

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

Tuan Minh Bui,

Case No.: _____

Petitioner

v.

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS**

Pamela Bondi, Attorney General; Kristi Noem, Secretary of Homeland Security; Todd M. Lyons, Acting Director of U.S. Immigration & Customs Enforcement; Marcos Charles, Acting Executive Associate Director for Enforcement and Removal Operations; Robert Cerna, Dallas Field Office Director for Enforcement and Removal Operations; U.S. Immigration & Customs Enforcement; U.S. Department of Homeland Security; Fred Figueroa, Warden of Diamondback Correctional Facility.

**EXPEDITED HANDLING
REQUESTED PURSUANT TO 28
U.S.C. § 1657**

Respondents.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Respondents are detaining Petitioner, Tuan Minh Bui (), in violation of law.
2. Petitioner is a citizen of Vietnam who entered the United States in or around 1978 as a child. Petitioner is subject to the 2020 Memorandum of Understanding (“MOU”) between Vietnam and the United States relating to repatriation of pre-

1995 Vietnamese immigrants. *See generally Tran v. Scott*, No. 2:25-cv-01886-TMC-BAT, 2025 WL 2898638, at *2 (W.D. Wash. Oct. 12, 2025).

3. Petitioner was ordered removed from the United States on March 26, 1998. Petitioner's appeal was dismissed on July 15, 2002, rendering the removal order administratively final on that date.
4. At some point after he was ordered removed, Petitioner was placed on an Order of Supervision ("OOS") pursuant to 8 C.F.R. § 241.5 and 8 C.F.R. § 241.13 due to evidence in Petitioner's file that demonstrated there was no significant likelihood of his removal to Vietnam in the reasonably foreseeable future.
5. Petitioner was re-arrested in violation of law on June 27, 2025 while attending a regularly scheduled ICE check-in appointment.
6. Federal statutes and regulations require ICE to follow certain procedures before they redetained Petitioner. ICE failed to comply with these laws prior to redetaining Petitioner, thereby depriving Petitioner of his constitutional right to due process.
7. Here, these failures include:
 - a. Petitioner's redetention has not been reviewed or authorized by any member of the Headquarters Post-order Detention Unit ("HQPDU") or ERO HQ. *See* 8 C.F.R. §§ 241.13(b)(2), (c), (d), (e), (f), (g), (h)(1), (h)(4)(i), (j) (all restricting ability to perform certain functions relevant to this petition to the HQPDU); 8 C.F.R. § 241.4(c)(2)-(3), (d)(2), (e), (g)(2)-(3), (i)(1)-(3), (i)(7), (k)(2)-(4), (l)(3) (same).

- b. Petitioner's redetention has not been reviewed or authorized by the Executive Associate Commissioner or District Director. *See* 8 C.F.R. §§ 241.4(1), (c)(2)-(4), (d)(1)-(2), (i)(1), (i)(6), (j)(1)-(4), (k)(2), (k)(4), (l)(2)-(3).
 - c. Petitioner has been redetained in the absence of changed circumstances capable of rebutting his prior showing of no significant likelihood of removal in the reasonably foreseeable future. *See* 8 C.F.R. § 241.13(i)(2); *Zadvydas v. Davis*, 533 U.S. 678, 699-700 (2001).
 - d. Petitioner has not received a written decision stating the reasons for his redetention. *See* 8 C.F.R. § 241.13(g); *Momennia v. Bondi*, 2025 WL 3011896, at *6 (W.D. Okla. Oct. 15, 2025) ("ICE is required to issue a written decision. § 241.13(g)."); 8 C.F.R. § 241.4(h)(4), (k)(1)(i), (k)(2)(iii); 8 C.F.R. §§ 241.13(e)(1), (e)(2), (e)(6); *Pham v. Bondi*, No. 25-CV-11576 SLP, 2025 WL 3243870, at *1 n.2 and accompanying text (W.D. Okla. Nov. 20, 2025).
 - e. Petitioner has not received an individualized post-detention interview to determine whether his OOS should be reinstated or to otherwise allow Petitioner to provide information that demonstrates there is no significant likelihood of his removal in the reasonably foreseeable future. *See* 8 C.F.R. § 241.13(i)(2)-(3).
8. On June 27, 2025, Petitioner was redetained by ICE at a scheduled check-in appointment despite having done nothing wrong and remaining in compliance with his OOS.

9. After being unlawfully detained, Petitioner recalls receiving a questionnaire, presumably for a travel document application, completing said questionnaire, and returning the questionnaire to Respondents.
10. Petitioner received a letter from Respondents after 90 days in detention stating Respondents would review his detention status.
11. Since being arrested on June 27, 2025, Petitioner has not received any Notice of Revocation of Release informing him of the reasons for his redetention. Similarly, Petitioner has not received a notice of Custody Determination or any other written decision explaining what changed circumstances allegedly justified or currently justify his redetention. Petitioner has not received any sort of interview at which he can present evidence demonstrating there is no significant likelihood of his removal in the reasonably foreseeable future.
12. Petitioner is unsure as to whether a travel document request has been delivered to ERO Headquarters (“EROHQ”) or to the Vietnamese embassy. Upon information and belief, Petitioner pleads that Respondents have yet to submit his travel document request to the embassy of Vietnam.
13. Petitioner is not certain as to whether he has ever been asked to apply for travel documents from Vietnam prior to being redetained on June 27, 2025. If Petitioner or Respondents have ever previously applied for travel documents from Vietnam on Petitioner’s behalf previously, all such requests have been denied or ignored.

