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8 UNITED STATES DISTRICT COURT
9 FOR THE WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 Vu Loc Nguyen

Petitioner

12 vs.

Case No. 26-335

13 Laura HERMOSILLO, Seattle Field Office Acting
14 Director, Enforcement and Removal Operations, U.S.
15 Immigration and Customs Enforcement;
16 Bruce SCOTT, Warden, Northwest ICE Processing Center;
17 Kristi NOEM, Secretary of Department of Homeland
18 Security;
19 Pamela BONDI, United States Attorney General,

PETITION FOR WRIT OF
HABEAS CORPUS

20 Respondents

INTRODUCTION

1. Vu Loc Nguyen, who was born in Vietnam, entered the United States on or about January 20, 2025, and was apprehended by U.S. Customs and Border Patrol at that time. He has been held in detention without bond for over one year. He is under a final order of removal to Vietnam issued on July 28, 2025.

2. Under *Zadvydas v. Davis*, 533 U.S. 678 (2001), the government has a six-month period in which to execute an order of removal. The six-month period is a “presumptively reasonable period of detention” and the government can hold a person in detention during this period without violating the Constitution. 533 U.S. at 701. However, the Supreme Court has “doubted the constitutionality of detention for more than six months.” *Id.*

3. If it becomes evident that there is no significant likelihood of removal in the reasonably foreseeable future, and the government does not provide sufficient evidence to establish that removal in the reasonably foreseeable future is likely, then the noncitizen must be released. *Zadvydas*, 533 U.S. at 701.

4. Respondents may attempt to remove Petitioner to a third country other than Vietnam. However, any such removal without an opportunity to apply for protection from persecution and/or torture would violate the Immigration and Nationality Act and Due Process.

5. Mr. Nguyen has been held in detention under a final order of removal for more than six months. There is no likelihood of removal in the reasonably foreseeable future. He seeks an order that he be released from detention.

6. In addition, if Respondents intend to remove Petitioner to any third country, Mr. Nguyen requests an order requiring Respondents to reopen his removal proceedings and provide him with a reasonable opportunity to apply for protection from persecution and/or torture..

JURISDICTION

7. This court has jurisdiction pursuant to 28 U.S.C. §2241 (habeas corpus jurisdiction); 28 U.S.C. §1331 (federal question jurisdiction); 28 U.S.C. §2201 (jurisdiction to render declaratory judgments); and 28 U.S.C. §1361 (jurisdiction over actions for mandamus).

8. Venue in the Western District of Washington is appropriate because Petitioner is currently in custody at the Northwest ICE Processing Center in Tacoma. *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973). In addition, venue is also properly in this district pursuant to 28 U.S.C. §1391(e) because Respondents are employees, officers, and agencies of the United States, and a substantial part of the events or omissions giving rise to the claims in this lawsuit have occurred in this district.

PARTIES

9. Vu Loc Nguyen, a native and citizen of Vietnam, is currently being held in detention by United States Immigration and Customs Enforcement (ICE) at the Northwest Immigration Processing Center in Tacoma, Washington.

10. Respondent Laura Hermosillo is the Seattle Field Office Acting Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement. She is sued in her official capacity.

11. Respondent Bruce Scott is Warden of the Northwest ICE Processing Center in Tacoma, Washington. He is sued in his official capacity.

1 12. Respondent Kristi Noem is the Secretary of the Department of Homeland Security
2 (DHS). DHS is the agency responsible for implementing the Immigration and Nationality Act,
3 and Kristi Noem, as Secretary of DHS, is the person ultimately responsible for custody
4 determinations regarding Petitioner. Respondent Noem is sued in her official capacity.

5 13. Respondent Pamela Bondi, United States Attorney General, is the executive officer
6 who has been given authority to manage and control the Executive Office of Immigration
7 Review (EOIR), including the Immigration Judges and the Board of Immigration Appeals (BIA).
8 In addition, the U.S. Attorney General has authority to establish legal and policy guidelines
9 concerning which non-citizens are to be detained for immigration purposes. Respondent Bondi
10 is sued in her official capacity.

11 FACTUAL BACKGROUND

12 14. Petitioner, Vu Loc Nguyen, is a native and citizen of Vietnam. He fled from
13 Vietnam because of his fear of persecution and torture in that country, and he arrived in the
14 United States on or about January 20, 2025. On or about that date he was apprehended by U.S.
15 Customs and Border Protection (CBP).

