commissioner of CBP or in the Director of CIS by law, including authority provided by the above listed statutes or any delegation from the Secretary of Homeland Security.

The Assistant Secretary is directed to coordinate, to the extent necessary and appropriate, his exercise of the authorities under this delegation with other officials to whom I have delegated authorities that complement, relate to, involve, or are concurrent with the authorities in this delegation. Specific reference in this delegation to coordination or consultation with other officials as to certain matters is not meant to limit the responsibility of the Assistant Secretary to coordinate or consult in other matters when appropriate. Delegation of an authority to the Assistant Secretary shall not be construed to mean that the authority may be exclusively exercised by the Assistant Secretary; in particular, reference is made to delegations of authority to the Commissioner of CBP and to the Director of CIS that are with respect to many

authorities parallel to, concurrent with, or overlapping with this delegation to the Assistant Secretary.

Unless specifically provided therein, nothing in this delegation authorizes the Assistant Secretary to adjudicate any application for any benefit under the immigration laws, grant any immigration status (including, but not limited to, U.S. citizenship, lawful permanent residence, nonimmigrant status, refugee status, asylum, temporary protected status), make any determination under the Convention Against Torture, grant any waiver of a ground of inadmissibility, grant employment authorization, admit any alien to the United States, or refer any case to the Attorney General under 8 C.F.R. 3.1(h)(2) or 28 C.F.R. 68.55(b).

Nothing in this delegation is intended to grant or provide authority or jurisdiction over any determination or matter within the sole authority of the Executive Office for Immigration Review of the Department of Justice.

4. Re-delegations

Unless otherwise prescribed by statute, Executive Order, or the terms of this delegation, the authority contained in this delegation may be re-delegated in writing by the Assistant Secretary to an appropriate subordinate official of ICE, and may be successively re-delegated to other officers or employees of ICE qualified to exercise the authority. The Assistant Secretary may also re-delegate the authority contained in this delegation to the Commissioner of CBP or to the Director of CIS, with their consent.

In addition, the following re-delegations to officers and employees of ICE (including officers and employees in an Interim or Acting capacity) are in effect pursuant to this delegation, unless modified or withdrawn by the Assistant Secretary or other authorized official:

- (A) Director of Intelligence. The Director of Intelligence is delegated the authority to supervise and direct the ICE intelligence program and officers and employees within the INS intelligence program. Officers and employees within the INS intelligence program will continue to be delegated the authorities and responsibilities they possess at 11:59 p.m. on February 28, 2003 following their transfer to ICE unless modified, revoked or withdrawn by the Assistant Secretary or other authorized official.
- (B) Director of the FPS. The Director of the FPS is delegated the authority and responsibility to supervise and direct the FPS and officers, agents and employees of FPS. Officers and employees of the FPS are designated with, and will continue to be delegated following their transfer to the BICE the authorities and responsibilities they exercise at 11:59 p.m. on February 28, 2003, unless modified, revoked or withdrawn by the

Assistant Secretary or other authorized official.

- (C) Director of Customs Investigations. The Director of Customs Investigations is delegated authority and responsibility to supervise and direct the investigative activities of ICE with respect to the customs laws, and to provide direction and supervision to the following:
- (1) Special Agents in Charge.
 - (2) Assistant Special Agent in Charge.
 - (3) Associate Special Agents in Charge.
 - (4) Resident Agent in Charge.
 - (5) Customs Officers.
- (D) Director of Immigration Interior Enforcement. The Director of Immigration Interior Enforcement is delegated authority and responsibility for the field operations of ICE with respect to the immigration laws, for providing direction and supervision to the Immigration Investigations Program and the Removal and Detention Program, and for providing direction to and supervision of the Regional Directors for Interior Enforcement within their respective regions.
- (1) Regional Directors for Interior Enforcement. Regional Directors are delegated authority and responsibility for the field operations of ICE with respect to the immigration laws within their respective regions (including detention and removal), and for providing direction to and supervision of the District Directors within their respective geographic areas; Provided that, this re-delegation shall not be construed to delegate to Regional Directors for Interior Enforcement any authority or responsibility exceeding that provided to INS Regional Directors by chapter 8 of the Code of Federal Regulations as in force on February 28, 2003.
 - (2) District Directors for Interior Enforcement. District Directors for Interior Enforcement are delegated authority and responsibility for the field operations of ICE with respect to the immigration laws within their respective geographical areas (including detention and removal); Provided that, this re-delegation shall not be construed to delegate to District Directors for Interior Enforcement any authority or responsibility exceeding that provided to INS District Directors by chapter 8 of the Code of Federal Regulations as in force on February 28, 2003.
 - (3) Immigration Officers. The Assistant Secretary of ICE, the Director of Immigration Interior Enforcement, any Regional or District Director for Interior Enforcement, and any deportation officer, detention enforcement officer, detention officer, special agent,

investigative assistant, intelligence agent, immigration agent (investigations), or other immigration officer (as described in section 103 of the INA or 8 C.F.R. 103.1(j)), or senior or supervisory officer of such employee, within ICE, is designated as an immigration officer authorized to exercise, and hereby delegated, the powers and duties of such officer as specified by the immigration laws and chapter 8 of the Code of Federal Regulations.