14. Petitioner is willing to return to Vietnam. He does not seek to evade deportation. Petitioner seeks only to be released until a travel document is obtained that will allow for Petitioner's prompt deportation. If a travel document is obtained for Petitioner after his release, he will promptly turn himself in for deportation. If released, Petitioner intends to apply for travel documents on his own so that he can self-deport in order to avoid risking further prolonged civil detention in the future.
15. There is no significant likelihood that Petitioner will be granted a Vietnamese travel document in the reasonably foreseeable future because, *inter alia*, Petitioner lacks any proof of his Vietnamese citizenship. Petitioner lacks a valid Vietnamese passport. To the best of his knowledge, Petitioner also lacks a Vietnamese birth certificate.
16. Since being detained in 2025, no government agent has expressed to Petitioner that a third-country removal is being attempted, much less expected to be successful.
17. Petitioner remains detained at this time. He is housed in Diamondback Correctional Facility in Watonga, Oklahoma, a facility designed to restrict liberty and house civil detainees in conditions that are largely indistinguishable from those of convicted criminals.¹
18. Petitioner has been in ICE custody since June 27, 2025, thus having served more than six months in post-final-order civil detention.

¹ Petitioner does not assert a conditions of confinement claim.

19. Respondents redetained Petitioner in violation of the laws and constitution of the United States stemming from the absence of changed circumstances demonstrating a significant likelihood of removal in the reasonably foreseeable future. 8 C.F.R. § 241.13(i)(2)-(3).
20. If Respondents are in possession of information that demonstrates that Petitioner was detained by immigration authorities after having received a final order of removal, prior to June 27 2025, he incorporates that information by reference from Respondents' forthcoming evidentiary filings. Assuming *arguendo* Petitioner was previously detained in post-order civil confinement, he alleges that his prior period(s) of post-order civil detention must be aggregated with his current period of post-order civil detention for purposes of giving meaning to "the reasonably foreseeable future." Petitioner's post-order detention time continues to accumulate. With each passing day, the period that constitutes the "reasonably foreseeable future" shrinks.
21. The government is not in possession of any credible or persuasive documents or evidence that Petitioner's removal is likely to occur in the reasonably foreseeable future. This was true on June 27, 2025, and it remains true at the time of this petition's filing.
22. It remains true at the time of this filing that Petitioner cannot be deported to his country of origin, Vietnam, because he does not have a valid travel document and there is no significant likelihood that Vietnam will issue one to him in the reasonably foreseeable future.

23. Respondents have demonstrated a total lack of intent and ability to arrange Petitioner's removal from the United States.
24. The redetention of Petitioner serves no legitimate purpose. Instead, the effect of his detention is punitive. The redetention of Petitioner sends a message to other individuals with final orders of removal that they need to leave the United States or they will be jailed indefinitely and without any process. This is especially obvious because Petitioner is willing to return to Vietnam and to show up for deportation when a travel document is obtained; detention for the purpose of facilitating removal is unnecessary.
25. To remedy his unlawful detention, Petitioner seeks declaratory and injunctive relief in the form of immediate release from detention.
26. Pending the adjudication of his Petition, Petitioner seeks an order restraining the Respondents from transferring him to a location where he cannot reasonably consult with counsel, such a location to be construed as any location outside of the geographic jurisdiction of the day-to-day operations of U.S. Immigration & Customs Enforcement's ("ICE") Dallas Office of Enforcement and Removal Operations in the State of Texas.
27. Pending the adjudication of this Petition, Petitioner also respectfully requests that Respondents be ordered to provide seventy-two (72) hour notice of any movement of Petitioner.

28. Petitioner requests the same opportunity to be heard in a meaningful manner, at a meaningful time, and thus requests 72-hour notice prior to any removal or movement of him away from the State of Oklahoma.
29. Petitioner requests an emergency preliminary order requiring Respondents to give Petitioner due process prior to removing him to an allegedly safe third country in the form of a full merits hearing for asylum, withholding of removal, and DCAT before an immigration judge relating to the proposed country of removal with a right to an administrative appeal to the Board of Immigration Appeals, and further requests that this injunction be made permanent.
30. Petitioner requests an order compelling Respondents to release him pending the outcome of this petition.
31. In accordance with 28 U.S.C. § 1657, Petitioner requests that the district court issue an Order to Show Cause (“OSC”) giving the government no more than 7 days to file evidence and argument in response to the OSC. Petitioner further requests that the magistrate judge shorten the time for making any objections to the magistrate’s forthcoming Report & Recommendation from 14 days to 5 days.
32. In accordance with 28 U.S.C. § 1657 and Rule 4 of the Rules Governing Section 2254 and 2255 Cases, Petitioner requests that rather than proceed via summonses, the Court order the Clerk of Courts to serve a copy of the petition and any subsequent Order on Respondents and any other appropriate individual involved. Petitioner requests that the Court order his immediate release and return him to the conditions of his prior OOS.


