**UNITED STATES DISTRICT COURT**
**MIDDLE DISTRICT OF FLORIDA**
**FORT MYERS DIVISION**

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| Luc Quy Tran,<br><br>Petitioner,<br><br>v.<br><br>Matthew Mordant, Warden, Florida Soft Side South; Garrett Ripa, Field Office Director, Miami Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations; Todd Lyons, Acting Director, U.S. Immigration and Customs Enforcement; Kristi Noem, Secretary, U.S. Department of Homeland Security; Pamela Bondi, Attorney General of the United States,<br><br>Respondents. | Case No: 2:25-cv-01224<br><br>**VERIFIED PETITION FOR WRIT OF HABEAS CORPUS** |

## INTRODUCTION

1. This case challenges the unlawful detention of Luc Quy Tran, who is currently in the custody of Immigration and Customs Enforcement ("ICE") at Florida Soft Side South, also known as "Alligator Alcatraz," in Ochopee, Florida.

2. Petitioner came to the United States in 1978 as a toddler pursuant to a refugee resettlement program with his parents and five siblings. Petitioner is a beloved member of his family, which includes his U.S.-citizen wife, his two U.S.-citizen stepchildren, and his U.S.-citizen mother and siblings.

3. Petitioner obtained lawful permanent resident ("LPR") status as a child, but after a 1994 murder conviction in Pinellas County, Florida, he was placed in removal proceedings and ordered removed in 1997.

4. DHS could not remove Petitioner to Vietnam based on the Vietnamese government's refusal to repatriate its nationals. DHS thereafter released Petitioner pursuant to an Order of Supervision in 2003.

5. To this day, Petitioner's removal to Vietnam is not reasonably foreseeable—a reality recognized by an ICE deportation officer who informed Petitioner when he was detained earlier this month that his removal to Vietnam was "impossible" because Vietnam would not accept him.

6. Yet, despite Petitioner dutifully complying with the terms of his Order of Supervision and associated conditions of release for over two decades, on December 9, 2025, ICE re-detained Petitioner without: 1) providing notice or opportunity to be heard; 2) explaining the basis for his re-detention; 3) providing proof that revocation was ordered by an ICE employee with authority to do so; or 4) making the findings required by law—all in violation of agency rules and regulations.

7. ICE's failure to provide Petitioner with a pre-deprivation hearing violated Petitioner's due process and is particularly egregious in light of ICE's failure to demonstrate a change in circumstances justifying the revocation of his

release. ICE has not met its burden to show that it can remove Petitioner in the reasonably foreseeable future.

8. Petitioner's continued detention violates 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), because his removal is not reasonably foreseeable. Upon information and belief, at no point since his release from detention in 2003, or since his re-detention on December 9, 2025, has ICE taken any steps to effectuate Petitioner's removal to Vietnam, including addressing the fact that Petitioner does not have a Vietnamese passport.

9. On the day of his detention, ICE informed Petitioner that it would seek his removal to a third country. But ICE has taken no concrete steps to effectuate such removal, nor has it identified what process, if any, ICE will provide Petitioner to contest removal based on fear.

10. Because Petitioner has no passport, or any other travel documents, any removal to a third country will leave him stranded in a place where Petitioner has never resided, held citizenship, or maintained lawful status, and where he has no family, support network, housing, or means of lawful employment.

11. Respondents' actions depriving Petitioner of his liberty violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution, the Immigration and Nationality Act ("INA") and implementing regulations, the Administrative

Procedure Act ("APA"), and the *Accardi* doctrine, which obligates administrative agencies to follow their own rules, procedures, and instructions.

12. Petitioner brings this action seeking the Court to order Respondents to release Petitioner because his re-detention constituted a violation of his due process rights, to prohibit Respondents from removing Petitioner to a third country without ensuring Petitioner is afforded notice and opportunity to present a fear-based claim.

**JURISDICTION AND VENUE**

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

14. Venue is proper in the Middle District of Florida pursuant to 28 U.S.C. § 2241 because Petitioner is detained at Florida Soft Side South in Ochopee, Florida, which sits within this Court's jurisdiction.

**REQUIREMENTS OF 28 U.S.C. § 2243**

15. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

16. Courts have long recognized the significance of the habeas statute in

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

**PARTIES**

17. Petitioner LUC QUY TRAN is a native and citizen of Vietnam who entered the United States as a four-year-old refugee in 1978 as part of an international refugee settlement program implemented after the Vietnam War. He is in ICE custody at Florida Soft Side South (also known as "Alligator Alcatraz") in Ochopee, Florida.

