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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 HUNG PHI NGUYEN,

11 Petitioner,

12 v.

13 KRISTI NOEM, Secretary of the
Department of Homeland Security, *et al.*,

14 Respondents.
15
16
17

Case No. 25-cv-3756-CAB-VET

**RESPONDENTS' RETURN IN
OPPOSITION TO PETITIONER'S
HABEAS PETITION AND
OPPOSITION TO PETITIONER'S
MOTION FOR TEMPORARY
RESTRAINING ORDER**

1 **I. Introduction**

2 Petitioner Hung Phi Nguyen has filed a habeas petition and a motion for
3 temporary restraining order. ECF Nos. 1, 2. On December 29, 2025, the Court issued
4 an order to show cause as to why the petition should not be granted. ECF No. 3. For
5 purposes of judicial efficiency, given the petition and motion for temporary restraining
6 order assert the same claims and seek the same relief, Respondents respectfully respond
7 to both the petition and motion herein. For the reasons set forth below, the Court should
8 deny Petitioner’s request for interim relief and dismiss the petition.

9 **II. Factual and Procedural Background**

10 Petitioner is a citizen and national of Vietnam. *See* Ex. 1 at 1, 4; *see also*
11 Declaration of Hung Nguyen (Nguyen Decl.) ¶ 1, ECF No. 1-2 at 2. On April 30, 1984,
12 Petitioner was admitted into the United States as a refugee, and soon after he adjusted
13 his status to that of a lawful permanent resident. *See* Ex. 1 at 4; Ex. 2 at 3; *see also*
14 Nguyen Decl. ¶ 1. In 2011, Petitioner was convicted of possession of a forged
15 instrument in violation of California Penal Code § 475(a). *See* Ex. 2 at 3. Thereafter,
16 Petitioner was charged as removable from the United States and placed in removal
17 proceedings. *See generally id.* On September 19, 2017, an immigration judge ordered
18 Petitioner removed to Vietnam. *See* Ex. 3. Petitioner was released from ICE custody
19 under an Order of Supervision on April 3, 2018, due to ICE’s then-inability to effect
20 Petitioner’s removal. *See* Declaration of Jason Cole (Cole Decl.) ¶ 7; *see also* Ex. 4.

21 On June 19, 2025, Immigration and Customs Enforcement (ICE) re-detained
22 Petitioner to effect his removal to Vietnam. *See* Cole Decl. ¶ 9, 12. ICE does not have
23 record that Petitioner was served a formal Notice of Revocation of Release or given an
24 informal interview. *Id.* ¶ 10.

25 ICE is routinely obtaining travel documents from Vietnam and able to arrange
26 travel itineraries to execute final orders of removal for Vietnamese citizens, including
27 those who immigrated to the United States before 1995, like Petitioner. Cole Decl.
28 ¶¶ 13–15. ICE is working expeditiously to effectuate Petitioner’s removal to Vietnam.

1 *Id.* ¶¶ 11–12, 16. ICE’s Enforcement and Removal Operations submitted a travel
2 document request to ICE’s Removal and International Operations section for processing
3 on November 5, 2025. *Id.* ¶ 12. That request remains pending. *Id.* Once Petitioner’s
4 travel document is obtained, ICE will arrange for his removal to Vietnam. *Id.* ¶ 16. ICE
5 is not seeking to remove Petitioner to a third country. *See id.* ¶ 12.

6 III. Argument

7 A. Because Petitioner’s claims regarding third countries are unfounded, this 8 Court lacks jurisdiction over Petitioner’s third claim for relief.

9 The Constitution limits federal judicial power to designated “cases” and
10 “controversies.” U.S. Const., art. III, § 2; *see also SEC v. Med. Comm. for Human*
11 *Rights*, 404 U.S. 403, 407 (1972) (federal courts may only entertain matters that present
12 a “case” or “controversy” within the meaning of Article III). “Absent a real and
13 immediate threat of future injury there can be no case or controversy, and thus no
14 Article III standing for a party seeking injunctive relief.” *Wilson v. Brown*, No. 05-cv-
15 1774-BAS-MDD, 2015 WL 8515412, at *3 (S.D. Cal. Dec. 11, 2015) (citing *Friends*
16 *of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 190 (2000) (“[I]n
17 a lawsuit brought to force compliance, it is the plaintiff’s burden to establish standing
18 by demonstrating that, if unchecked by the litigation, the defendant’s allegedly
19 wrongful behavior will likely occur or continue, and that the threatened injury is
20 certainly impending.”) (simplified)). At the “irreducible constitutional minimum,”
21 standing requires that a petitioner demonstrate the following: (1) an injury in fact
22 (2) that is fairly traceable to the challenged action of the United States and (3) likely to
23 be redressed by a favorable decision. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–
24 61 (1992).

25 Here, Petitioner’s third claim for relief alleges that “ICE’s policies threaten his
26 removal to a third country without adequate notice and an opportunity to be heard.”
27 ECF No. 1 at 15. But Respondents are not seeking to remove Petitioner to a third
28 country and are instead working to promptly remove Petitioner to Vietnam. *See Cole*

1 Decl. ¶¶ 11–12, 16. As such, there is no controversy concerning third-country
2 resettlement for this Court to resolve. Federal courts do not have jurisdiction “to give
3 opinions upon moot questions or abstract propositions, or to declare principles or rules
4 of law which cannot affect the matter in issue in the case before it.” *Church of*
5 *Scientology of Cal. v. United States*, 506 U.S. 9, 12 (1992) (internal quotations and
6 citations omitted). “A claim is moot if it has lost its character as a present, live
7 controversy.” *Am. Rivers v. Nat’l Marine Fisheries Serv.*, 126 F.3d 1118, 1123 (9th Cir.
8 1997) (citation omitted). The Court therefore lacks jurisdiction over Petitioner’s claims
9 concerning third-country resettlement because there is no live case or controversy. *See*
10 *Powell v. McCormack*, 395 U.S. 486, 496 (1969); *Murphy v. Hunt*, 455 U.S. 478, 481
11 (1982).

12 **B. Claims and requests barred by 8 U.S.C. § 1252.**

13 Petitioner bears the burden of establishing that this Court has subject matter
14 jurisdiction over his claims. *See Ass’n of Am. Med. Colls. v. United States*, 217 F.3d
15 770, 778–79 (9th Cir. 2000). To the extent Petitioner’s claims arise from—or seek to
16 enjoin—the decision to execute his removal order, they are jurisdictionally barred under
17 8 U.S.C. § 1252(g). *See* 8 U.S.C. § 1252(g) (“Except as provided in this section and
18 notwithstanding any other provision of law (statutory or nonstatutory), including
19 section 2241 of Title 28, or any other habeas corpus provision, and sections 1361 and
20 1651 of such title, no court shall have jurisdiction to hear any cause or claim by or on
21 behalf of any alien arising from the decision or action by the Attorney General to
22 commence proceedings, adjudicate cases, or execute removal orders against any alien
23 under this chapter.”) (emphasis added); *Reno v. Am.-Arab Anti-Discrimination Comm.*,
24 525 U.S. 471, 483 (1999) (“There was good reason for Congress to focus special
25 attention upon, and make special provision for, judicial review of the Attorney
26 General’s discrete acts of “commenc[ing] proceedings, adjudicat[ing] cases, [and]
27 execut[ing] removal orders”—which represent the initiation or prosecution of various
28 stages in the deportation process.”) (quoting 8 U.S.C. § 1252(g)). In other words,

1 section 1252(g) removes district court jurisdiction over “three discrete actions that the
2 Attorney General may take: her ‘decision or action’ to ‘commence proceedings,
3 adjudicate cases, or execute removal orders.’” *Reno*, 525 U.S. at 482 (emphasis
4 removed). Here, Petitioner’s claims necessarily arise “from the decision or action by
5 the Attorney General to . . . execute removal orders,” over which Congress has explicitly
6 foreclosed district court jurisdiction. 8 U.S.C. § 1252(g); *see also* 8 U.S.C. § 1252(f)(2)
7 (“Notwithstanding any other provision of law, no court shall enjoin the removal of any
8 alien pursuant to a final order under this section unless the alien shows by clear and
9 convincing evidence that the entry or execution of such order is prohibited as a matter
10 of law.”). Accordingly, to the extent Petitioner’s claims arise from—or seek to enjoin—
11 the decision to execute his removal order, the Court should deny and dismiss those
12 claims for lack of jurisdiction under 8 U.S.C. § 1252.

