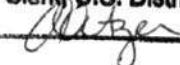


IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DUONG THUC NGUYEN
Petitioner, Pro Se

26-3008-JWL


FILED
JAN 14 2026

Clerk, U.S. District Court
By:  Deputy Clerk

V.

CRYSTAL CARTER, TODD LYONS,
and, PAM BONDI
Respondents.

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Petitioner, DUONG THUC NGUYEN , through Pro Se, petitions a Writ of Habeas Corpus under 28 U.S.C. §2241 challenging the legality and constitutionality of his prolonged immigration detention without a constitutionally adequate custody hearing and requests immediate release or, at minimum a prompt bond hearing with constitutionally required safeguards.

I. INTRODUCTION

1. Petitioner has been detained by ICE for almost one year (11 months), since February 12, 2025, while DHS appeals the Immigration Judge's decision granting cancellation of removal.
2. Because Petitioner prevailed before the IJ, there is no final administrative determination that Petitioner "is to be removed." Detention has nevertheless continued for unreasonably prolonged period.
3. This prolonged detention without a constitutionally adequate individualized custody determination violates the Due Process Clause of the Fifth Amendment.
4. Petitioner seeks:
 - a. Immediate release on reasonable conditions; or
 - b. In alternative, an individualized bond hearing before an IJ where Government bears the burden to justify continued detention under heightened standards, with consideration of alternatives to detention; and
 - c. Any additional relief the Court deems just and proper.

II. JURISDICTION AND VENUE

5. This Court has jurisdiction under 28 U.S.C. §2241 because Petitioner is "in custody" under federal authority.
6. Federal district courts have jurisdiction to review habeas challenge by noncitizens to the lawfulness of their immigration detention.
7. The Court also has the authority to grant habeas relief and to remedy constitutional violations in immigration detention.

8. Venue is proper in this District because Petitioner is detained at FCI-Leavenworth in this District, and his immediate custodian, Crystal Carter, Warden-FCI Leavenworth, resides here.

III. PARTIES

9. Petitioner, DUONG THUC NGUYEN, is a native and citizen of Vietnam, who is currently detained in ICE custody at FCI Leavenworth, Kansas.

10. CRYSTAL CARTER, Warden, FCI Leavenworth

11. TODD LYONS, Acting Director, ICE

12. PAM BONDI, Attorney General of the United States

13. All Government Respondents are sued in their official capacity

IV. STATEMENT OF FACTS

14. Petitioner is a citizen of Vietnam and has lived in the United States since the year 2000.

15. On or about Feb 12, 2025, DHS initiated removal proceedings under INA § 240.

16. Petitioner applied for Cancellation of Removal under INA § 240A(a) or (b).

17. On Feb 12, 2025, an Immigration Judge in Chicago, IL granted Cancellation of Removal, finding Petitioner eligible and meriting relief as a matter of discretion.

18. On March 14, 2025, DHS timely appealed the IJ's decision to the Board of Immigration Appeals (BIA).

19. Since May 29, 2024, Petitioner has remained detained by ICE now exceeding NINETEEN (19) months, and ELEVEN (11) months post DHS's appeal.

20. Petitioner has substantial community ties, including: Mother, Sister, Aunts, Uncles, Grandma, Grandpa, Cousins, Nieces, Nephews, who are all US citizens, and, Friends, Co-workers, Neighbors and etc.

21. Petitioner has meritorious relief (already granted by IJ), demonstrating he is not seeking to evade proceedings.

22. Continued detention is causing Petitioner significant physical, emotional, and psychological harm, particularly given the indefinite and uncertain nature of the confinement.

23. There is no end date certain to the BIA appeal process; continued detention has become unreasonably prolonged.

V. CUSTODY AUTHORITY AND LEGAL FRAMEWORK (ALTERNATIVE PLEADING)

A. Primary: Detention is Governed by INA § 236(a), 8 U.S.C. § 1226 (a)

24. Section 1226 governs detention "pending a decision on whether the alien is to be removed."

25. While DHS's appeal is pending, Petitioner's removal is not final because the IJ granted relief and DHS seeks reversal.