18. Respondent MATTHEW MORDANT, Warden, Florida Soft Side South, is the official responsible for overseeing the facility where Petitioner is detained. This Respondent is a legal custodian of Petitioner and is sued in his official capacity.

19. Respondent GARRET RIPA is sued in his official capacity as the ICE Field Office Director for the Miami Office of Enforcement and Removal Operations. The Miami Field Office oversees the Florida Soft Side South detention facility, where Petitioner is currently detained. Respondent Ripa is a legal custodian of Petitioner.

20. Respondent KRISTI NOEM is sued in her official capacity as the

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

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

## LEGAL FRAMEWORK FOR IMMIGRATION DETENTION

### Fifth Amendment Right to Due Process

22. "It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

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

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

25. Although 8 U.S.C. § 1231(a)(6) permits detention "beyond the removal period" of noncitizens who have been ordered removed and are deemed to be a risk of flight or danger, the Supreme Court has recognized limits to such continued detention. In *Zadvydas*, the Supreme Court held that "the statute, read in light of the Constitution's demands, limits [a noncitizen's] post-removal-period detention to a period reasonably necessary to bring about that [noncitizen's] removal from the

United States." 533 U.S. at 689. "[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Id.* at 699.

26. In *Zadvydas*, the Supreme Court held that six months was a "presumptively reasonable period of detention," *id.* at 701, and the Eleventh Circuit recognized that such a period "commences at the beginning of the removal period." *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 n.3 (11th Cir. 2002). After the six-month period lapses and the noncitizen establishes that there is "good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future," the burden shifts to the government to rebut such a showing. *See Krechmar v. Parra*, No. 2:25-CV-01095-SPC-DNF, 2025 WL 3620802, at *3 (M.D. Fla. Dec. 15, 2025).

**Due Process Governs Decisions to Revoke an Order of Supervision**

27. Under the substantive due process doctrine, a restraint on liberty like revocation of a noncitizen's order of supervision is only permissible if it serves a "legitimate nonpunitive objective." *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). The Supreme Court has only recognized two legitimate objectives of immigration detention: preventing danger to the community and preventing flight prior to removal. *See Zadvydas*, 533 U.S. at 690-92.

28. "Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty," like the decision to revoke a noncitizen's order of supervision. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976)

(citation modified). "The fundamental requirement of [procedural] due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Id.* at 333 (citation modified).

29. The Supreme Court "has held that the Constitution requires some kind of a hearing before the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). Only in a "special case" where post-deprivation remedies are "the only remedies the State could be expected to provide" can post-deprivation process suffice. *Zinermon*, 494 U.S. at 128. Moreover, the government can avoid providing pre-deprivation process only when "the value of pre-deprivation safeguards . . . is negligible in preventing the kind of deprivation at issue." *Id.*

**Legal Framework Governing Revocation of an Order of Supervision**

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

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

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

33. Agency-promulgated regulations purport to give additional reasons, beyond those listed at § 1231(a)(6), that an order of supervision may be revoked and a noncitizen may be re-detained past the removal period where, in a specific case, it is concluded that: "(1) the purposes of release have been served; (2) the alien violates any condition of release; (3) it is appropriate to enforce a removal order . . . ; or (4) the conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate." 8 C.F.R. § 241.4(*l*)(2); *see also id.* § 241.13(i) (permitting revocation of an order of supervision only if a noncitizen "violates any of the conditions of release").

34. The agency's regulations permit only certain officials to revoke an order of supervision: the ICE Executive Associate Director, a field office director, or an official "delegated the function or authority . . . for a particular geographic district, region, or area." *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 161 (W.D.N.Y. 2025) (citing 8 C.F.R. §§ 1.2, 241.4(*l*)(2) and explaining that the Homeland Security

Act of 2002 renamed the position titles listed in § 241.4). If the field office director or a delegated official intends to revoke an order of supervision, they must first make findings that in the case of the particular noncitizen, "revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate [Director]." 8 C.F.R. § 241.4(*l*)(2). And for a delegated official to have authority to revoke an order of supervision, the delegation order must explicitly say so. *See Ceesay*, 781 F. Supp. 3d at 161 (finding a delegation order that "refers only to a limited set of powers under [8 C.F.R.] part 241 that do not include the power to revoke release" insufficient to grant authority to revoke an order of supervision).

