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Dhuong Van Trong  
A0AS364733  
South Texas  
PO Box 1228  
Pearsall, TX 78061

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UNITED STATES DISTRICT COURT

For THE Western District of Texas

Phuong Van Trong  
~~\_\_\_\_\_~~

Civil Action No.

Petitioner,

v.

MOTION FOR APPOINTMENT  
OF COUNSEL PURSUANT TO  
18 U.S.C. § 3006A

Pamela Bondi  
ATTORNEY GENERAL;  
Kristi noem  
SECRETARY OF DEPARTMENT  
OF HOMELAND SECURITY;  
Todd M. Lyons, U.S.  
ICE FIELD OFFICE DIRECTOR FOR  
THE San Antonio FIELD  
OFFICE, and WARDEN OF  
IMMIGRATION DETENTION  
FACILITY,

Respondents.

Petitioner is a citizen of Vietnam. Petitioner is in ICE custody in the  
United States, but has been ordered removed to Vietnam by an immigration  
judge. Petitioner's removal order is final, but Petitioner cannot be removed to

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Vietnam, or any other country. Thus, Petitioner remains indefinitely detained in ICE custody, and has been confined for a period far longer than the law mandates. Under 8 U.S.C. § 1231(a)(1)-(2), once an alien has been ordered removed, the Attorney General must carry out the removal within a period of 90 days, during which time the alien shall be detained. The post-removal-period provision of the same statute, 8 U.S.C. § 1231(a)(6), allows for certain aliens to be detained beyond the removal period, but the Supreme Court explicitly limited this detention period in Zadvydas v. Davis, 533 U.S. 678 (2001). In that case, the Court held that § 1231(a)(6) restricts an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal, and that it "does not permit indefinite detention." Zadvydas, 533 U.S. at 689. The Court found that a presumption exists that an alien may not be held longer than six months; the general rule is that an alien may no longer be confined when there is "no significant likelihood of removal in the reasonably foreseeable future." Id. at 701. In Clark v. Martinez, the Supreme Court extended this holding to inadmissible aliens. 125 S. Ct. 716, 722 (2005).

The question as to whether Petitioner's detention is in violation of the laws of the United States is one for a federal habeas court to hear. 28 U.S.C. § 2241. Accordingly, Petitioner files the accompanying habeas corpus petition, pursuant to 28 U.S.C. § 2241, requesting that this Court order Petitioner's release. Attach #1

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Therefore, Petitioner requests that this Court appoint counsel to represent Petitioner in this habeas action.

**I. The Court Should Exercise Its Discretion to Appoint Counsel**  
Assuming that a Petitioner has shown financial need, a district court may appoint counsel in a habeas proceeding under 28 U.S.C. § 2241 when the "interests of justice so require." 18 U.S.C. § 3006A(a)(2)(B). Courts have often examined three elements in

1 determining whether appointment of counsel is necessary: the likelihood of success on  
 2 the merits, the complexity of the legal issues involved in the case, and the ability of the  
 3 Petitioner to present the case in light of its complexity. See, e.g., Weygandt v. Look, 718  
 4 F.2d 952, 954 (9th Cir. 1983); Saldina v. Thornburgh, 775 F.Supp. 507, 511 (D. Conn.  
 5 1991). Petitioner has been held in custody for 180 days since being ordered  
 6 removed to Vietnam, and removal in the reasonable foreseeable future  
 7 is unlikely because Vietnam will not accept Petitioner. Under the Supreme  
 8 Court's decision in Zadydas, Petitioner's continued detention is presumptively  
 9 unreasonable. Thus, Petitioner has a high likelihood of success on the merits.

10 Moreover, Petitioner would encounter great difficulty in presenting this habeas  
 11 corpus case alone. The House Report on the predecessor to § 3006A(a)(2)(B) recognized  
 12 that habeas corpus proceedings often present "serious and complex issues of law and  
 13 fact" that would necessitate the assistance of counsel. H.R. Rep. No. 1546, 91<sup>st</sup> Cong. 2d  
 14 Sess. (1970), reprinted in 1970 U.S.C.A.N. 3982, 3993. In addition, the congressional  
 15 report on § 3006A(2)(B) stated that a court should appoint counsel when "necessary to  
 16 insure a fair hearing." Id. The complexity of a habeas case will pose an especially great  
 17 obstacle for Petitioner.  
 18

19 In light of the complicated issues involved in habeas cases and Petitioner's inability to  
 20 adequately present the case at bar, as well as Petitioner's likelihood of success on the  
 21 merits, this Court should exercise its discretion to appoint counsel under 18 U.S.C.  
 22 3006A(a)(2)(B).

**II. Appointment Of Counsel Is Necessary Because Discovery Is Imperative**

The rules governing habeas proceedings require the appointment of counsel in certain circumstances.<sup>56</sup> Under Rule 6(a), 28 U.S.C. foll. § 2254, a judge must appoint counsel for a Petitioner if it is "necessary for effective utilization of discovery procedures." ICE has information and documents relevant to Petitioner's habeas petition, and without the assistance of counsel, Petitioner will not be able to effectively pursue discovery and, as a result, will not adequately present his claims. The aid of an attorney is especially important in this case, given Petitioner's lack of familiarity with the legal procedure involved in requesting and obtaining discovery. Moreover, even if Petitioner were to obtain documents in discovery, without the assistance of counsel, Petitioner would not be capable of analyzing them to determine his likelihood of being removed in the foreseeable future.

**III. An Evidentiary or Motions Hearing May Be Necessary**

Under Rule 9(c), 28 U.S.C. foll. § 2254, the court is required to appoint counsel in a habeas proceeding if an evidentiary hearing is needed. An evidentiary hearing will likely be necessary in this case. Regardless of any other issues, if an evidentiary hearing is scheduled, the court must appoint counsel for Petitioner.

For the above reasons, this Court should appoint counsel to assist Petitioner in instant habeas proceedings challenging Petitioner's detention by ICE, pursuant to the Supreme Court decisions in Zadvydas and Martinez.

Respectfully submitted,

Dated: 12/26/2025

*Phuong Truong*  
Petitioner

<sup>56</sup> The rules cited in sections II and III typically govern those habeas corpus cases brought under § 2254. However, these rules may be applied to habeas cases that do not fall under § 2254 – such as those cases arising under § 2241 – at the discretion of the court. Rule 1(b), 28 U.S.C. foll. § 2254.