13 **C. Petitioner fails to establish entitlement to a restraining order.**

14 Alternatively, even if this Court determines that it has jurisdiction over
15 Petitioner’s claims, Petitioner has not established that he is entitled to a temporary
16 restraining order. He cannot show that he is likely to succeed on the underlying merits
17 of his habeas petition, he has not demonstrated irreparable harm, and the equities do not
18 weigh in his favor.

19 In general, the showing required for a temporary restraining order is the same as
20 that required for a preliminary injunction. *See Stuhlberg Int’l Sales Co., Inc. v. John D.*
21 *Brush & Co., Inc.*, 240 F.3d 832, 839 (9th Cir. 2001). To prevail on a motion for a
22 temporary restraining order, a petitioner must “establish that he is likely to succeed on
23 the merits, that he is likely to suffer irreparable harm in the absence of preliminary
24 relief, that the balance of equities tips in his favor, and that an injunction is in the public
25 interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *accord Nken v.*
26 *Holder*, 556 U.S. 418, 426 (2009). Petitioner must demonstrate at least a “substantial
27 case for relief on the merits.” *Leiva-Perez v. Holder*, 640 F.3d 962, 967–68 (9th Cir.
28 2011). When “a plaintiff has failed to show the likelihood of success on the merits,

1 [courts] need not consider the remaining three [*Winter* factors].” *Garcia v. Google, Inc.*,
2 786 F.3d 733, 740 (9th Cir. 2015). The final two factors required for preliminary
3 injunctive relief—balancing of the harm to the opposing party and the public interest—
4 merge when the government is the opposing party. *See Nken*, 556 U.S. at 435. “Few
5 interests can be more compelling than a nation’s need to ensure its own security.” *Wayte*
6 *v. United States*, 470 U.S. 598, 611 (1985).

7 ***1. Petitioner is unlikely to succeed on the merits.***

8 Likelihood of success on the merits is a threshold issue. *See Garcia*, 786 F.3d at
9 740. Here, apart from his non-justiciable claim of potential third-country removal,
10 Petitioner argues that his re-arrest and detention warrant habeas relief because: (1) ICE
11 violated its own regulations, ECF No. 1 at 8–11 (Petitioner’s first claim for relief); and
12 (2) they ran afoul of the Supreme Court’s holding in *Zadvydas v. Davis*, 533 U.S. 678,
13 689 (2001), ECF No. 1 at 11–15 (Petitioner’s second claim for relief). But Petitioner
14 cannot establish that he is likely to succeed on the underlying merits of those claims
15 because he is properly detained under 8 U.S.C. § 1231(a) and the applicable agency
16 regulations.

17 *a. Petitioner’s detention is lawful, and he has not established that*
18 *there is no significant likelihood of removal in the reasonably*
19 *foreseeable future.*

20 ICE’s authority to detain, release, and re-detain noncitizens who are subject to a
21 final order of removal is governed by 8 U.S.C. § 1231(a). When an alien has been found
22 to be unlawfully present in the United States and a final order of removal has been
23 entered, the government ordinarily secures the alien’s removal during a subsequent 90-
24 day statutory “removal period.” 8 U.S.C. § 1231(a)(1). The statute provides that the
25 Attorney General “shall detain” the alien during this removal period. 8 U.S.C.
26 § 1231(a)(2).

27 The Supreme Court held in *Zadvydas* that when removal is not accomplished
28 during the 90-day removal period, the statute “limits an alien’s post-removal-period

1 detention to a period reasonably necessary to bring about the alien’s removal from the
2 United States” and does not permit “indefinite detention.” *Zadvydas*, 533 U.S. at 689.
3 The Supreme Court has held that six months constitutes a “presumptively reasonable
4 period of detention.” *Id.* at 701. “This 6-month presumption, of course, does not mean
5 that every alien not removed must be released after six months.” *Id.* Even after the
6 period of presumptive reasonableness has run, release is not required under *Zadvydas*
7 unless “there is *no* significant likelihood of removal in the reasonably foreseeable
8 future.” *Id.* (emphasis added). “After this 6-month period, once the alien provides good
9 reason to believe that there is no significant likelihood of removal in the reasonably
10 foreseeable future, the Government must respond with evidence sufficient to rebut that
11 showing.” *Id.* The Ninth Circuit has emphasized, “*Zadvydas* places the burden on the
12 alien to show, after a detention period of six months, that there is ‘good reason to believe
13 that there is no significant likelihood of removal in the reasonably foreseeable future.’”
14 *Pelich v. INS*, 329 F. 3d 1057, 1059 (9th Cir. 2003) (quoting *Zadvydas*, 533 U.S. at
15 701); *see also Xi v. INS*, 298 F.3d 832, 840 (9th Cir. 2003).

16 As the Supreme Court instructed, “the habeas court must ask whether the
17 detention in question exceeds a period reasonably necessary to secure removal. It should
18 measure reasonableness primarily in terms of the statute’s basic purpose, namely,
19 *assuring the alien’s presence at the moment of removal.*” *Zadvydas*, 533 U.S. at 699
20 (emphasis added). In so holding, the Supreme Court recognized that detention is
21 presumptively reasonable pending efforts to obtain travel documents, because the
22 noncitizen’s assistance is often needed to obtain the travel documents, and because a
23 noncitizen who is subject to an imminent, executable warrant of removal becomes a
24 significant flight risk, especially if he or she is aware that it is imminent.

25 Here, although Petitioner’s total time in detention since September 2017 has
26 exceeded the 6-month period of presumptive reasonableness, his claim still fails at the
27 next step because he cannot meet his burden to establish “that there is no significant
28 likelihood of removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701.

1 Petitioner was re-detained for removal on June 19, 2025, after ICE had been
2 successfully obtaining travel documents for Vietnamese citizens who immigrated to the
3 United States before 1995 and removing them. Cole Decl. ¶¶ 9, 13–15. ICE submitted
4 Petitioner’s travel document request to the Removal and International Operations unit
5 for processing on November 5, 2025. *Id.* ¶ 12. Once ICE receives his travel document,
6 he can be removed promptly as ICE has routine flights to Vietnam. *Id.* ¶¶ 14, 16. There
7 is no bar against Petitioner’s removal to Vietnam, and the government is currently
8 arranging for that removal.

9 It is true that that eight years ago the government was not able to remove
10 Petitioner to Vietnam, as with other similarly situated individuals, because the prior
11 political relationship between the United States and Vietnam prevented their removals.
12 That produced significant litigation from detainees who argued that they could not be
13 removed to their home nations due to the lack of cooperation, and so their detentions
14 were indefinite. But that barrier to removal was removed. This issue was exhaustively
15 addressed in more recent litigation addressing detainees facing removal to Vietnam. In
16 2020, the *Trinh* court explained the then-current state of affairs:

17 The parties now agree that Vietnam does not maintain a blanket policy of
18 refusing to repatriate pre-1995 immigrants. . . . Instead, Vietnam now
19 considers each request from ICE on a case-by-case basis. ICE frequently
20 requests travel documents from Vietnam for pre-1995 immigrants, and
Vietnam issues them in a non-negligible portion of cases. . . .

21 Petitioners do not appear to dispute that once Vietnam issues a travel
22 document, removal becomes significantly likely, rendering class members
23 unable to meet their initial burden under *Zadvydas*.

24 *Trinh v. Homan*, 466 F. Supp. 3d 1077, 1090 (C.D. Cal. 2020) (citations omitted).