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

**The APA Sets Minimum Standards for Final Agency Action**

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

37. 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).

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

39. A revocation marks the consummation of ICE's decisionmaking process regarding a noncitizen's custody.

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

**The *Accardi* Doctrine Requires Agencies to Follow Internal Rules**

41. Under the *Accardi* doctrine, a foundational principle of administrative law, agencies must follow their own procedures, rules, and instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (setting aside an order of deportation where the Board of Immigration Appeals failed to follow procedures governing deportation proceedings); *see also Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required."); *Port of Jacksonville Mar. Ad Hoc Comm., Inc. v. Hayes*, 485 F. Supp. 741, 743 (M.D. Fla. 1980), *aff'd*,

620 F.2d 567 (5th Cir. 1980) ("An agency's failure to follow its own regulations can be grounds for invalidating its action.") (citing *Accardi,* 347 U.S. 260).

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

**Limitations on Third Country Removal**

43. By statute, the government is prohibited from removing a noncitizen to any third country where they may be persecuted or tortured, a form of protection known as withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A). Statutory withholding of removal shields a noncitizen from removal to a particular country if he demonstrates that more likely than not, his "life or freedom would be threatened in that country because of [his] race, religion, nationality, membership in a particular social group, or political opinion." 8 U.S.C. § 1231(b)(3)(A).

44. Like statutory withholding, CAT withholding shields a noncitizen from being removed to a country if the noncitizen demonstrates that "it is more likely than

not that he or she would be tortured if removed to the proposed country of removal." 8 C.F.R. § 1208.16(c)(2).

## FACTUAL ALLEGATIONS AND RELEVANT BACKGROUND

### Non-Repatriation of Pre-1995 Vietnamese Arrivals

45. At the end of the Vietnam War, the United States government resettled Vietnamese refugees in the United States. Refugees who resettled in the United States, like Petitioner, obtained lawful permanent residence.

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

47. Under a 2008 U.S.-Vietnam Memorandum of Understanding ("MOU") on the Acceptance of the Return of Vietnamese Citizens, Vietnam agreed to accept deportees only if they entered the United States *on or after July 12, 1995*—the date the two countries re-established diplomatic relations. The MOU provides that Vietnam has no obligation to accept the return of individuals who arrived before that date.

48. Thus, DHS typically cannot effectuate removal to Vietnam within a reasonably foreseeable period for pre-1995 Vietnamese nationals with final orders of removal like Mr. Tran.

49. Consequently, these individuals are not removed to Vietnam because

the Vietnamese government declines to accept them under the controlling bilateral repatriation agreement and, like Mr. Tran, were typically released pursuant to an order of supervision.

**Petitioner's Background**

50. Mr. Tran fled the Communist regime in Vietnam and came to the United States as a toddler on August 30, 1978, with his parents and siblings. *See* **Exhibit A**. Petitioner and his family fled Vietnam out of fear for reprisals because Petitioner's father and uncle had fought alongside the United States during the Vietnam War. Petitioner and his family made a daring escape from Vietnam and were rescued at sea by the U.S. Navy. Thanks to generosity of a church in Wisconsin, Petitioner and his family were able to immigrate to the United States.

51. Petitioner and his family became LPRs of the United States. His parents and siblings became U.S.-citizens. Mr. Tran did not.

52. Petitioner made serious mistakes by associating with the wrong group of individuals that resulted in his 1994 conviction for murder in Pinellas County, Florida. Petitioner served his prison sentence from 1994 to 2003.

53. Mr. Tran has acknowledged his past mistakes and has since made meaningful, demonstrable efforts to rehabilitate himself. He has not run afoul of the law since his conviction over three decades ago, and has focused his time and energy towards caring for his family, which includes eleven U.S. citizens. *See* **Exhibit B**.

54. In 2017, Mr. Tran married his U.S.-citizen wife, and he has two U.S.-citizen stepdaughters through his marriage. Mr. Tran provides emotional and financial support to his immediate family. He owns and operates a small business. *See id.*

55. Mr. Tran's family describes him as a cornerstone of the family, and his detention has caused his family a great deal of hardship, particularly those family members who rely on Mr. Tran for regular care.