- (4) Officers and employees within the INS programs transferred to ICE. Officers and employees within the INS detention and removal program, investigations program or other INS program transferred to ICE will continue to be delegated following their transfer to ICE the authorities and responsibilities they possess at 11:59 p.m. on February 28, 2003, including but not limited to any authority to issue or cancel notices to appear under 8 C.F.R. Part 239 as in effect at such date and time, unless modified, revoked or withdrawn by the Assistant Secretary or other authorized official.

Nothing in the re-delegations to officers and employees of ICE provided by this delegation shall be construed to limit the exercise by the Assistant Secretary of such authority, or his authority to direct and control such officers and employees in their exercise of re-delegated authority.

Nothing in the re-delegations to officers and employees of ICE provided by this delegation shall be construed to authorize any officer or employee of ICE to perform any function or exercise any authority that has not been delegated to the Assistant Secretary.

Nothing in this delegation, including any re-delegations, shall be construed to authorize any officer or employee of ICE to perform any immigration officer, customs officer, law enforcement or other function unless such officer or employee has completed the training and possesses the qualifications prescribed for such function.

Any redelegation of authority in effect at 11:59 p.m. on February 28, 2003 shall remain in effect unless modified, revoked, or withdrawn by the Assistant Secretary or other authorized official.

5. Authorities

Homeland Security Act, 116 Stat. 2135, Pub. L. 107-296, 101, 403, 441, 1502, 1706 (2002); 5 U.S.C. 301; Immigration and Nationality Act of 1952, as amended, 8 U.S.C. 1101 *et seq.*; the "immigration laws," as defined by section 101(a)(17) of the Immigration and Nationality Act of 1952, as amended, 8 U.S.C. 1101(a)(17); 40 U.S.C. 1315; The President's Homeland Security Reorganization Plan, November 25, 2002, as modified, January 30, 2003.

6. Credentials

Any badge, credential, seal, stamp or such other documentation that is valid at 11:59 p.m. on February 28, 2003, and that identifies an officer or employee of the INS, Customs Service, or FPS who is transferred to ICE, shall continue in effect as a badge, credential or other documentation identifying an officer or employee of ICE until its expiration, revocation, withdrawal, or replacement, whichever comes first. The Assistant Secretary of ICE may authorize replacement, renewal, or new issuance of badges, credentials, seals, stamps or other such items or other documents to ICE officers or employees using INS, Customs Service, or FPS identity and forms until ICE forms are available.

7. Office of Primary Interest

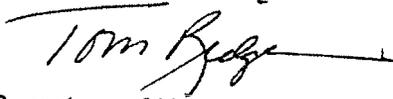
The Office of the Assistant Secretary for U.S. Immigration and Customs Enforcement is the office of primary interest in this delegation.

8. Cancellation

Delegation number 7030.1 is rescinded.

9. Effective Date and Time

This delegation of authority shall take effect at 12:00 midnight, March 1, 2003.


Secretary of Homeland Security

NOV 13 2004

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

QUANG VAN NGUYEN

(b) County of Residence of First Listed Plaintiff Whitfield county (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Karen Weinstock 1827 Independence Square Atlanta, GA, 30338

DEFENDANTS

LADEON FRANCIS, TODD LYONS, KRISTI NOEM, PAMELA BONDI

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- PTF DEF Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, INTELLECTUAL PROPERTY RIGHTS, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes categories like Personal Injury, Real Property, Labor, Intellectual Property Rights, Social Security, and Federal Tax Suits.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. § 2241; Art.1, § 9, Cl.2 of the United States Constitution

Brief description of cause: DHS is detaining Petitioner and depriving Petitioner of liberty without due process of law.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

DATE: Dec 22, 2025; SIGNATURE OF ATTORNEY OF RECORD: /s/ Karen Weinstock; DOCKET NUMBER

FOR OFFICE USE ONLY

RECEIPT #, AMOUNT, APPLYING IFP, JUDGE, MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related cases, if any. If there are related cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.