JURISDICTION AND VENUE

33. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question), § 1361 (mandamus action), § 1651 (All Writs Act), and § 2241 (habeas corpus); Art. I, § 9, cl. 2 of the U.S. Constitution (“Suspension Clause”); 5 U.S.C. § 702 (Administrative Procedure Act); and 28 U.S.C. § 2201 (Declaratory Judgment Act). This action further arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”), specifically, 8 U.S.C. § 1231(a)(1)-(3) and 8 C.F.R. §§ 241.4, 241.13.
34. Because Petitioner seeks to challenge his custody as a violation of the Constitution and laws of the United States, jurisdiction is proper in this court.
35. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by DHS. *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839–41 (2018); *Nielsen v. Preap*, 139 S. Ct. 954, 961–63 (2019); *Sopo v. U.S. Attorney Gen.*, 825 F.3d 1199, 1209-12 (11th Cir. 2016).
36. Under 28 U.S.C. § 1657, Petitioner’s petition “**shall**” be expedited for good cause. (emphasis added). The good cause consists of Petitioner’s credible and detailed allegations of indefinite and prolonged unlawful and unconstitutional civil confinement. Numerous other courts around the country, and in this district, have expedited these types of matters recently. *See Roble v. Bondi*, No. 25-cv-3196, 2025 WL 2443453 (D. Minn. Aug. 25, 2025); *Sarail A. v. Bondi*, No. 25-CV-2144, 2025 WL 2533673 (D. Minn. Sept. 3, 2025); *Sonam T. v. Bondi*, No. 25-CV-2834, slip

op., ECF No. 19 (D. Minn. Sept. 16, 2025); *see also Sonam T. v. Bondi*, No. 25-CV-2834, ECF No. 25 (D. Minn. Sept. 19, 2025) (ordering release); *Mehran S. v. Bondi*, No. 25-CV-3724, ECF No. 6 (D. Minn. Sept. 29, 2025) (providing 7 days to respond to OSC); *Mehran S. v. Bondi*, No. 25-CV-3724, ECF No. 11 (D. Minn. Sept. 29, 2025) (ordering release); *Omar J. v. Bondi*, No. 25-CV-3719 (D. Minn. Sept. 29, 2025), ECF No. 11; *Constantinovici v. Bondi*, No. 3:25-CV-02405-RBM-AHG (S.D. Cal. Sept. 17, 2025), ECF No. 5 (OSC gave the government 48 hours to respond); *Momennia v. Bondi*, No. 5:25-CV-1067-J, ECF No. 9 (giving the government just 14 days to respond to OSC) (W.D. Okla. Sept. 17, 2025); *Momennia v. Bondi*, No. 5:25-CV-1067-J, ECF No. 12 at 1 n.1 (W.D. Okla. Oct. 3, 2025) (“This Order is in furtherance of the need recognized by the Magistrate Judge to proceed in this case in an expedited manner.”); *Bahadorani v. Bondi*, No. 5:25-CV-01091-PRW, ECF No. 12 (W.D. Okla. Sept. 30, 2025) (granting motion to expedite pursuant to 28 U.S.C. § 1657 and giving the government just 14 days to respond to OSC); *Bahadorani v. Bondi*, No. 5:25-CV-01091-PRW, ECF No. 13 (issuing an order overriding General Order 25-8 and ordering the federal respondents to file their answer or response on or before October 14, 2025).

37. Venue is proper in this Court pursuant to 28 USC §§ 1391(b), (e)(1)(B), and 2241(d) because Petitioner is detained within this District. He is currently detained at the Diamondback Correctional Facility in Wantonga, Oklahoma. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A) because Respondents are operating in this district.

PARTIES

38. Petitioner is a citizen of Vietnam who entered the United States in 1978 as a child. Petitioner lacks a valid Vietnamese passport, Vietnamese birth certificate, or any other proof of his Vietnamese citizenship. Petitioner's Alien Registration Number ("A number") is . Petitioner is an alien with an administratively final removal order. Petitioner is currently in the custody of Immigration and Customs Enforcement ("ICE") and held in civil detention at Diamondback Correctional Facility in Wantonga, Oklahoma. Petitioner's aggregate period of civil immigration confinement exceeds six months and continues to grow. Petitioner and his U.S. citizen spouse of 20 years have four U.S. citizen children together. Petitioner's spouse has a history of long-term medical conditions. Furthermore, Petitioner's mother, father (deceased), and six of his seven siblings are or were all U.S. citizens. Petitioner's U.S. citizen mother has severe medical conditions, including arthritis, high cholesterol, and heart issues, which limit her mobility. Petitioner's own medical condition continues to deteriorate with each passing day in detention. Petitioner reports losing 20 pounds in the last six months, severe sciatica, and chronic pain, all having occurred while in Respondents' custody. In the nearly 30 years since Petitioner's removal order, Petitioner has remained law abiding and supported his U.S. citizen family.
39. Respondent Pamela Bondi is being sued in her official capacity as the Attorney General of the United States and the head of the Department of Justice, which encompasses the BIA and the immigration judges through the Executive Office for

Immigration Review. Attorney General Bondi shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Noem. Attorney General Bondi is a legal custodian of Petitioner.