56. Mr. Tran provides daily and ongoing care to his disabled mother-in-law, including assistance with essential activities of daily living. *See id.*

57. Mr. Tran also assists his disabled brother, who relies on Mr. Tran for routine daily support necessary to maintain basic functioning and stability. *See id.*

58. In addition, Mr. Tran cares for a second brother, who suffers from a severe heart condition, as he recovers from multiple heart surgeries and requires ongoing, daily attention. *See id.*

59. Mr. Tran's U.S.-citizen father passed away earlier this year, and Petitioner's detention has exacerbated the pain and suffering caused by the loss of Mr. Tran's father.

**Petitioner's Immigration History**

60. By arriving through the refugee resettlement program, Mr. Tran obtained LPR status.

61. After Petitioner's 1994 conviction, the former Immigration and Naturalization Service initiated deportation proceedings against him. Petitioner was serving his prison sentence at the time.

62. An immigration judge ordered Mr. Tran removed on March 4, 1997. The Board of Immigration Appeals ("BIA") rejected Mr. Tran's appeal on April 2, 1997, rendering his order of removal final.

63. After Petitioner's release from a Florida state prison in 2003, ICE took him into custody.

64. On November 19, 2003, after three months in detention at the Krome Detention Facility in Miami, Florida, ICE issued Mr. Tran a Form I-220B, Order of Supervision, and released Mr. Tran from custody. *See* **Exhibit C**. The order of supervision stated: "Because the Service 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," and delineated the conditions of Mr. Tran's release.

65. In the accompanying release notification, ICE informed Mr. Tran that: "Once a travel document is obtained you will be required to surrender to the INS for removal. You will, at that time, be given the opportunity to prepare for an orderly departure." *See id.*

66. As part of the conditions of his release, Mr. Tran was directed to appear

at routine check-ins with ICE. Mr. Tran diligently attended all scheduled check-ins since his release in 2003.

67. Mr. Tran has also been granted employment authorization by USCIS with the most recent approval being issued on June 22, 2024.

68. While the conditions of his release mandated that he cooperate with any efforts to secure travel documents, at no point since his release in 2003 or since his detention on December 9, 2025, has ICE asked Petitioner to take any measures to secure a Vietnamese passport or any other travel documents.

69. Mr. Tran does not have a Vietnamese passport and has no other valid travel documents.

**Petitioner's Detention**

70. Mr. Tran appeared for his last required check-in on December 9, 2025.

71. On that date, ICE detained him.

72. ICE did so despite Petitioner's continued compliance with the order of supervision and ICE's failure to identify any new facts to suggest that Mr. Tran poses any risk of danger or flight, or that his removal can now be effectuated. Indeed, ICE provided no case-specific explanation for detaining Mr. Tran despite the order of supervision in place and Mr. Tran's dutiful compliance with the order's terms.

73. ICE provided Mr. Tran with no opportunity to show that he is not a danger or a flight risk before re-detaining him.

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

75. There is no indication that ICE took the steps required by regulation to revoke his order of supervision. ICE did not provide Mr. Tran with a Notice of Revocation of Release—the document ICE is required to prepare to justify revocation of an Order of Supervision—nor did it afford him an informal interview as required by 8 C.F.R. § 241.4(*l*)(1). Indeed, upon information and belief, Petitioner has not been assigned an ICE officer since his detention on December 9, 2025.

76. At the time of his re-detention, an ICE officer told Petitioner that his removal to Vietnam was "impossible" because the Vietnamese government would not accept him. The ICE officer proceeded to inform Petitioner that he will be removed to a third country and referenced Mexico as a possibility. Should removal to Mexico not happen, the ICE officer indicated Petitioner would be removed to an unidentified African country.

77. Petitioner requested the name of the ICE officer that processed his re-detention; however, the ICE officer declined to provide his or her name.

78. Petitioner has no ties to any country other than the United States and Vietnam. Should he be removed to a third country, particularly a country across the ocean in Africa, he will be stranded there because he has no valid travel documents.

## CAUSES OF ACTION

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

79. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 to 78.

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

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

82. The government can make no showing that ICE has detained Petitioner due to his danger to the community, flight risk, or a change in the foreseeability of his removal to Vietnam, as his circumstances have not changed since his release from ICE custody over two decades ago. To the contrary, Petitioner has no criminal record since his conviction over three decades ago, and over the last two decades, he has focused on caring and providing for his immediate and extended family.