16 15. Upon his apprehension by CBP, Petitioner expressed a fear of return to Vietnam and
17 requested asylum. On July 28, 2025, the Immigration Judge in Tacoma, Washington denied
18 Petitioner's applications for asylum, withholding of removal, and protection under the
19 Convention Against Torture, and issued a final order of removal to Vietnam.

20 16. Respondents have not removed Mr. Nguyen to Vietnam.

21 17. Respondents have not notified Mr. Nguyen that they intend to remove him to any
22 third country other than Vietnam.

1 18. Respondents have not given Mr. Nguyen an opportunity to object to his removal to
2 any third country other than Vietnam.

3 19. Mr. Nguyen has been held in detention without bond since the time of his
4 apprehension on or about January 20, 2025. He is currently held in detention at the Northwest
5 Immigrant Processing Center in Tacoma, Washington.

6 LEGAL FRAMEWORK

7 A. Indefinite Detention

8 20. The Immigration and Nationality Act (INA) provides that after an order of removal
9 becomes administratively final, a “removal period” begins during which time DHS undertakes
10 efforts to remove the noncitizen. The removal period begins on the date the order of removal
11 becomes administratively final and lasts for 90 days, during which time the noncitizen is subject
12 to mandatory detention. 8 U.S.C. §1231(a)(2). After the removal period, a noncitizen who has
13 been detained under §1231(a) can be released on an order of supervision. 8 U.S.C. §1231(a)(3).
14 Under 8 U.S.C. §1231(a)(6), certain individuals “may be detained beyond the removal period.”
15 8 U.S.C. §1231(a)(6).

16 21. Although 8 U.S.C. §1231(a)(6) permits detention beyond the 90-day removal period,
17 indefinite detention is not constitutionally permissible. “A statute permitting indefinite detention
18 of an alien would raise a serious constitutional problem” under the Fifth Amendment’s Due
19 Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). According to the Supreme Court,
20 a period of six months for DHS to make arrangements for removal is “presumptively
21 reasonable.” *Id.* at 701.

22. After an order of removal becomes final, once it becomes evident that removal in the reasonably foreseeable future is not likely, “the court should hold continued detention unreasonable and no longer authorized by statute.” *Id.* at 699-700. *See also Anisur Rahman v. Garland*, 2025 U.S. Dist. LEXIS 223577, *16-17 (W.D. Wash. 10/3/2025) (Magistrate Judge Report and Recommendation) (“Given the time that has passed since the August 5, 2025, hearing and the continued lack of a definitive timeline from the Government of when petitioner will be removed, the Court should find that the Government has not responded with enough evidence to rebut the claim that removal is not likely in the reasonably foreseeable future.”).

B. Prolonged Detention

23. Prolonged mandatory detention without bond while removal proceedings are pending violates Due Process. *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1117 (W.D. Wash. 2019) (“the Court joins the vast majority of other district courts to conclude that unreasonably prolonged detention under §1225(b) without a bond hearing violates due process”); *Toktosunov v. Wamsley*, 2025 U.S. Dist. LEXIS 252150, *18 (W.D. Wash. 12/5/2025) (“Petitioner’s prolonged detention under Section 1225(b) [detention without bond for 16 months] violates the Due Process Clause of the Fifth Amendment”). *See also Castro v. DHS*, 835 F.3d 422, 449 n. 32 (3d Cir. 2016) (“We doubt ... that Congress could authorize, or that the Executive could engage in, the indefinite, hearingless detention of an alien simply because the alien was apprehended shortly after clandestine entrance”); *Masood v. Barr*, 2020 U.S. Dist. LEXIS 4809, *8–*9, (N.D. Cal. 2020) (“due process problems are virtually self-evident” because petitioner had been held in detention for nearly nine months and “there is no reasonably certain end to his custody in sight”). *Cf. Padilla v. ICE*, 704 F. Supp. 3d 1163, 1173 (W.D. Wash. 2023), *appeal*

1 *pending* (“Nothing in [the Supreme Court’s decision in *Demore v. Kim*, 538 U.S. 510 (2003)]
2 suggests that such a lengthy detention [nearly a year for an appeal to the BIA] would be
3 justified”).

4 24. After detention without bond becomes prolonged, the government has the burden of
5 justifying continued detention. The government must prove, by clear and convincing evidence,
6 that the person being detained is either a danger to the community or a flight risk. If the
7 government cannot provide such evidence, then the person must be released from detention.
8 *Singh v. Holder*, 638 F.3d 1196, 1200 (9th Cir. 2011) (“given the substantial liberty interests at
9 stake ..., the government must prove by clear and convincing evidence that continued detention
10 is justified”).