40. Respondent Kristi Noem is being sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Noem is responsible for the administration of the immigration laws pursuant to § 103(a) of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1103(a), routinely transacts business in the Southern District of Texas, supervises the Houston ICE Field Office, and is legally responsible for pursuing Petitioner’s detention and removal. As such, Respondent Noem is a legal custodian of Petitioner.
41. Respondent Department of Homeland Security (“DHS”) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.
42. Respondent Todd M. Lyons is the Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Defendant Lyons is responsible for Petitioner’s detention.
43. Respondent Immigration and Customs Enforcement (“ICE”) is the subagency within the Department of Homeland Security responsible for implementing and enforcing the Immigration & Nationality Act, including the detention of noncitizens.

44. Respondent Marcos Charles is the Acting Executive Associate Director for ICE Enforcement and Removal Operations (“ERO”).
45. Respondent Robert Cerna is being sued in his official capacity as the Field Office Director for the Dallas Field Office for ICE within DHS. The Dallas Field Office has authority over North Texas and Oklahoma. In that capacity, Field Director Cerna has supervisory authority over the ICE agents responsible for detaining Petitioner.
46. Respondent Fred Figueroa is being sued in his official capacity as the Warden of the Diamondback Correctional Facility located in Wantonga, Oklahoma. Because Petitioner is detained in the Diamondback Correctional Facility, Respondent Figueroa has immediate day-to-day control over Petitioner.

EXHAUSTION

47. ICE asserts authority to jail Petitioner pursuant to the mandatory detention provisions of 8 U.S.C. § 1231(a)(1). No statutory requirement of exhaustion applies to Petitioner’s challenge to the lawfulness of his detention. *See, e.g., Araujo-Cortes v. Shanahan*, 35 F. Supp. 3d 533, 538 (S.D.N.Y. 2014) (“There is no statutory requirement that a habeas petitioner exhaust his administrative remedies before challenging his immigration detention.”); *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at *11 (W.D. Wash. Apr. 24, 2025) (citing *Marroquin Ambriz v. Barr*, 420 F. Supp. 3d 953, 962 (N.D. Cal. 2019) (“this Court ‘follows the vast majority of other cases which have waived exhaustion based on

irreparable injury when an individual has been detained for months without a bond hearing, and where several additional months may pass before the BIA renders a decision on a pending appeal.”); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *5 (D. Mass. July 7, 2025) ((citing *Portela-Gonzalez v. Sec'y of the Navy*, 109 F.3d 74, 77 (1st Cir. 1997) (quoting *McCarthy v. Madigan*, 503 U.S. 140, 146 (1992))).

48. To the extent that prudential consideration may require exhaustion in some circumstances, Petitioner has exhausted all effective administrative remedies available to him as he has previously demonstrated to ICE’s satisfaction that his removal is not substantially likely to occur in the reasonably foreseeable future. ICE has never rebutted this showing. Any further efforts would be futile.
49. Prudential exhaustion is not required when to do so would be futile or “the administrative body . . . has . . . predetermined the issue before it.” *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992), *superseded by statute on other grounds as stated in Woodford v. Ngo*, 548 U.S. 81 (2006).
50. Prudential exhaustion is also not required in cases where “a particular plaintiff may suffer irreparable harm if unable to secure immediate judicial consideration of his claim.” *McCarthy*, 503 U.S. at 147. Every day Petitioner is unlawfully detained causes him and his family irreparable harm. *Jarpa v. Mumford*, 211 F. Supp. 3d 706, 711 (D. Md. 2016) (“Here, continued loss of liberty without any individualized bail determination constitutes the kind of irreparable harm which

forgives exhaustion.”); *Matacua v. Frank*, 308 F. Supp. 3d 1019, 1025 (D. Minn. 2018) (explaining that “loss of liberty” is “perhaps the best example of irreparable harm”); *Hamama v. Adducci*, 349 F. Supp. 3d 665, 701 (E.D. Mich. 2018) (holding that “detention has inflicted grave” and “irreparable harm” and describing the impact of prolonged detention on individuals and their families).

51. Prudential exhaustion is additionally not required in cases where the agency “lacks the institutional competence to resolve the particular type of issue presented, such as the constitutionality of a statute.” *McCarthy*, 503 U.S. at 147–48. Immigration agencies have no jurisdiction over constitutional challenges of the kind Petitioner raises here. *See, e.g., Matter of C-*, 20 I. & N. Dec. 529, 532 (BIA 1992) (“[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations.”); *Matter of Akram*, 25 I. & N. Dec. 874, 880 (BIA 2012); *Matter of Valdovinos*, 18 I. & N. Dec. 343, 345 (BIA 1982); *Matter of Fuentes-Campos*, 21 I. & N. Dec. 905, 912 (BIA 1997); *Matter of U-M-*, 20 I. & N. Dec. 327 (BIA 1991).
52. Because requiring Petitioner to exhaust administrative remedies would be futile, would cause him irreparable harm, and the immigration agencies lack jurisdiction over the constitutional claims, this Court should not require exhaustion as a prudential matter.
53. In any event, Petitioner has indeed exhausted all remedies available to him.

54. ICE has denied Petitioner release because: (A) ICE is misinterpreting and otherwise failing to follow binding regulations; (B) ICE has failed to conduct the necessary review of whether there is a significant likelihood of removal in the reasonably foreseeable future; (C) ICE incorrectly believes Petitioner is responsible for reestablishing that removal is not substantially likely to occur in the reasonably foreseeable future, (D) ICE seeks to punish Petitioner for remaining in the United States after previously having been ordered removed; and (E) ICE seeks to use Petitioner's detention to send a message to similarly situated persons who have not yet been detained as a way to encourage those similarly situated people to immediately leave the United States to avoid Petitioner's fate.