25 Petitioner may complain that the government did not already obtain his travel
26 documents before taking him back into detention. But *Zadvydas* does not require the
27 government to pre-arrange a noncitizen’s removal travel before arresting them, which
28 would often be extremely difficult if not impossible. The constitutional standard is

1 whether there is “a significant likelihood of removal” in the “reasonably foreseeable
2 future.” The law does not require that “every [noncitizen] not removed must be released
3 after six months.” *Zadvydas*, 533 U.S. at 701. Instead, the Supreme Court was clear that
4 the Constitution prevents only “indefinite” or “potentially permanent” detention. *Id.*
5 at 689–91. Courts properly deny *Zadvydas* claims under such circumstances. *See*
6 *Malkandi v. Mukasey*, No. C07-1858RSM, 2008 WL 916974, at *1 (W.D. Wash.
7 April 2, 2008) (denying *Zadvydas* petition where petitioner had been detained more
8 than 14 months post-final order); *Nicia v. ICE Field Office Dir.*, No. C13–0092–RSM,
9 2013 WL 2319402, at *3 (W.D. Wash. May 28, 2013) (holding petitioner “failed to
10 satisfy his burden of showing that there is no significant likelihood of his removal in
11 the reasonably foreseeable future” where he had been detained more than seven months
12 post-final order).

13 That Petitioner does not yet have a specific date of anticipated removal does not
14 make his detention unconstitutionally indefinite. *See Diouf v. Mukasey*, 542 F.3d 1222,
15 1233 (9th Cir. 2008) (explaining that a demonstration of “no significant likelihood of
16 removal in the reasonably foreseeable future” would include a country’s refusal to
17 accept a noncitizen or that removal is barred by our own laws). On the contrary, as
18 courts in this district have found, “evidence of progress, albeit slow progress, in
19 negotiating a petitioner’s repatriation will satisfy *Zadvydas* until the petitioner’s
20 detention grows unreasonably lengthy.” *Kim v. Ashcroft*, Case No. 02-cv-1524-J-LAB,
21 ECF No. 25 at 8:8–10 (S.D. Cal. June 2, 2003) (finding that petitioner’s one year and
22 four-month detention does not violate *Zadvydas* given respondent’s production of
23 evidence showing governments’ negotiations are in progress and there is reason to
24 believe that removal is likely in the foreseeable future); *see also Marquez v. Wolf*, No.
25 20-cv-1769-WQHBLM, 2020 WL 6044080, at *3 (S.D. Cal. Oct. 13, 2020) (denying
26 petition because “Respondents have set forth evidence that demonstrates progress and
27 the reasons for the delay in Petitioner’s removal”); *Sereke v. DHS*, Case No. 19-cv-
28 1250-WQH-AGS, ECF No. 5 at 5:4–6 (S.D. Cal. Aug. 15, 2019) (“[T]he record at this

1 stage in the litigation does not support a finding that there is no significant likelihood
2 of Petitioner’s removal in the reasonably foreseeable future.”).

3 Petitioner’s continued detention is thus not unconstitutionally prolonged under
4 *Zadvydas*.

5 *b. Petitioner’s complaints about procedural defects in his*
6 *re-detention do not establish a basis for habeas relief.*

7 Petitioner’s first claim for relief—that ICE failed to comply with its regulations
8 revoking Petitioner’s order of supervision—is also deficient.

9 A noncitizen who is not removed within the removal period may be released from
10 ICE custody “pending removal . . . subject to supervision under regulations prescribed
11 by the Attorney General.” 8 U.S.C. §§ 1231(a)(1)(A), 1231(a)(3); *see also* 8 U.S.C.
12 § 1231(a)(6). An order of supervision may be issued under 8 C.F.R. § 241.4, and the
13 order may be revoked under 8 C.F.R. § 241.4(l)(2)(iii) where “appropriate to enforce a
14 removal order.” *See also* 8 C.F.R. § 241.5 (conditions of release after removal period).
15 ICE may also revoke the order of supervision where, “on account of changed
16 circumstances, [ICE] determines that there is a significant likelihood that the alien may
17 be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2). The
18 regulations further provide:

19 *Upon revocation*, the alien will be notified of the reasons for revocation of
20 his or her release or parole. The alien will be afforded an initial informal
21 interview promptly *after* his or her return to Service custody to afford the
22 alien an opportunity to respond to the reasons for revocation stated in the
notification.

23 8 C.F.R. § 241.4(l) (emphasis added).

24 Here, Petitioner claims that his detention is unlawful because the agency failed
25 to comply with its regulations *before* re-detaining him. ECF No. 1 at 8. Specifically,
26 Petitioner argues that ICE did not identify any “changed circumstances” to justify re-
27 detaining him, ICE did not inform him of the reasons for re-detaining him, and he was
28 not given an informal interview. *Id.* at 9–11. Notably, the regulations do not require

1 written notice, advance notice, an advanced interview, nor for DHS to prove to the
2 satisfaction of a petitioner that changed circumstances are present.¹

3 Yet it is clear that there *are* changed circumstances here—namely, ICE’s revived
4 ability to obtain travel documents from the Vietnamese government and to schedule
5 routine removal flights to Vietnam. Cole Decl. ¶¶ 13–15. These facts are fatal to
6 Petitioner’s claim, because even if the agency failed to provide Petitioner with notice
7 of the revocation or neglected to conduct the informal interview, Petitioner could not
8 establish that he was prejudiced by those omissions nor that a constitutional level
9 violation has occurred. *See Brown v. Holder*, 763 F.3d 1141, 1148–50 (9th Cir. 2014)
10 (“[T]he mere failure of an agency to follow its regulations is not a violation of due
11 process.”); *United States v. Tatoyan*, 474 F.3d 1174, 1178 (9th Cir. 2007) (holding that
12 “[c]ompliance with . . . internal [customs] agency regulations is not mandated by the
13 Constitution”) (simplified); *Bd. of Curators of Univ. of Mo. v. Horowitz*, 435 U.S. 78,
14 92 n.8 (1978) (holding that *Accardi* “enunciate[s] principles of federal administrative
15 law rather than of constitutional law”).

16 For example, in *Ahmad v. Whitaker*, the government revoked the petitioner’s
17 release but did not provide him an informal interview. *Ahmad v. Whitaker*, No. C18-27-
18 JLR-BAT, 2018 WL 6928540, at *6 (W.D. Wash. Dec. 4, 2018), *report and*
19 *recommendation adopted*, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019). The petitioner
20 argued the revocation of his release was unlawful because, he contended, the federal
21 regulations prohibited re-detention without, among other things, an opportunity to be
22 heard. *Id.* at *5. In rejecting his claim, the court held that although the regulations called
23 for an informal interview, petitioner could not establish “any actionable injury from this

24
25 ¹ There are obvious law enforcement reasons for not providing “advance” notice of a
26 re-detention before executing a warrant of removal, just as there is no requirement to
27 provide prior notice of execution of an arrest warrant. Providing such notice “creates a
28 risk that the alien will leave town before the delivery or deportation date.” *United States*
v. Gonzales & Gonzales Bonds & Ins. Agency, Inc., 103 F. Supp. 3d 1121, 1137 (N.D.
Cal. 2015).