83. Not only have Respondents failed to present any evidence that they can effectuate his removal to Vietnam, but ICE also informed Petitioner that his removal to Vietnam is "impossible." Respondents are aware that Petitioner does not have a

Vietnamese passport, nor have they made any efforts to procure one. Petitioner's removal is thus not reasonably foreseeable. *See, e.g.*, *Krechmar*, 2025 WL 3620802, at *3 (DHS did not demonstrate removal was reasonably foreseeable as "[t]here is no evidence before the Court to suggest removal is more likely now than it was in 2017 [when noncitizen released on order of supervision]"); *Tran v. Bondi*, No. C25-01897-JLR, 2025 WL 3140462, at *3 (W.D. Wash. Nov. 10, 2025) ("ICE is not permitted to hold [petitioner] indefinitely while it waits for travel documents from Vietnam."); *Hoac v. Becerra*, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025) (rejecting the government's argument that ICE's intent to apply for travel documents for Vietnam constituted changed circumstances because they failed to provide "any details about why a travel document could not be obtained in the past, nor have they attempted to show why obtaining a travel document is more likely this time around"); *Abuelhawa v. Noem*, No. 4:25-CV-04128, 2025 WL 2937692, at *9-10 (S.D. Tex. Oct. 16, 2025) (granting relief because the government failed to show it had secured or was likely to secure necessary travel documents); *Kong v. United States*, 62 F.4th 608, 620 (1st Cir. 2023) ("once a noncitizen has been granted supervised release, that release can only be revoked upon a showing that because of changed circumstances there is now a "significant likelihood that the [noncitizen] will be removed in the reasonably foreseeable future.") (quoting 8 C.F.R. § 241.13(i)(2)).

84. This reality alone demonstrates that there is no significant likelihood that Petitioner's removal is reasonably foreseeable, and therefore it is Respondents' burden to demonstrate his continued detention is justified. Respondents have not met this burden, and his continued detention is unlawful. *Zadvydas*, 533 U.S. at 701; *Krechmar*, 2025 WL 3620802, at *3 (finding ICE's release of noncitizen from custody pursuant to order of supervision demonstrated that ICE determined that removal was not reasonably foreseeable); *Khammanivong v. Edlow*, No. 2:25-CV-01069-SPC-DNF, 2025 WL 3534102, at *2 (M.D. Fla. Dec. 10, 2025) (same).

85. In admitting that removal to Vietnam is "impossible," ICE has signaled to Petitioner that they will attempt to facilitate removal to a third country; however, ICE has not indicated what steps if any had been taken to effectuate such removal. An ICE officer informed Petitioner may be sent to Mexico or a country in Africa. But such vague assertions of a *possible* third country fall short of Respondents due process obligations.

86. It is not constitutionally permissible for ICE to detain Petitioner, and only then begin the process of attempting to identify a third country which will accept him. *See, e.g.*, *Momennia v. Bondi, et al.*, No. CIV-25-1067-J, 2025 WL 3011896, at *10 (W.D. Okla. Oct. 15, 2025) ("mere intent to find a third country is too speculative to permit indefinite detention"); *Sun v. Noem*, 2025 WL 2800037, at *2-3 (S.D. Cal. Sept. 30, 2025) ("Respondents say they are 'putting together a travel

document [TD] request to send to [the] Cambodian embassy,' and that '[o]nce ICE receives the TD, it will begin efforts to secure a flight itinerary for Petitioner.' The Court finds these kind of vague assertions—akin to promising the check is in the mail—insufficient to meet ICE's own requirement to show 'changed circumstances' or 'a significant likelihood that the alien may be removed in the reasonably foreseeable future.'") (record citations omitted).

87. When, as here, removal is not reasonably foreseeable, detention cannot be reasonably related to the purpose of effectuating removal. Because Respondents had no legitimate, non-punitive objective in re-detaining Petitioner, that detention violates 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**

88. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 to 78.

89. The Constitution does not permit ICE to revoke Petitioner's lawful release and re-incarcerate him without notice of the specific factual basis for the revocation of his order of supervision and a *pre-deprivation* hearing where he can contest that revocation.

90. Further, Respondents must afford Petitioner meaningful notice and opportunity to present a fear-based claim prior to removal to a third country; however, Petitioner is at risk of removal without such process. This lack of process means that Petitioner's continued re-detention and efforts to remove Petitioner to a third country violate his due process rights.