FACTUAL ALLEGATIONS & PROCEDURAL HISTORY

55. Petitioner re-alleges and incorporates by reference each allegation contained in ¶¶ 1-54 as if set forth fully herein.
56. On June 27, 2025, Petitioner was redetained by ICE at a scheduled check-in while doing nothing wrong and without being in violation of his OOS. He has remained detained in Respondent's custody since that date.
57. Each time ICE or Petitioner has tried to obtain a travel document for Petitioner, they have failed or received no response
58. Petitioner was never served with a Notice of Revocation of Release ("Notice") purporting to revoke his OOS, nor does he recall having been given any sort of informal interview to challenge the Notice.

59. Assuming *arguendo* that Petitioner may have been served with a Notice of Revocation of Release (“Notice”), revoking his OOS, the Notice has not been reviewed by Petitioner’s counsel, but likely claims in a conclusory manner that “ICE has determined there is a significant likelihood of removal in the reasonably foreseeable future in your case” based on unidentified “changed circumstances.”
60. The Notice, if any, does not provide a reasoned basis for believing that there is now a significant likelihood of removal in the reasonably foreseeable future.
61. The Notice, if any, does not provide Petitioner with sufficient information to be in a position to rebut the factual allegations underlying the Notice at an informal interview.
62. The Notice, if any, does not provide enough information or detail to allow this Court to meaningfully review the relevant claims made in the Notice.
63. Petitioner does not understand the reason ICE now believes that there is a significant likelihood he will be removed in the reasonably foreseeable future.
64. The Notice, if any, does not allege that Petitioner has failed to comply with any terms of his OOS.
65. The Notice, if any, does not allege that Respondents have obtained a travel document allowing for Petitioner’s immediate removal from the United States.
66. The Notice, if any, does not allege any new facts that might form an independent basis for taking Petitioner into custody.
67. At the time of Petitioner’s arrest, up through the present, ICE has no information

that could reasonably lead it to believe changed circumstances exist that justify redetention under 8 C.F.R. § 241.13(i)(2)-(3).

68. Petitioner satisfies the criteria for release at 8 C.F.R. § 241.4(e).
 - a. Travel documents for Petitioner are not available.
 - b. Removal of Petitioner is not practicable or in the public interest.
 - c. Petitioner is presently a non-violent person.
 - d. Petitioner is likely to remain nonviolent if released.
 - e. Petitioner is not likely to pose a threat to the community following release.
 - f. Petitioner is not likely to violate the conditions of release.
 - g. Petitioner does not pose a significant flight risk if released. He is willing to return to Vietnam and will report for deportation if a travel document is obtained.

69. The factors for consideration at 8 C.F.R. § 241.4(f) all favor releasing Petitioner.
 - a. Petitioner has no disciplinary infractions or incident reports received while incarcerated in Service custody.
 - b. Petitioner's long history of law abiding behavior and peacefully participating within his community while raising and supporting a loving family demonstrates complete rehabilitation and no risk of recidivism.
 - c. No psychiatric or psychological reports indicate Petitioner's mental health poses a risk to any person.
 - d. Petitioner's wife is a citizen of the United States. Petitioner's two children are all U.S. citizens. Petitioner has three U.S. citizen siblings, and he survives

his mother and two siblings, all who were also U.S. citizens.

- e. Petitioner previously entered the United States lawfully before getting into criminal trouble and getting ordered deported. Since his release from custody on an OOS more than 25 years ago, his conduct has been exemplary and he has complied with all OOS requirements.
- f. Petitioner is not a flight risk. He was arrested at a scheduled check-in. Petitioner is willing to return to Vietnam and will turn himself in for deportation if a travel document is obtained.
- g. Petitioner's post-OOS conduct demonstrates that he has managed to adjust to life in a community, avoid engaging in acts of violence or criminal activity, does not pose a danger to the safety of anyone, and is unlikely to violate the conditions of his release from custody pending removal.

70. At the time of redetention, ICE had not yet begun the steps of having Petitioner apply for a travel document from detention for Vietnam nor some other allegedly safe third country. ICE has waited for months to submit for a travel document even though Petitioner was redetained in violation of its own rules and regulations and after having previously established that there is no significant likelihood of his removal in the reasonably foreseeable future.

71. Respondents maintain Petitioner is ineligible for release from custody.

72. On April 30, 2025, the Department of Homeland Security issued a press release

entitled *100 Days of Fighting Fake News*.² In that document, DHS referenced civil immigration detention and the present administration's heavy reliance on civil detention to accomplish its political aims. Specifically, the document states:

The reality is that **prison isn't supposed to be fun. It's a necessary measure to protect society and punish bad guys.** It is not meant to be comfortable. **What's more: prison can be avoided by self-deportation.** CBP Home makes it simple and easy. If you are a criminal alien and we have to deport you, you could end up in Guantanamo Bay or CECOT. **Leave now.**

Exhibit 1 (emphasis added).