26. Therefore, detention is best characterized as pre-final-order detention under § 1226(a).

B. Alternative: Government May Claim §1226(c) (mandatory) or § 1231(a) (post-order)

27. To the extent Respondents argue detention is under § 1226(c) or § 1231(a)(b), Petitioner pleads in alternative that prolonged detention under those provisions without adequate

process violates due process.

28. The Supreme Court has established that certain statutes do not themselves require bond hearing after six-months (statutory interpretation), but did not eliminate individualized constitutional habeas challenges. See *Johnson v. Arteaga-Martinez* and *Garland v. Aleman Gonzalez*.

VI. CLAIMS FOR RELIEF

Claim One: Fifth Amendment Due Process Prolonged Civil Detention Without a Constitutionally Adequate Hearing.

29. Immigration detention is civil, not punitive. Even when detention is authorized at the outset, due process limits the duration and requires adequate procedures to justify continued confinement.

30. Petitioner's detention has become unreasonably prolonged (11 months-post appeal) with no constitutionally adequate custody determination, the likelihood of proceedings concluding soon, and alternatives to detention.

31. Under the Due Process Clause, as detention becomes prolonged, the Government must justify continued confinement with robust procedural safeguards, including:

- a. Prompt individualized hearing before a neutral decisionmaker;
- b. Government burden of proof to justify detention (danger/flight risk), under a heightened standard such as clear and convincing evidence given the severe deprivation of liberty;
- c. Consideration of less restrictive alternatives (GPS, reporting, bond, parole, supervision);
- d. A reasoned decision addressing relevant evidence and the length of detention.

32. Petitioner's case is especially compelling because an Immigration Judge already found Petitioner merits cancellation of removal, a strong indicator of equities and reduced flight risk.

Claim Two: Statutory/Regulatory Entitlement to Custody Review and IJ bond Jurisdiction

33. If detained under § 1226(a), DHS regulations provide for custody determinations and bond redetermination procedures before an Immigration Judge. See generally INA §236 and related detention regulations.

34. The BIA has recognized that Immigration Judges may retain jurisdiction to entertain bond redetermination in certain postures even when an appeal is pending. See, e.g., *Matter of Valles*, 21 1& Dec. 769 (BIA 1997) (bond jurisdiction principles).

35. Respondents' failure to provide meaningful, timely custody review consistent with governing law and due process warrant habeas relief.

Claim Three (Alternative Pleading): Even Under § 1231(a)(6), Due Process Limits Prolonged Detention and Requires Meaningful Review.

36. If Respondents contend Petitioner is detained under § 1231(a)(6), Petitioner alleges that prolonged detention without meaningful safeguards violates due process.

37. The Supreme Court held § 1231(a)(6) does not itself mandate the specific bond-hearing framework some circuits adopted, but constitutional challenges remain case-specific.

VII. REQUEST FOR RELIEF

Petitioner respectfully requests that this Court:

A. Issue the Writ and Order Petitioner's immediate release on appropriate conditions; OR

B. In the alternative, order Respondents to provide a prompt individualized bond hearing (within 7 14 days or other short deadlines), before an Immigration Judge or other neutral adjudicator, at which:

- 1) The Government bears the burden to prove continued detention is justified.
- 2) The burden is clear and convincing evidence for dangerousness and at least preponderance (or clear convincing) for flight risk, consistent with due process.
- 3) The adjudicator must consider alternatives to detention and ability to pay;
- 4) The adjudicator must issue a written or on-the-record reasoned decision addressing the length of detention and key evidence.

C. Enter declaratory relief that petitioner's continued detention without constitutionally adequate process violates due process;

D. Grant any other relief the Court deems just and proper.

VIII. EXHAUSTION IS NOT JURISDICTIONAL FOR § 2241 HABEAS, AND SHOULD BE EXECUTED WHERE:

- 1) Detention is prolonged and ongoing;
- 2) Administrative remedies are inadequate to address constitutional injury;
- 3) Further delay would cause irreparable harm.

IX. VERIFICATION

I, Duong Thuc Nguyen, declare under penalty of perjury under the laws of the United States that I am the Petitioner in the above-entitled action, that I have read the foregoing Petition for Writ of Habeas Corpus and know the contents, therefore; and that the same is true and correct to the best of my knowledge, information, and belief.

XI. SIGNATURE BLOCK

 1-12-2026

FCI Leavenworth


DUONG THUC NGUYEN
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