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

92. The first factor, the private interest at issue, favors Petitioner. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects." *Zadvydas*, 533 U.S. at 690. By living freely for over 20 years after his release, Petitioner developed a substantial liberty interest in avoiding re-detention. *Young v. Harper*, 520 U.S. 143, 146-47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482-83 (1972). Petitioner has resided in the United States since he was toddler after fleeing Vietnam as a refugee over 45 years ago. He has a U.S.-citizen spouse, two U.S.-

citizen stepdaughters, a U.S.-citizen mother, five U.S.-citizen siblings, and two U.S.-citizen in-laws, among others, and has established his own small business. Petitioner's continued, unlawful detention has caused substantial hardship for him and his family.

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

94. Further, Petitioner maintains a substantial private interest in not being removed to a third country where he may be at risk of persecution and torture. *See, e.g.*, *Jama v. ICE*, 543 U.S. 335, 348 (2005) (Congress has established a right to various remedies, including withholding of removal under § 1231(b)(3)(A), to "ensur[e] their humane treatment."); *Sagastizado v. Noem, et al.*, 5:25-CV-00104, 2025 WL 2957002 *23 (S.D. Tex. Oct. 2, 2025) ("Sagastizado's private interest at stake is his right to have his removal withheld from a country where he is more likely than not to be persecuted. Given the significance of this interest and the mandatory nature of withholding of removal for noncitizens who qualify, Sagastizado's private interest weighs heavily in favor of a robust due process requirement.").

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

96. ICE's conduct is particularly troubling where Mr. Tran, by ICE's own admission, cannot be removed to Vietnam and ICE has not established that removal to a third country is reasonably foreseeable.

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

98. For these reasons, re-detaining Petitioner without providing notice and a meaningful opportunity to respond violated procedural due process under the Fifth

Amendment to the U.S. Constitution. *Grigorian v. Bondi*, No. 25-CV-22914-RAR, 2025 WL 2604573 *10 (S.D. Fla. Sept. 9, 2025) (holding that release is "compel[led]" because "[t]he failure to provide Petitioner with an informal interview promptly after his detention or to otherwise provide a meaningful opportunity to contest the reasons for revocation violates both ICE's own regulations and the Fifth Amendment Due Process Clause"); *Momennia*, 2025 WL 3011896 *8 ("Based on ICE's violations of its own regulations, the undersigned concludes that Mr. Momennia's detention is unlawful and that his release is appropriate under 28 U.S.C. § 2241(c)(3)."); *see also Yee S. v. Bondi*, 2025 WL 2879479, at *6 (D. Minn. Oct. 9, 2025) (ordering release because Petitioner has shown that ICE's re-detention of him . . . violated the law because ICE did not comply with its own regulations under section 241.13(i)(2)"); *Roble v. Bondi*, 2025 WL 2443453, at *5 (D. Minn. Aug. 25, 2025) (holding that "[i]t goes without saying that ICE, like all government agencies, must follow its own regulations" and ordering release based on violation of 8 C.F.R. § 241.13(i)).

**COUNT THREE**
**Violation of Administrative Procedure Act**

99. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 to 78.

100. 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).

101. 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).

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

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

104. The revocation should be held unlawful and set aside because it was contrary to the agency's constitutional power and not in accordance with the INA and implementing regulations.

**COUNT FOUR**
**Violation of the *Accardi* Doctrine**

105. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 to 78.

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

107. The regulatory-mandated process for revoking an individual's prior release on an order of supervision requires ICE: 1) prior to re-detaining, to determine that there have been changed circumstances justifying re-detention; 2) to issue written notice formally terminating the release pursuant to an order of supervision and detailing the reasons for the revocation of the individual's order of supervision; 3) that such a notice is issued by the Executive Associate Director, or by an individual with authority to do so; 4) upon revoking the individual's release, ICE promptly provides him or her with an informal interview to allow a response to the reasons set forth in the revocation decision; and 5) provides the individual an opportunity to contest the basis for his or her re-detention. 8 C.F.R. § 241.4(*l*)(1)-(2).

108. In re-detaining Mr. Tran, ICE violated these mandatory procedures because: 1) ICE did not establish that there has been a change in circumstances

justifying his re-detention, particularly as there is no evidence that removal is more likely now than it was in 2003; 2) based on information and belief, no written notice was issued formally terminating Mr. Tran's order of supervision, nor was Mr. Tran provided the basis for the revocation; 3) based on information and belief, there is no indication that the Executive Associate Director, or any other individual with authority ordered the revocation of Mr. Tran's release; 4) Mr. Tran was provided no opportunity to respond to the reasons for the revocation (indeed, no reasons at all were given), let alone the "prompt" opportunity the regulations mandate; and 5) Mr. Tran was provided no opportunity to respond to the revocation of his release.