73. Myriad courts around the country have granted habeas corpus petitions and/or enjoined the current administration's attempts to use civil detention punitively against noncitizens. *See, e.g., Mohammed H. v. Trump*, No.: 25-CV-1576-JWB-DTS, --- F. Supp. 3d ---, 2025 WL 1692739, at *5 (D. Minn. June 17, 2025) (“Punishing Petitioner for protected speech or **using him as an example to intimidate other students into self-deportation is abusive and does not reflect legitimate immigration detention purposes.**”) (emphasis added); *Mahdawi v. Trump*, --- F. Supp. 3d ---, 2025 WL 1243135, at *11 (D. Vt. Apr. 30, 2021) (recognizing that immigration detention cannot be motivated by the desire to punish speech or to deter others from speaking); *Ozturk*, --- F. Supp. 3d ---, 2025 WL 1145250, at *60 (“So long as detention is motivated by those goals, and not a desire for punishment, the Court is generally required to defer to the political branches on the administration of the immigration system.”); *see also Fong Yue Ting v. United*

² Available at: <https://www.dhs.gov/news/2025/04/30/100-days-fighting-fake-news>.

States, 149 U.S. 698, 730 (1893) (“The order of deportation is not a punishment”); *See Roble v. Bondi*, No. 25-cv-3196, 2025 WL 2443453 (D. Minn. Aug. 25, 2025) (ordering release and characterizing the government’s actions as “Kafkaesque”); *Sarail A. v. Bondi*, No. 25-CV-2144, 2025 WL 2533673 (D. Minn. Sept. 3, 2025) (ordering release); *Sonam T. v. Bondi*, No. 25-CV-2834, *slip op.*, ECF No. 19 (D. Minn. Sept. 16, 2025) (R&R recommending order of release) ; *see also Sonam T. v. Bondi*, No. 25-CV-2834, ECF No. 25 (D. Minn. Sept. 19, 2025) (ordering release); *Mehran S. v. Bondi*, No. 25-CV-3724, ECF No. 11 (D. Minn. Sept. 29, 2025) (ordering release); *Omar J. v. Bondi*, No. 25-CV-3719 (D. Minn. Sept. 29, 2025), ECF No. 11 (ordering release); *Yee S. v. Bondi*, No. 25-CV-02782-JMB-DLM (D. Minn. Oct. 9, 2025), ECF No. 13 (granting habeas petition 4 days after TRO and motion to expedite was filed); *Constantinovici v. Bondi*, No. 3:25-CV-02405-RBM-AHG (S.D. Cal. Oct. 10, 2025), ECF No. 15 (granting habeas petition less than one month after filing).

LEGAL FRAMEWORK

74. Petitioner’s present detention is governed by 8 U.S.C. § 1231 and its implementing regulations at 8 C.F.R. pt. 241.
75. Section 1231 mandates detention “[d]uring the removal period.” *Accord* 8 U.S.C. § 1231(a)(1)(A), (a)(2). However, the same sections also require the government to actually remove the alien during this removal period. 8 U.S.C. § 1231(a)(1)(A).
76. The “removal period” is “90 days.” 8 U.S.C. § 1231(a)(1)(A). Petitioner’s “removal period” ended on November 12, 2002, (90 days after the 30-day appeal period

elapsed following the order of removal, assuming *arguendo* Petitioner did not waive appeal causing the removal period to begin on the date the removal order issued).

77. Detention past the removal period can be lawful in circumstances not presented here. *See* 8 U.S.C. § 1231(a)(1)(C), (a)(6).
78. After a noncitizen has been detained past the removal period, they may seek and obtain their release by demonstrating “there is no significant likelihood of removal to the country to which he or she was ordered removed, or to a third country, in the reasonably foreseeable future.” 8 C.F.R. § 241.13(a).
79. Once a noncitizen is released on an OOS, they are subject to certain conditions of release. *See* 8 C.F.R. § 241.13(h)(1).
80. Redetention is permitted where it is alleged a noncitizen violated the conditions of release. *See* 8 C.F.R. § 241.13(h)(2), (i).
81. Regulations also permit the government to withdraw or otherwise revoke release under specific circumstances. *See* 8 C.F.R. § 241.13(h)(4). One permissible reason to revoke release occurs when, “on account of changed circumstances, the Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2). Once such a determination is made, the noncitizen must “be notified of the reasons for revocation of [their] release” and must be provided with “an initial informal interview... to afford the alien an opportunity to respond to the reasons for revocation stated in the notification.” 8 C.F.R. § 241.13(i)(3). “The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination

whether the facts as determined warrant revocation and further denial of release.”

Id. If a noncitizen is not released following the informal interview, “the provisions of [8 C.F.R. § 241.4] shall govern the alien’s continued detention pending removal.”

8 C.F.R. § 241.13(i)(2). Once the provisions of § 241.4 take effect, it appears that the consequence is a total reset of the 90-day removal period under 8 U.S.C. § 1231(a), though this regulation is likely *ultra vires* to statute as an arbitrary or capricious interpretation of statute that exceeds statutory authority. *See* 8 C.F.R. § 241.4(b)(4).