1 violation of the regulations given that ICE had procured a travel document and
2 scheduled [petitioner's] removal." *Id.* Similarly, in *Doe v. Smith*, the court held that
3 even if an ICE detained petitioner had not received a timely interview following her
4 return to custody, there was "no apparent reason why a violation of the regulation, even
5 assuming it occurred, should result in release." *Doe v. Smith*, No. 18-11363-FDS, 2018
6 WL 4696748, at *9 (D. Mass. Oct. 1, 2018). The court elaborated, "it is difficult to see
7 an actionable injury stemming from such a violation. Doe is not challenging the
8 underlying justification for the removal order. . . . Nor is this a situation where a prompt
9 interview might have led to her immediate release—for example, a case of mistaken
10 identity." *Id.*

11 So too here. At the time of his re-detention, Petitioner knew he was subject to a
12 final order of removal to Vietnam. Nguyen Decl. ¶ 2; *see also* Ex. 3. He does not
13 challenge that order in this lawsuit or offer any indication that he intends to do so. And
14 because Respondents had, and continue to have, an evidentiary basis to conclude there
15 is a significant likelihood that Petitioner will be removed to Vietnam in the reasonably
16 foreseeable future, any challenge that Petitioner would have raised to the revocation
17 prior to or after his re-detention would have failed. Because Petitioner cannot show
18 prejudice under these circumstances, the alleged violation of agency regulations does
19 not warrant release here. *See, e.g., Rodriguez v. Hayes*, 578 F.3d 1032, 1044 (9th Cir.
20 2009), *opinion amended and superseded on other grounds*, 591 F.3d 1105 (9th Cir.
21 2010) ("While the regulation provides the detainee some opportunity to respond to the
22 reasons for revocation, it provides no other procedural and no meaningful substantive
23 limit on this exercise of discretion as it allows revocation 'when, in the opinion of the
24 revoking official . . . [t]he purposes of release have been served . . . [or] [t]he conduct
25 of the alien, or *any other circumstance*, indicates that release would no longer be
26 appropriate.'") (emphasis in original) (citing 8 C.F.R. §§ 241.4(l)(2)(i), (iv)); *Carnation*
27 *Co. v. Sec'y of Lab.*, 641 F.2d 801, 804 n.4 (9th Cir. 1981) ("[V]iolations of procedural
28 regulations should be upheld if there is no significant possibility that the violation

1 affected the ultimate outcome of the agency’s action.” (citation omitted); *United States*
2 *v. Hernandez-Rojas*, 617 F.2d 533, 535 (9th Cir. 1980) (INS’ failure to follow
3 regulations requiring that an arrested alien be advised of his right to speak to his consul
4 was not prejudicial and thus not a ground for challenging the conviction); *United States*
5 *v. Barraza-Leon*, 575 F.2d 218, 221–22 (9th Cir. 1978) (holding that even assuming
6 that the judge had violated the rule by failing to inquire into the alien’s background, any
7 error was harmless because there was no showing that the petitioner was qualified for
8 relief from deportation).

9 Thus, whatever procedural deficiencies or delays may have occurred, they do
10 not warrant Petitioner’s release and indeed could be cured by means well short of
11 release. Petitioner does not challenge his removal order, nor could he. *See supra*
12 Section III.B. On November 5, 2025 ICE’s Enforcement and Removal Operations
13 submitted its request for Petitioner’s travel document to its Removal and International
14 Operations unit. Cole Decl. ¶ 12. ICE expects the removal of Petitioner to Vietnam to
15 occur in the reasonably foreseeable future. *See id.* ¶ 16. With Petitioner’s removal likely
16 to occur in the reasonably foreseeable future, no purpose would be served by this
17 Court’s ordering his release—other than frustrating “the statute’s basic purpose,
18 namely, assuring the alien’s presence at the moment of removal.” *Zadvydas*, 533 U.S.
19 at 699. Petitioner is thus unlikely to succeed on the merits of his claim that ICE’s alleged
20 failure to follow agency regulations merits his release.

21 **2. *Petitioner has not shown irreparable harm.***

22 To prevail on his request for interim injunctive relief, Petitioner must demonstrate
23 “immediate threatened injury.” *Caribbean Marine Servs. Co., Inc. v. Baldrige*, 844 F.2d
24 668, 674 (9th Cir. 1988) (citing *L.A. Memorial Coliseum Comm’n v. National Football*
25 *League*, 634 F.2d 1197, 1201 (9th Cir. 1980)). Merely showing a “possibility” of
26 irreparable harm is insufficient. *Winter*, 555 U.S. at 22. And detention alone is not an
27 irreparable injury. *See Reyes v. Wolf*, No. C20-0377JLR, 2021 WL 662659, at *3 (W.D.
28 Wash. Feb. 19, 2021). Further, “[i]ssuing a preliminary injunction based only on a

1 possibility of irreparable harm is inconsistent with [the Supreme Court’s]
2 characterization of injunctive relief as an extraordinary remedy that may only be
3 awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter*, 555
4 U.S. at 22.

5 Petitioner suggests that being subjected to allegedly unjustified detention itself
6 constitutes irreparable injury.² But this argument “begs the constitutional questions
7 presented in [his] petition by assuming that [P]etitioner has suffered a constitutional
8 injury.” *Cortez v. Nielsen*, No. 19-cv-00754-PJH, 2019 WL 1508458, at *3 (N.D. Cal.
9 April 5, 2019). Moreover, Petitioner’s “loss of liberty” is “common to all aliens seeking
10 review of their custody or bond determinations.” *Resendiz v. Holder*, No. C 12–04850
11 WHA, 2012 WL 5451162, at *5 (N.D. Cal. Nov. 7, 2012). He faces the same alleged
12 irreparable harm as any habeas corpus petitioner in immigration custody, and he has not
13 shown extraordinary circumstances warranting a temporary restraining order.

14 Importantly, the purpose of civil detention is facilitating removal, and the
15 government is working to timely remove Petitioner. Here, because Petitioner’s alleged
16 harm “is essentially inherent in detention, the Court cannot weigh this strongly in favor
17 of Petitioner.” *Lopez Reyes v. Bonnar*, No. 18-cv-07429-SK, 2018 WL 7474861, at *10
18 (N.D. Cal. Dec. 24, 2018).

19 **3. *The balance of equities does not tip in Petitioner’s favor.***

20 It is well settled that “the public interest in enforcement of the immigration laws
21 is significant.” *Blackie’s House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C.
22 Cir. 1981) (collecting cases); *see also Nken*, 556 U.S. at 436 (“There is always a public
23 interest in prompt execution of removal orders: The continued presence of an alien
24 lawfully deemed removable undermines the streamlined removal proceedings [the
25 Illegal Immigration Reform and Immigrant Responsibility Act of 1996] established, and
26

27 ² Detention is different than removal. But a removal is also not an inherently irreparable
28 injury. *See Nken*, 556 U.S. at 435.

1 permits and prolongs a continuing violation of United States law.”) (simplified).
2 Moreover, “ultimately the balance of the relative equities ‘may depend to a large extent
3 upon the determination of the [movant’s] prospects of success.’” *Tiznado-Reyna v.*
4 *Kane*, No. CV 12-1159-PHX-SRB (SPL), 2012 WL 12882387, at *4 (D. Ariz. Dec. 13,
5 2012) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 778 (1987)).

6 Here, as explained above, Petitioner cannot succeed on the merits of his claims,
7 and the public interest in the prompt execution of removal orders is significant. The
8 balancing of equities and the public interest thus weigh heavily against granting
9 equitable relief in this case.

10 **D. An evidentiary hearing is not needed.**

11 Because the record shows that Petitioner is not entitled to habeas relief, there is
12 no need for an evidentiary hearing in this matter. *See Schriro v. Landrigan*, 550 U.S.
13 465, 474 (2007) (“[I]f the record refutes the applicant’s factual allegations or otherwise
14 precludes habeas relief, a district court is not required to hold an evidentiary hearing.”).

15 **IV. Conclusion**

16 For the foregoing reasons, Respondents respectfully request that the Court deny
17 Petitioner’s motion for a temporary restraining order and dismiss Petitioner’s habeas
18 petition.

19
20 Dated: January 5, 2026

Respectfully submitted,

21
22 ADAM GORDON
United States Attorney

23
24 s/ Kelly A. Reis
KELLY A. REIS
25 Assistant United States Attorney

26
27 Attorneys for Respondents

1 foreign consulates as part of the removal process. I have access to government
2 databases and documentation relating to Petitioner, Hung Phi Nguyen. This
3 declaration is based on my personal knowledge and experience as a law
4 enforcement officer and information provided to me in my official capacity as a DO
5 for the Otay Mesa suboffice of the ICE ERO San Diego Field Office.