109. In short, ICE's conduct in re-detaining Mr. Tran constituted a wholesale disregard for the regulatorily-mandated process for the revocation of his release pursuant to an order of supervision. This alone justifies Petitioner's release. *See, e.g.*, *Phan v. Noem*, No. 3:25-CV-02422-RBM-MSB, 2025 WL 2898977, at *5 (S.D. Cal. Oct. 10, 2025) ("ICE's failure to comply with both 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13 violated Petitioner's due process rights. . . . Respondents are ORDERED to immediately release Petitioner from custody, subject to his preexisting Order of Supervision."); *Villanueva v. Tate*, No. CV H-25-3364, 2025 WL 2774610, at *7 (S.D. Tex. Sept. 26, 2025) ("Multiple courts have held that the government's failure to follow its own immigration regulations may warrant the release of a detained noncitizen."); *Diaz v. Wofford*, No. 1:25-CV-01079-JLT-EPG, 2025 WL 2581575,

at *9 (E.D. Cal. Sept. 5, 2025) ("Here, on the present record it does not appear that petitioner was afforded appropriate notice and an opportunity to be heard in compliance with the regulation or by any other means."); *K.E.O. v Woosley*, No. 4:25-CV-74-RGJ, 2025 WL 2553394, at *7 (W.D. Ky. Sept. 4, 2025) ("Immigration statutes are complex. The broad discretion vested in the government to enforce immigration laws, including on occasion the revocation of a Petitioner's Order of Supervision, must nonetheless be exercised in full compliance with applicable statutes and regulations."); *Delkash v. Noem*, No. 5:25-CV-01675-HDV-AGR, 2025 WL 2683988, at *6 (C.D. Cal. Aug. 28, 2025) ("These procedures are not optional or discretionary; they must be followed, and failure to do so renders the detention unlawful. For that reason, the Court finds that Delkash is likely to succeed on his claim that the government did not properly revoke his release pursuant to 8 C.F.R. §§ 241.4 and 241.13."); *M.S.L. v. Bostock*, No. 6:25-CV-01204-AA, 2025 WL 2430267, at *12 (D. Or. Aug. 21, 2025) ("In sum, ICE failed to follow its own regulations in detaining Petitioner by (1) failing to provide a timely Notice of Revocation of Petitioner's Order of Supervision; (2) failing to provide a Notice of Revocation signed by an official authorized to revoke Petitioner's release; and (3) failing to provide Petitioner with a 'prompt' informal interview so that she could contest the reasons for her revocation. In doing so, ICE violated Petitioner's

constitutional due process rights. Petitioner's habeas petition will be GRANTED and Petitioner will be ordered RELEASED.").

110. Respondents' revocation of Petitioner's order of supervision without notice or an opportunity to be heard violated the statute and the applicable regulations—8 C.F.R. §§ 241.4(*l*) and 241.13(i)—because they failed to provide Petitioner with a particularized notice of the reason for the revocation of his release or an opportunity to respond to the allegations contained therein. *See, e.g.*, *Phongsavanh v. Williams*, No. 4:25-CV-00426-SMR-SBJ, 2025 WL 3124032, at *3 (S.D. Iowa Nov. 7, 2025) ("Upon revocation of supervision, the noncitizen must "be notified of the reasons for revocation" and promptly provided "an initial informal interview.") (quoting 8 C.F.R. § 241.13(i)(3)).

111. Petitioner's re-detention did not occur pursuant to the revocation of his order of supervision by the ICE Executive Associate Director, or by any individual with authority to do so. There is no indication that the officer who re-detained Petitioner and revoked the order made the requisite findings, required under 8 C.F.R. § 241.4(*l*)(2), that revocation was in the public interest and that circumstances did not reasonably permit referral to the Executive Associate Director. Nor, upon information and belief, had the officer been delegated authority to revoke an order of supervision.