82. Under the Supreme Court’s decision in *Zadvydas v. Davis*, a person subject to a final order of removal cannot, consistent with the Due Process Clause, be detained indefinitely pending removal. 533 U.S. 678, 699-700 (2001). *Zadvydas* established a temporal marker: post-final order of removal detention of six months or less is presumptively constitutional. Detention periods of less than six months can be unconstitutional if the presumption of reasonableness is rebutted.
83. Petitioner has rebutted any presumption of reasonableness that might apply to the facts of his case and the length of his present detention by demonstrating there is no reasonable likelihood of his removal in the reasonably foreseeable future and/or by demonstrating that the Respondents have violated binding federal regulations by detaining him in the absence of changed circumstances showing a significant likelihood of removal in the reasonably foreseeable future.
84. The 6-month *Zadvydas* clock does not reset upon every new iteration of detention. It is instead measured in the aggregate. At minimum, the 6-month *Zadvydas* clock

must be measured in the aggregate when the required prerequisites for redetention, as identified by 8 C.F.R. §§ 241.13(g) and (i)(2)-(3) (*inter alia*) are not satisfied prior to redetention.

85. *Zadvydas* also stated:

After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, **the Government must respond with evidence sufficient to rebut that showing. And for detention to remain reasonable, as the period of prior post-removal confinement grows, what counts as the “reasonably foreseeable future” conversely would have to shrink.**

533 U.S. at 701 (emphasis added).

86. *Zadvydas* further held that civil detention violates due process unless special, nonpunitive circumstances outweigh an individual’s interest in avoiding restraint.

533 U.S. at 690 (**immigration detention must remain “nonpunitive in purpose and effect”**) (emphasis added).

REMEDY

87. Respondents’ detention of Petitioner violates the Due Process Clause of the United States Constitution. Petitioner’s ongoing detention violates the Fifth Amendment’s guarantee that “[n]o person shall be . . . deprived of life, liberty, or property without due process of law.” U.S. Const., amend. V.

88. Due Process requires that detention “bear [] a reasonable relation to the purpose for which the individual [was] committed.” *Zadvydas, v. Davis*, 533 U.S. 678, 690 (2001) (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

89. Petitioner seeks immediate release to the extent that Respondents justify his

detention on the idea that Petitioner has failed to demonstrate that there is no significant likelihood of his removal in the reasonably foreseeable future; Respondents bear the burden of rebutting the prior showing made by Petitioner. 8 C.F.R. § 241.13(i)(2)-(3). Respondents have failed to meet this burden.

90. Petitioner seeks immediate release subject to the same conditions as his prior OSS.
91. Petitioner seeks immediate release to the extent that Respondents have violated his due process rights by failing to comply with 8 C.F.R. §§ 241.4 and/or 241.13.
92. Petitioner seeks immediate release to the extent that Respondents have redetained him for the purpose of punishing him for remaining in the United States despite his final order of removal.
93. Petitioner seeks immediate release to the extent that Respondents have redetained him for the purpose of sending a message to similarly situated individuals for the purpose of encouraging those similarly situated persons to leave the United States before they state Petitioner's fate.
94. Although neither the Constitution nor the federal habeas statutes delineate the necessary content of habeas relief, *I.N.S. v. St. Cyr*, 533 U.S. 289, 337 (2001) (Scalia, J., dissenting) (“A straightforward reading of [the Suspension Clause] discloses that it does not guarantee any content to . . . the writ of habeas corpus”), implicit in habeas jurisdiction is the power to order release. *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (“[T]he habeas court must have the power to order the conditional release of an individual unlawfully detained.”).

95. The Supreme Court has noted that the typical remedy for unlawful detention is release from detention. *See, e.g., Munaf v. Geren*, 553 U.S. 674 (2008) (“The typical remedy for [unlawful executive detention] is, of course, release.”); *see also Wajda v. United States*, 64 F.3d 385, 389 (8th Cir. 1995) (stating the function of habeas relief under 28 U.S.C. § 2241 “is to obtain release from the duration or fact of present custody.”).
96. That courts with habeas jurisdiction have the power to order outright release is justified by the fact that, “habeas corpus is, at its core, an equitable remedy,” *Schlup v. Delo*, 513 U.S. 298, 319 (1995), and that as an equitable remedy, federal courts “[have] broad discretion in conditioning a judgment granting habeas relief [and are] authorized . . . to dispose of habeas corpus matters ‘as law and justice require.’” *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987) (quoting 28 U.S.C. § 2243). An order of release falls under court’s broad discretion to fashion relief. *See, e.g., Jimenez v. Cronen*, 317 F. Supp. 3d 626, 636 (D. Mass. 2018) (“Habeas corpus is an equitable remedy. The court has the discretion to fashion relief that is fair in the circumstances, including to order an alien’s release.”).
97. Immediate release is an appropriate remedy in this case.

CAUSE OF ACTION

COUNT ONE: DECLARATORY RELIEF

98. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.
99. Petitioner requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that

Petitioner is detained pursuant to 8 U.S.C. § 1231(a)(1).

100. Petitioner requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that Petitioner has previously demonstrated to ICE's satisfaction that there is no significant likelihood of his removal in the reasonably foreseeable future ("NSLRRFF").
101. Petitioner requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that ICE did not rebut Petitioner's prior NSLRRFF showing prior to redetaining him.
102. Petitioner requests a declaratory judgment pursuant to 28 U.S.C. § 2201 that until ICE rebuts Petitioner's prior NSLRRFF showing, Petitioner may not be redetained.