6 3. Petitioner is a native and citizen of Vietnam.

7 4. On April 30, 1984, Petitioner was admitted into the United States as a
8 refugee and adjusted his status to that of Lawful Permanent Resident on May 15,
9 1985.

10 5. On August 17, 2017, Petitioner was taken into ICE custody. Petitioner
11 was served with a Notice to Appear (NTA) and charged as removable under Section
12 237(a)(2)(A)(iii) of the Immigration and Nationality Act (INA) based on a January
13 20, 2011 conviction for Possession of Forged Instruments, in violation of Section
14 475(a) of the California Penal Code.

15 6. On September 19, 2017, Petitioner was ordered removed to Vietnam.

16 7. On April 3, 2018, Petitioner was released on an order of supervision as
17 ERO was unable to obtain travel documents at that time.

18 8. On January 8, 2025, Petitioner was arrested by ICE following a
19 probation violation but released that same day on an order of supervision.

20 9. On June 19, 2025, Petitioner was arrested by Santa Ana ERO and taken
21 into custody. On June 20, 2025, Petitioner was transferred to the Otay Mesa
22 Detention Center.

23 10. There is no documentation in Petitioner's file that he was given written
24 notice of revocation of his order of supervision or an informal interview.

25 11. On October 4, 2025, ERO submitted translation requests for additional
26 documentation needed for the travel documentation request.

27 12. On November 5, 2025, ICE ERO compiled a travel document request
28 for Vietnam and submitted the travel document application to the Removal and

1 International Operations (RIO) for processing. These removal efforts remain
2 ongoing.

3 13. In fiscal year 2025, ICE removed at least 587 Vietnamese citizens to
4 Vietnam. Of those 587 removed, 324 were Vietnamese citizens who immigrated to
5 the United States before July 1995, like Petitioner.

6 14. ICE has removed Vietnamese citizens to Vietnam as recently as
7 December 2025.

8 15. ICE routinely obtains travel documents for Vietnamese citizens,
9 including those who immigrated to the United States prior to 1995.

10 16. Once ICE receives a travel document for Petitioner, his removal can be
11 effectuated promptly.

12
13 I declare under penalty of perjury under the laws of the United States that the
14 foregoing is true and correct.

15
16 Executed December 30, 2025

17
18 **JASON N COLE** Digitally signed by JASON N COLE
Date: 2025.12.30 13:30:17 -08'00'

19 _____
20 Jason Cole
21 Deportation Officer
22 U.S. Department of Homeland Security
23 U.S. Immigration and Customs Enforcement
24 San Diego Field Office
25
26
27
28

1 ADAM GORDON
United States Attorney
2 KELLY A. REIS
Assistant U.S. Attorney
3 Cal. State Bar No. 334496
Office of the U.S. Attorney
4 880 Front Street, Room 6293
San Diego, CA 92101-8893
5 Telephone: (619) 546-8767
Facsimile: (619) 546-7751
6 Email: kelly.reis@usdoj.gov

7 Attorneys for Respondents

8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 HUNG PHI NGUYEN,

11 Petitioner,

12 v.

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

14 Respondents.
15

Case No. 25-cv-3756-CAB-VET

TABLE OF EXHIBITS

16
17 Exhibits:

- 18 1. Record of Deportable/Inadmissible Alien, Form I-213, dated January 8, 2025
19 2. Notice to Appear, Form I-862, dated August 17, 2017
20 3. Order of the Immigration Judge, dated September 19, 2017
21 4. Order of Supervision, Form I-220B, dated January 8, 2025
22
23
24
25
26
27
28

EXHIBIT 1

U.S. Department of Homeland Security Subject ID : 397327423 Record of Deportable/Inadmissible Alien

Family Name (CAPS) NGUYEN, HUNG PHI		First	Middle	Sex M	Hair BRO	Eyes BRO	Complexion MED
Country of Citizenship VIETNAM	Passport Number and Country of Issue 			Height 68	Weight 180	Occupation UNEMPLOYED	
U.S. Address WESTMINSTER, CALIFORNIA, 92683				Scars and Marks See Narrative			
Date, Place, Time, and Manner of Last Entry 04/30/1984, RE - Refugee			Passenger Bearded at		FBI Number 		
Number, Street, City, Province (State) and Country of Permanent Residence				<input type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Married <input type="checkbox"/> Widower <input type="checkbox"/> Separated			
Date of Birth 	Age: 56	Date of Action 01/08/2025	Location Code TOD	Method of Location/Apprehension NCA NA			
City, Province (State) and Country of Birth VIETNAM		AR <input checked="" type="checkbox"/>	Form: (Type and No.) Littered <input type="checkbox"/> Not Littered <input type="checkbox"/>				
NIV Issuing Post and NIV Number		Social Security Account Name					
Date Visa Issued		Social Security Number 					
Immigration Record POSITIVE - See Narrative			Criminal Record See Narrative				
Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate)						Number and Nationality of Minor Children None	
Father's Name, Nationality, and Address, if Known NGUYEN, BEO VAN NATIONALITY: UNITED STATES			Mother's Present and Maiden Names, Nationality, and Address, if Known NGUYEN, DIEN NATIONALITY: UNITED STATES				
Monies Due/Property in U.S. Not in Immediate Possession None Claimed		Fingerprinted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Systems Check See Narrative	Charge Code Word(s) See Narrative			
Name and Address of (Last) Current U.S. Employer UNEMPLOYED		Type of Employment Unemployed or Retired	Salary	Employed from/to			
Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.) FIN: 1232372139 <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> Left Index fingerprint </div> <div style="text-align: center;"> Right Index fingerprint </div> </div>							
SCARS MARKS AND TATTOOS ----- TATTOO CHEST - " picture of snake and lady" TATTOO ABDOMEN - " Buon cho so phan" TATTOO BACK - " tu hai vai huyen de" ----- Subject Health Status ----- The subject claims good health. ----- ... (CONTINUED ON I-831)							
Alien has been advised of communication privileges <u>01/08/2025</u> (Date/Initials)			 SI DIEP Deportation Officer (Signature and Title of Immigration Officer)				
Distribution: T-file		Received: (Subject and Documents) (Report of Interview) Officer: SI DIEP on: January 8, 2025 (Date) Disposition: Other Examining Officer: GEORGE, 					

U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name NGUYEN, HUNG PHI	File Number [REDACTED]	Date 01/08/2025
Event No: [REDACTED]		

Current Administrative Charges

01/06/2025 - 212a6Ai - ALIEN PRESENT WITHOUT ADMISSION OR PAROLE - (PWAs)

Previous Criminal History

On 09/25/2020, the subject was arrested for the crime of "Drug Possession" which resulted in a conviction on 09/25/2020. The subject was sentenced to 3 year(s).

On 02/28/2018, the subject was arrested for the crime of "Conditional Release Violation" which resulted in a conviction on 04/11/2018. The subject was sentenced to 0 year(s), 0 month(s), 90 day(s).

On 02/13/2018, the subject was arrested for the crime of "Conditional Release Violation" which resulted in a conviction on 02/13/2018. The subject was sentenced to 0 year(s), 0 month(s), 10 day(s).

On 12/18/2017, the subject was arrested for the crime of "Probation Violation" which resulted in a conviction on 12/18/2017. The subject was sentenced to 0 year(s), 0 month(s), 634 day(s).

On 02/28/2017, the subject was arrested for the crime of "Probation Violation" which resulted in a conviction on 02/28/2017. The subject was sentenced to 0 year(s), 0 month(s), 634 day(s).

On 02/28/2017, the subject was arrested for the crime of "Damage Property" which resulted in a conviction on 02/28/2017. The subject was sentenced to 0 year(s), 16 month(s), 0 day(s).

On 11/08/2016, the subject was arrested for the crime of "Probation Violation" which resulted in a conviction on 11/08/2016. The subject was sentenced to 0 year(s), 0 month(s), 270 day(s).

On 07/15/2016, the subject was arrested for the crime of "Trespassing" which resulted in a conviction on 07/15/2016. The subject was sentenced to 0 year(s), 0 month(s), 180 day(s).