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

113. Moreover, before re-detaining Petitioner, Respondents did not make findings that a change in circumstances justified Petitioner's re-detention, as required by regulation. *See, e.g., Ernesto Alfonso Perez v. Matthew Mordant, et al.*, No. 2:25-CV-00947-SPC-DNF, 2025 WL 3466956, at *5 (M.D. Fla. Dec. 3, 2025) (finding ICE violated the APA because "ICE has not shown it considered any relevant facts when revoking Alfonso Perez's parole and detaining him"); *Yacoub v. Noem, et al.*, 4:25-cv-05713, at *3 (S.D. Tex. Dec. 23, 2025) ("When, as here, the government has detained a noncitizen who it previously released from custody despite a final removal order, the "regulations place the burden on ICE to establish that 'changed circumstances' justified the revocation of release.") (citation omitted).

114. In fact, Respondents could not plausibly make findings that Petitioner's conduct indicated release would no longer be appropriate, or that Petitioner violated

any condition of release, because there are no facts to support such findings. 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 has yet to make final arrangements for Petitioner's removal.

115. Under *Accardi* and the Due Process Clause of the U.S. Constitution, Respondents' re-detention and revocation of the order of supervision should be set aside for violating agency procedures, rules, or instructions. *Grigorian*, 2025 WL 2604573 *9 ("The opportunity to contest detention through an informal interview is not some ticky-tacky procedural requirement; it strikes at the heart of what due process demands.") (citing *Niz-Chavez v. Garland*, 593 U.S. 155, 172 (2021)).

**COUNT FIVE**
**Due Process Violations in Effectuating Third Country Removal**

116. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 to 78.

117. The Government's current policy and procedures to effectuate third country removal is violative of Petitioner's due process rights, and any imminent third country removal fails to comport with the statutory obligations set forth by Congress in the INA and is unlawful.

118. Congress provided that all countries to which DHS seeks to deport a noncitizen are subject to the withholding statute. *See* 8 U.S.C. § 1231(b)(3)

(referencing 8 U.S.C. §§ 1231(b)(1) and (b)(2)). Respondents must, upon removal to any country, "ensure [Petitioner's] humane treatment." *Jama*, 543 U.S. at 348.

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

120. As the Supreme Court has explained, such language "generally indicates a command that admits of no discretion on the part of the person instructed to carry out the directive," *Nat'l Ass'n of Home Builders v. Defenders of Wildlife*, 551 U.S. 644, 661 (2007) (quoting *Ass'n of Civilian Technicians v. Fed. Labor Relations Auth.*, 22 F.3d 1150, 1153 (D.C. Cir. 1994)); *see also* Black's Law Dictionary (11th ed. 2019) ("Shall" means "[h]as a duty to; more broadly, is required

to . . . . This is the mandatory sense that drafters typically intend and that courts typically uphold."); *United States v. Monsanto*, 491 U.S. 600, 607 (1989) (finding that "shall" language in a statute was unambiguously mandatory).

121. Thus, prior to any third country removal, ICE must provide Petitioner with meaningful notice and an opportunity to respond and apply for fear-based relief as to that country, in compliance with the INA, due process, and the binding international treaty: The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The "notice must be afforded within a reasonable time and in such a manner as will allow [the noncitizen] to actually seek . . . relief in the proper venue before removal occurs." *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025).

122. Current ICE policy, however, does not adhere to the government's federal, statutory, and treaty obligations. ICE seeks to remove individuals with no more than six hours' notice upon informing the noncitizen of the third country to which he or she is to be removed, and ICE directs its officers to "not affirmatively" inquire if the noncitizen has a fear of persecution or torture in said third country.

123. Without requiring the opportunity to present a fear-based claim, Petitioner will be removed to a country where he has no ties, rights or protections, and risks persecution and torture.

124. For these reasons, Petitioner's removal to any third country without adequate notice and an opportunity to present a fear-based claim would violate his due process rights. The only remedy for this violation is for this Court to order that he not be summarily removed to any third country unless and until he is provided constitutionally adequate procedures.

## PRAYER FOR RELIEF

**WHEREFORE**, Petitioner respectfully requests that this Court:

(a) Assume jurisdiction over this matter;

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

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

(d) Enjoin the Respondents from transferring Petitioner outside the jurisdiction of the U.S. District Court for the Middle District of Florida without first providing the Court 72 hours' notice;

(e) Enjoin Petitioner's removal from the United States to a third country without meaningful notice and opportunity to present a fear-based claim;

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

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

Dated: December 30, 2025

Respectfully submitted,

/s/ Edward F. Ramos
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*Attorney for Petitioner*

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

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

Dated this 30th day of December, 2025.

/s/ Edward F. Ramos
EDWARD F. RAMOS