COUNT TWO: VIOLATION OF THE IMMIGRATION & NATIONALITY ACT
- 8 C.F.R. § 241.13(i)(2)-(3)

103. Petitioner re-alleges and incorporates by reference each allegation contained in ¶¶ 1-97 as if set forth fully herein.
104. Section 1231(a)(1)-(3) of Title 8 of the U.S. Code and 8 C.F.R. § 241.13(i)(2)-(3) governs the detention, release, and redetention of aliens with final orders of removal.
105. Respondents have failed to comply with these provisions prior to redetaining Petitioner after Petitioner's release on an OOS.
106. No independent alternative basis supports Respondents' decision to redetain Petitioner.
107. Petitioner is therefore detained in violation of the INA.

COUNT THREE: VIOLATION OF THE FIFTH AMENDMENT

108. Petitioner re-alleges and incorporates by reference each allegation contained in ¶¶

1-97 as if set forth fully herein.

109. The Fifth Amendment Due Process Clause protects against arbitrary detention and requires that detention be reasonably related to its purpose and accompanied by adequate procedures to ensure that detention is serving its legitimate goals. It further requires that detention cease when a noncitizen has established to the government's satisfaction that there is no significant likelihood of removal in the reasonably foreseeable future after the noncitizen has been ordered removed and has served six months in post-removal-order custody.
110. Petitioner is no longer subject to mandatory custody under the Immigration & Nationality Act. He has served more than six months in civil immigration detention. In order to terminate his prior detention, he established to the government's satisfaction that there was no significant likelihood of removal in the reasonably foreseeable future. The government has not rebutted this with credible evidence. The government does not presently have a travel document for Petitioner. There are no new circumstances that otherwise justify Petitioner's redetention. Thus, Respondents have violated Petitioner's Fifth Amendment guarantee of due process.
111. Respondents have also independently violated Petitioner's Fifth Amendment due process right by incarcerating him to punish him and to otherwise send a message to similarly situated individuals that they must leave the United States to avoid a similar fate.

**COUNT FOUR: VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT
– CONTRARY TO LAW AND ARBITRARY AND CAPRICIOUS AGENCY
POLICY**

112. Petitioner re-alleges and incorporates by reference each allegation contained in ¶¶ 1-97 as if set forth fully herein.
113. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).
114. Respondents have failed to articulate any reasoned explanation for redetaining Petitioner.
115. Respondents have failed to articulate any reasoned explanation for deviating from or otherwise ignoring or failing to comply with the plain language of 8 C.F.R. § 241.13(i)(2)-(3).
116. Respondents’ decisions, which represent changes in the agencies’ policies and positions, have considered factors that Congress did not intend to be considered, have entirely failed to consider important aspects of the case, and have offered explanations for their decisions that run counter to the evidence before the agencies.
117. Respondents’ decision to redetain Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

PRAYER FOR RELIEF

WHEREFORE, Petitioner, Tuan Bui, asks this Court for the following relief:

1. Assume jurisdiction over this matter.

2. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under 28 U.S.C. Ch. 153.
 - a. Issue an Order to Show Cause ordering Respondents to state the true cause of Petitioner's detention within 7 days of the Court's issuance of the OSC.
 - b. Pursuant to 28 U.S.C. § 1657, issue an Order shortening the time for making any objections to the magistrate's forthcoming Report & Recommendation from 14 days to 5 days.
 - c. Order the Clerk of Courts to promptly serve a copy of the petition and any subsequent Order on Respondents and any other appropriate individual involved pursuant Rule 4 of the Rules Governing Section 2254 and 2255 Cases.
3. Issue an emergency preliminary order restraining Respondents from attempting to move Petitioner from the State of Oklahoma during the pendency of this Petition.
4. Issue an emergency preliminary order requiring Respondents to provide 72-hour notice of any intended movement of Petitioner.
5. Issue an emergency preliminary order requiring Respondents to give Petitioner due process prior to removing him to an allegedly safe third country in the form of a full merits hearing for asylum, withholding of removal, and DCAT before an immigration judge relating to the proposed country of removal with a right to an administrative appeal to the Board of Immigration Appeals.
6. Order Petitioner's immediate release subject to the conditions of his prior OOS.
7. Declare that Respondents' action is arbitrary and capricious.

8. Declare that Respondents failed to adhere to binding regulations and precedent.
9. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment.
10. Permanently enjoin Respondents from redetaining Petitioner under 8 C.F.R. § 241.13(i)(2)-(3) unless and until Respondents have obtained a travel document allowing for Petitioner's removal from the United States.
11. Permanently enjoin Respondents from redetaining Petitioner under 8 C.F.R. § 241.13(i)(2)-(3) unless and until Respondents have obtained a travel document allowing for Petitioner's removal from the United States.
12. Permanently enjoin Respondents from deporting Petitioner to an allegedly safe third country without first giving Petitioner due process in the form of a full merits hearing for asylum, withholding of removal, and DCAT before an immigration judge relating to the proposed country of removal with a right to an administrative appeal to the Board of Immigration Appeals.
13. Grant Petitioner reasonable attorney fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A).
14. Grant all further relief this Court deems just and proper.

DATED: January 20, 2026

Respectfully submitted,

RATKOWSKI LAW PLLC

/s/ Nico Ratkowski

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Attorney for Petitioner

Verification by Petitioner Pursuant to 28 U.S.C. § 2242

I am submitting this verification because I am the Petitioner. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding my detention status, are true and correct to the best of my knowledge. I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that all of the factual allegations and statements in the Petition are true and correct to the best of my knowledge and belief.

/s/ Tuan Bui
Tuan BUI

Dated: January 20, 2026