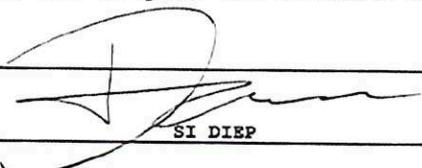
On 07/15/2016, the subject was arrested for the crime of "Unauthorized Use of Vehicle (includes joy riding)" which resulted in a conviction on 07/15/2016. The subject was sentenced to 0 year(s), 0 month(s), 180 day(s).

On 05/24/2013, the subject was arrested for the crime of "Drug Possession" which resulted in a conviction on 05/24/2013. The subject was sentenced to 0 year(s), 0 month(s), 32 day(s).

On 01/20/2011, the subject was arrested for the crime of "Forgery" which resulted in a conviction on 01/20/2011. The subject was sentenced to 1 year(s), 0 month(s), 0 day(s).

On 01/20/2011, the subject was arrested for the crime of "Possession Of Weapon" which resulted in a conviction on 01/20/2011. The subject was sentenced to 6 year(s), 0 month(s), 0 day(s).

On 01/26/2007, the subject was arrested for the crime of "Intimidation" which resulted in a

Signature  SI DIEP	Title Deportation Officer
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U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name NGUYEN, HUNG PHI	File Number [REDACTED] Event No: TOD2512007453	Date 01/08/2025
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conviction on 01/26/2007. The subject was sentenced to 0 year(s), 136 month(s), 0 day(s).

On 07/27/1998, the subject was arrested for the crime of "Burglary" which resulted in a conviction on 07/27/1998. The subject was sentenced to 6 year(s), 0 month(s), 0 day(s).

On 03/28/1996, the subject was arrested for the crime of "Vehicle Theft" which resulted in a conviction on 03/28/1996. The subject was sentenced to 3 year(s), 0 month(s), 0 day(s).

On 05/09/1994, the subject was arrested for the crime of "Firing Weapon" which resulted in a conviction on 05/09/1994. The subject was sentenced to 0 year(s), 0 month(s), 90 day(s).

On 05/09/1994, the subject was arrested for the crime of "Probation Violation" which resulted in a conviction on 05/09/1994. The subject was sentenced to 0 year(s), 16 month(s), 0 day(s).

On 01/06/1994, the subject was arrested for the crime of "Vehicle Theft" which resulted in a conviction on 01/06/1994. The subject was sentenced to 0 year(s), 0 month(s), 120 day(s).

On 01/06/1994, the subject was arrested for the crime of "Burglary" which resulted in a conviction on 01/06/1994. The subject was sentenced to 0 year(s), 0 month(s), 120 day(s).

On 02/11/1993, the subject was arrested for the crime of "Failure To Appear" which resulted in a conviction on 02/11/1993. The subject was sentenced to 0 year(s), 0 month(s), 45 day(s).

Records Checked

 NCIC Neg
 EARM Pos
 TECS Pos
 CIS Pos

At/Near

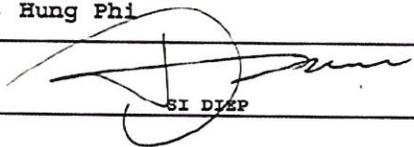
 Santa Ana, CA

Record of Deportable/Excludable Alien:

On December 12, 2024, the Pacific Enforcement Response Center in Laguna Niguel, California, received an Immigration Alien Response from the U.S. Immigration and Customs Enforcement (ICE), Law Enforcement Support Center on Nguyen, Hung Phi who was arrested in ORANGE COUNTY, CALIFORNIA (SID number: [REDACTED]), for the following offense: 1) POST RELEASE COMMUNITY SUPV VIOLATION (3455 PC). The subject's fingerprints were electronically submitted to the Department of Justice, National Crime Information Center/ Next Generation Identification System and Department of Homeland Security/ICE databases. Upon review, it was determined that the subject is amenable to ICE enforcement action. Based on this information an ICE Immigration Detainer was lodged.

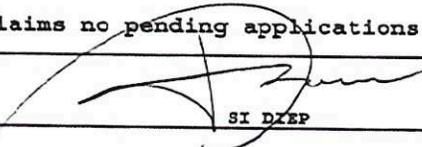
***** Addendum to Case File Wednesday, January 8, 2025 *****

Name: NGUYEN, Hung Phi

Signature 	Title Deportation Officer
--	------------------------------

U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name NGUYEN, HUNG PHI	File Number [REDACTED] Event No: [REDACTED]	Date 01/08/2025
DOB: [REDACTED] COC: Vietnam FBI: [REDACTED]		
ENCOUNTER DATA: On January 8, 2025, the Orange County Sheriff's Department (OCSD) located in Santa Ana, CA, released NGUYEN, Hung Phi (A [REDACTED]) into Immigration and Custom Enforcement (ICE), Enforcement Removal Operations (ERO) custody pursuant to his arrest for POST RELEASE COMMUNITY SUPV VIOLATION (3455 PC). The following is based on checks in CIS, CLAIMS, EARM, and other law enforcement database.		
IMMIGRATION HISTORY: On April 30, 1984, the former Immigration and Naturalization Service (INS) admitted NGUYEN into the United States at Dallas, TX, as a Lawful Permanent Resident (LPR), Refugee (RE8). On August 17, 2017, NGUYEN entered ICE ERO San Bernardino custody pursuant to his release by the California Rehabilitation Center in Norco, CA. NGUYEN was served a Notice to Appear (NTA), Form I-862, charging removability under Section 237(a)(2)(A)(iii) of the Immigration and Nationality Act (INA). On September 19, 2017, an immigration judge (IJ) at Adelanto, CA ordered NGUYEN removed to Vietnam. On January 25, 2018, a travel document application was sent to HQ. On April 3, 2018, the travel document was denied by the Consulate General of the Socialist Republic of Vietnam. On the same date, ICE ERO Adelanto released NGUYEN on Order Supervision.		
CRIMINAL HISTORY: Please see above.		
ADDITIONAL INFORMATION: ERO Santa Ana advised NGUYEN of his rights to communicate with the consular or diplomatic officer from his country of citizenship. ERO Santa Ana notified NGUYEN of his rights to use the telephone in the ERO Santa Ana Staging Facility. NGUYEN stated he is a citizen and national of Vietnam. NGUYEN makes no claim to United States Citizenship or any benefit under the INA. NGUYEN's father is a national of Vietnam and a United States citizen (A [REDACTED]). NGUYEN's mother is a national of Vietnam and a United States citizen (A [REDACTED]). NGUYEN claims no pending applications or petitions with the United States Citizenship and		
Signature  SI DIEP	Title Deportation Officer	

U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name NGUYEN, HUNG PHI	File Number [REDACTED]	Date 01/08/2025
Event No: [REDACTED]		

Immigration Services (USCIS).

NGUYEN claims no prior or current service with the United States Armed Forces.

NGUYEN no criminal convictions currently under appeal.

NGUYEN expresses no fear of harm, persecution, or torture if returned to his country of citizenship.

NGUYEN claims no medical issues.

NGUYEN claims no gang affiliation.

CASE DISPOSITION:

NGUYEN has a Final Order of removal issued by an IJ in Adelanto, CA. Records indicate there are no pending or approved appeals; however, due to NGUYEN's pending travel document application with Vietnamese consulate. With DPOD approval, ICE served Nguyen with form I-220b Order of supervision and instructed to reported to Santa Ana office on February 05, 2025 at 0900 hrs.

NGUYEN currently stated he resides at [REDACTED] Westminster, CA 92683 with a phone number of [REDACTED].

Other Identifying Numbers

 ALIEN- [REDACTED]
 State Criminal Number/State Bureau Number-CA30827915
 State Criminal Number/State Bureau Number-TX03637951
 Other Biometric-1232372139

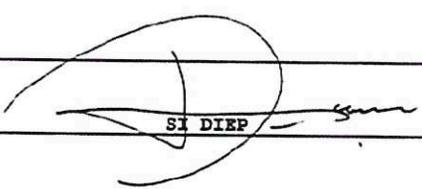
Signature 	Title Deportation Officer
--	------------------------------

EXHIBIT 2

U.S. Department of Homeland Security

Notice to Appear

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [REDACTED] FINS: [REDACTED] File No: [REDACTED]
DOB: [REDACTED] Event No: [REDACTED]

In the Matter of:

Respondent: HUNG PHI NGUYEN AKA: NGUYEN, DUNG TUAN; NGUYEN, HUNG VAN; HUNG, PHI NGUYEN currently residing at:
[REDACTED] ADELANTO, CALIFORNIA, 92301 [REDACTED]
(Number, street, city and ZIP code) (Area code and phone number)

- 1. You are an arriving alien.
2. You are an alien present in the United States who has not been admitted or paroled.
3. You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:
See Continuation Page Made a Part Hereof

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

Section 237(a)(2)(A)(iii) of the Immigration and Nationality Act (Act), as amended, in that, at any time after admission, you have been convicted of an aggravated felony as defined in section 101(a)(43)(R) of the Act, a law relating to an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which the term of imprisonment is at least one year.

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
Section 235(b)(1) order was vacated pursuant to: 8CFR 208.30(f)(2) 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:
To be determined.

(Complete Address of Immigration Court, including Room Number, if any)

on To be set. at To be set. to show why you should not be removed from the United States based on the
(Date) (Time)

charge(s) set forth above.

I 2209 HERRERA [Signature]
(Signature and Title of Issuing Officer)

Date: August 17, 2017

Adelanto, California

(City and State)

See reverse for important information

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 3.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents, which you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or removable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge.

You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of departure voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the DHS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to one of the offices listed in 8 CFR 241.16(a). Specific addresses on locations for surrender can be obtained from your local DHS office or over the internet at http://www.ice.gov/about/dro/contact.htm. You must surrender within 30 days from the date the order becomes administratively final, unless you obtain an order from a Federal court, immigration court, or the Board of Immigration Appeals staying execution of the removal order. Immigration regulations at 8 CFR 241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Act.

Request for Prompt Hearing

To expedite a determination in my case, I request an immediate hearing. I waive my right to a 10-day period prior to appearing before an immigration judge.

Before:

 DO
(Signature and Title of Immigration Officer)


(Signature of Respondent)
Date: 8/18/17

Certificate of Service

This Notice To Appear was served on the respondent by me on August 18, 2017, in the following manner and in compliance with section 239(a)(1)(F) of the Act.

- in person by certified mail, returned receipt requested by regular mail
- Attached is a credible fear worksheet.
- Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the English language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.


(Signature of Respondent if Personally Served)

A 8876 THAM DO
(Signature and Title of officer)

U.S. Department of Homeland Security

Continuation Page for Form I-862

Alien's Name NGUYEN, HUNG PHI	File Number [REDACTED] Event No: [REDACTED]	Date 08/18/2017
<p>THE SERVICE ALLEGES THAT YOU:</p> <p>-----</p> <ol style="list-style-type: none"> 1. You are not a citizen or national of the United States; 2. You are a native of VIETNAM and a citizen of VIETNAM; 3. Your status was adjusted to that of a lawful permanent resident on May 15, 1985 under section 209(a) of the Act; 4. You were, on January 20, 2011, convicted in the Superior Court of California, County of Orange for the offense of Possession of Forged Instrument, in violation of section 475(a) of the California Penal Code. 5. For this offense you were sentenced to a term of one (1) year and four (4) months prison. 		
Signature  I 2209 HERRERA	Title SDDO	

EXHIBIT 3

IMMIGRATION COURT
10250 RANCHO RD., SUITE 201A
ADELANTO, CA 92301

In the Matter of

NGUYEN, HUNG PHI
Respondent

Case No.: A [REDACTED]
IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on 9/19/2017
This memorandum is solely for the convenience of the parties. If the
proceedings should be appealed or reopened, the oral decision will become
the official opinion in the case.

- The respondent was ordered removed from the United States to Viet Nam
or in the alternative to .
- Respondent's application for voluntary departure was denied and
respondent was ordered removed to or in the
alternative to .
- Respondent's application for voluntary departure was granted until
upon posting a bond in the amount of \$ _____
with an alternate order of removal to .

Respondent's application for:

- Asylum was () granted () denied () withdrawn.
- Withholding of removal was () granted () denied () withdrawn.
- A Waiver under Section _____ was () granted () denied () withdrawn.
- Cancellation of removal under section 240A(a) was () granted () denied
() withdrawn.

Respondent's application for:

- Cancellation under section 240A(b)(1) was () granted () denied
() withdrawn. If granted, it is ordered that the respondent be issued
all appropriate documents necessary to give effect to this order.
- Cancellation under section 240A(b)(2) was () granted () denied
() withdrawn. If granted it is ordered that the respondent be issued
all appropriated documents necessary to give effect to this order.
- Adjustment of Status under Section _____ was () granted () denied
() withdrawn. If granted it is ordered that the respondent be issued
all appropriated documents necessary to give effect to this order.
- Respondent's application of () withholding of removal () deferral of
removal under Article III of the Convention Against Torture was
() granted () denied () withdrawn.
- Respondent's status was rescinded under section 246.
- Respondent is admitted to the United States as a _____ until _____.
- As a condition of admission, respondent is to post a \$ _____ bond.
- Respondent knowingly filed a frivolous asylum application after proper
notice.
- Respondent was advised of the limitation on discretionary relief for
failure to appear as ordered in the Immigration Judge's oral decision.
- Proceedings were terminated.
- Other:

Date: Sep 12, 2017
19.

[Signature]
AMY T. ZEE
Immigration Judge

Appeal: Waived/Reserved Appeal Due By:

[Signature]

Alien Number: [REDACTED] Name: NGUYEN, HUNG PHI

LIMITATIONS ON DISCRETIONARY RELIEF FOR FAILURE TO APPEAR

- () 1. You have been scheduled for a removal hearing, at the time and place set forth on the attached sheet. Failure to appear for this hearing other than because of exceptional circumstances beyond your control** will result in your being found ineligible for certain forms of relief under the Immigration and Nationality Act (see Section A. below) for a period of ten (10) years after the date of entry of the final order of removal.
- () 2. You have been scheduled for an asylum hearing, at the time and place set forth on the attached notice. Failure to appear for this hearing other than because of exceptional circumstances beyond your control** will result in your being found ineligible for certain forms of relief under the Immigration and Nationality Act (see Section A. Below) for a period of ten (10) years from the date of your scheduled hearing.
- () 3. You have been granted voluntary departure from the United States pursuant to section 240B of the Immigration and Nationality Act, and remaining in the United States beyond the authorized date other than because of exceptional circumstances beyond your control** will result in your being ineligible for certain forms of relief under the Immigration and Nationality Act (see Section A. Below) for ten (10) years from the date of the scheduled departure or the date of unlawful reentry, respectively. Your voluntary departure bond, if any, will also be breached. Additionally, if you fail to voluntarily depart the United States within the time period specified, you shall be subject to a civil penalty of not less than \$1000 and not more than \$5000.
- (/) 4. An order of removal has been entered against you. If you fail to appear pursuant to a final order of removal at the time and place ordered by the DHS, other than because of exceptional circumstances beyond your control** you will not be eligible for certain forms of relief under the Immigration and Nationality Act (see Section A. below) for ten (10) years after the date you are scheduled to appear.

**the term "exceptional circumstances" refers to circumstances such as serious illness of the alien or death of an immediate relative of the alien, but not including less compelling circumstances.

A. THE FORMS OF RELIEF FROM REMOVAL FOR WHICH YOU WILL BECOME INELIGIBLE ARE:

- 1) Voluntary departure as provided for in section 240B of the Immigration and Nationality Act;
- 2) Cancellation of removal as provided for in section 240A of the Immigration and Nationality Act; and
- 3) Adjustment of status or change of status as provided for in Section 245, 248 or 249 of the Immigration and Nationality Act.

This written notice was provided to the alien in English. Oral notice of the contents of this notice must be given to the alien in his/her native language, or in a language he/she understands by the Immigration Judge.

Date: Sep 19, 2017

Immigration Judge: [Signature] or Court Clerk: _____

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)
 TO: ALIEN ALIEN c/o Custodial Officer ALIEN's ATT/REP DHS
 DATE: 9/19/17 BY: COURT STAFF [Signature]
 Attachments: EOIR-33 EOIR-28 Legal Services List Other

EXHIBIT 4

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

ORDER OF SUPERVISION

File No.: [REDACTED]

Name: NGUYEN, HUNG PHI

Date: January 8, 2025

On September 19, 2017, 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 agency has not effected your deportation or removal during the period prescribed by law, it is ordered that you be placed 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 agency, for identification and for deportation or removal.
- That upon request of the agency, you appear for medical or psychiatric examination at the expense of the United States Government.
- That you provide information under oath about your nationality, circumstances, habits, associations and activities and such other information as the agency considers appropriate.
- That you do not travel outside California for more than 48 hours without first having notified this agency office of the dates and places, and obtaining approval from this agency office of such proposed travel.
(Specify geographic limits, if any)
- That you furnish written notice to this agency office of any change of residence or employment 48 hours prior to such change.
- That you report in person on 02/05/2025 09:00 AM to this agency office at:
(Date/Time)

See I-831

(Reporting Address)

- That you assist U.S. Immigration and Customs Enforcement in obtaining any necessary travel documents.
- Other: *Your release is contingent upon your enrollment and successful participation in an Alternatives to Detention (ATD) program as designated by the U.S. Department of Homeland Security. As part of the ATD program, you will be subject to electronic monitoring and may be subject to a curfew. Failure to comply with the requirements of the ATD program will result in a redetermination of your release conditions or your arrest and detention.*
If fitted with a U.S. Immigration and Customs Enforcement GPS tracking ankle bracelet, do not tamper with or remove the device. Under federal law, it is a crime to willfully damage or attempt to damage property of the United States. Damaging or attempting to damage the GPS tracking ankle bracelet or any of its associated equipment (including, but not limited to, the charging station, batteries, power cords, etc.) may result in your arrest, detention, and prosecution under 18 U.S.C. § 1361 and/or 18 U.S.C. § 641, each punishable by a fine, up to ten years imprisonment, or both.
- See attached sheet containing other specified conditions (Continue on separate sheet if required)

(Signature of ICE Official)

GEORGE, B 4055

(Print Name and Title of ICE Official)

Alien's Acknowledgement of Conditions of Release under an Order of Supervision

I hereby acknowledge that I have (read) (had interpreted and explained to me in the English language) the contents of this order, a copy of which has been given to me. I understand that failure to comply with the terms of this order may subject me to a fine, detention, or prosecution.

(Signature of ICE Official Serving Order)

(Signature of Alien)

01/08/2025

(Date)

OSUP
2025

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

ORDER OF SUPERVISION (ADDENDUM)

File No.: [REDACTED]

Name: NGUYEN, HUNG PHI

Date: January 8, 2025

- That you do not associate with know gang members, criminal associates, or be associated with any such activity.
- That you register in a substance abuse program within 14 days and provide ICE with written proof of such within 30 days. The proof must include the name, address, duration, and objectives of the program as well as the name of a counselor.
- That you register in a sexual deviancy counseling program within 14 days and provide ICE with written proof of such within 30 days. You must provide ICE with the name of the program, the address of the program, duration and objectives of the program as well as the name of a counselor.
- That you register as a sex offender, if applicable, within 7 days of being released, with the appropriate agency(s) and provide ICE with written proof of such within 10 days.
- That you do not commit any crimes while on this Order of Supervision.
- That you report to any parole or probation officer as required within 5 business days and provide ICE with written verification of the officer's name, address, telephone number, and reporting requirements.
- That you continue to follow any prescribed doctor's orders whether medical or psychological including taking prescribed medication.
- That you provide ICE with written copies of requests to Embassies or Consulates requesting the issuance of a travel document.
- That you provide ICE with written responses from the Embassy or Consulate regarding your request.
- Any violation of the above conditions will result in revocation of your employment authorization document.
- Any violation of these conditions may result in you being taken into Service custody and you being criminally prosecuted.
- Other:

x 
Alien's Signature

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

ORDER OF SUPERVISION (OUTPROCESSING CHECKLIST)

All Aliens

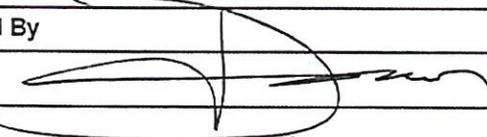
- Probation/Parole Officer Notified
- Obtain address where living and telephone number
- Enter into IDENT
- NCIC Check
- Travel Document Application

Sex Offenders

- Probation/Parole Officer Notified
- Registered as sex-offender as required by state statute within 7 days
- Victim/Witness Coordinator Notified
- Victim/Witness Notified
- Written Proof of Counseling

Substance Abusers

- Probation/Parole Officer Notified
- Written Proof of Counseling

Completed By	
ICE Official DIEP, SI 	Date 01/08/2025
Concurrence By	
Supervisory ICE Official GEORGE, B 4055 	Date 01/08/2025

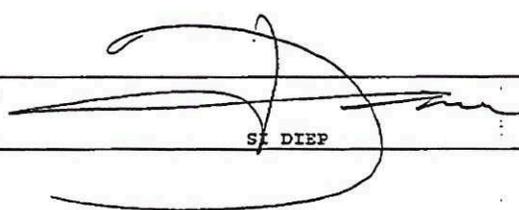
U.S. Department of Homeland Security

Continuation Page for Form I-220B

Alien's Name NGUYEN, HUNG PHI	File Number [REDACTED]	Date 01/08/2025
Event No: XXXXXXXXXX		

LOCATION OF ICE OFFICE WHICH YOU REPORT TO

Federal building/ ICE office
34 Civic Center Plaza
SANTA ANA, CA 92701

Signature  SI DIEP	Title Deportation Officer
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DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

WARNING FOR FAILURE TO COMPLY WITH TERMS OF SUPERVISED RELEASE

Name NGUYEN, HUNG PHI		Field Office	File # 
<p>Section 243(b) of the Immigration and Nationality Act of 1952, as amended, provides, in part, that:</p> <p>An alien who shall willfully fail to comply with regulations or requirements issued pursuant to section 241(a)(3)* or knowingly give false information in response to an inquiry under such section shall be fined not more than \$1000 or imprisoned for not more than one year, or both.</p> <p>*Section 241(a)(3) of the Immigration and Nationality Act of 1952, as amended, provides, in part, that:</p> <p>If the alien does not leave or is not removed within the removal period, the alien, pending removal, shall be subject to supervision under regulations prescribed by the Attorney General. The regulations shall include provisions requiring the alien—</p> <ul style="list-style-type: none"> (A) to appear before an immigration officer periodically for identification; (B) to submit, if necessary, to a medical and psychiatric examination at the expense of the United States Government; (C) to give information under oath about the alien's nationality, circumstances, habits, associations, and activities, and other information the Attorney General considers appropriate; and (D) to obey reasonable written restrictions on the alien's conduct or activities that the Attorney General prescribes for the alien. 			
Date Order Final September 19, 2017	Ordered Removed under Section 212a6Ai		
Record of Service (Check method used)			
<input type="checkbox"/> Record of Personal Service			
Served By (Print Name and Title of Officer) SI DIEP, Deportation Officer		Date January 8, 2025	
Officer's Signature 		Location of Service	
Served On: (Alien's Signature) 		Date January 8, 2025	
<input type="checkbox"/> Certified Mail Service		Fingerprint of Alien (Specify finger used)	
Attach certified mail receipts here.		 Right Index	