11 C. Third Country Removal

12 25. The Immigration and Nationality Act prohibits removal to a third country where a
13 person may be persecuted or tortured because of his or her race, religion, nationality,
14 membership in a particular social group, or political opinion. *See* 8 U.S.C. § 1231(b)(3)(A); 8
15 C.F.R. §208.16, §1208.16. Withholding of removal is a mandatory form protection.

16 26. The Foreign Affairs Reform and Restructuring Act of 1998 (“FARRA”) codifies the
17 protections enshrined in the Convention Against Torture (CAT) prohibiting the government from
18 removing a person to a country where “there are substantial grounds for believing the person
19 would be in danger of being subjected to torture.” FARRA, Public Law 105–277, div. G, sec.
20 2242, 112 Stat. 2681, 2631–822 (8 U.S.C. §1231 note). Protection under the Convention
21 Against Torture is a mandatory form of protection.

1 27. To comport with the requirements of due process, a noncitizen facing removal to a
 2 third country not designated in the order of removal must be given an opportunity to seek
 3 withholding of removal and CAT relief before an immigration judge in reopened removal
 4 proceedings. *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1019 (W.D. Wash. 2019) (requiring notice
 5 and time for a respondent to file a motion to reopen and seek relief). *See also J.R. v. Bostock*,
 6 796 F. Supp. 3d 684, 690-691 (W.D. Wash. 6/30/2025) (where DHS has not notified the
 7 petitioner what country it intends to deport him to, there are “serious questions” whether “the
 8 Government violated his rights by attempting third-country removals without providing him
 9 notice and an opportunity to seek CAT protection”); *Nguyen v. Scott*, 796 F. Supp. 3d 703, 728-
 10 729 (W.D. Wash. 8/21/2025) (under Ninth Circuit precedent, “Petitioner is likely to succeed on
 11 his claim that removal to a third country under ICE’s current policy, without meaningful notice
 12 and reopening of his removal proceedings for a hearing, would violate due process”); *Baltodano*
 13 *v. Bondi*, 2025 U.S. Dist. LEXIS 220311, *10 (W.D. Wash. 11/7/2025) (same).

14 28. A noncitizen cannot be subjected to punishment for violations of civil immigration
 15 law. *Wong Wing v. United States*, 163 U.S. 228, 237 (1896) (the government cannot attach
 16 punitive conditions to deportation such as imprisonment at hard labor absent a criminal charge,
 17 trial in a court of law, and the protections of the Fifth, Sixth, and Eighth Amendments). The
 18 government cannot “declare unlawful residence within the country to be an infamous crime,
 19 punishable by deprivation of liberty and property ... unless provision were made that the fact of
 20 guilt should first be established by a judicial trial.” *Id.* at 237.

21 29. Deportation of individuals to third countries where it is likely that the individual will
 22 be imprisoned or harmed constitutes punishment. *Abubaka v. Bondi*, 2025 U.S. Dist. LEXIS

225914, *25 (W.D. Wash. 11/17/2025) (“the government’s practice of third-country removal paired with imprisonment is intended to be punitive and thus violates due process,” citing *Wong Wing*, 163 U.S. 228 at 236-38, and *Zadvydas*, 533 U.S. 678 at 693-694).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

30. Petitioner has no available administrative remedies that can provide the relief he seeks. *Acevedo-Carranza v. Ashcroft*, 371 F.3d 539, 541–42 (9th Cir. 2004) (“Exhaustion of remedies is not required when resort to such remedies would be futile.”).

CLAIMS

FIRST CLAIM

31. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

32. Petitioner has been held in detention under a final order of removal in excess of six months. There is no significant likelihood of his removal in the reasonably foreseeable future. Accordingly, the continued detention of Petitioner is a violation of the statute, 8 U.S.C. 1231(a)(6), and a violation of Due Process. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

SECOND CLAIM

33. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

34. Petitioner has been held in detention for a prolonged period of time. The government has no evidence that Petitioner is either a danger to the community or a flight risk. Accordingly, the continued detention of Petitioner is a violation of Due Process.

THIRD CLAIM

35. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

36. The deportation of Petitioner to any previously undesignated third country without an opportunity to apply for withholding of removal and protection under the Convention Against Torture violates the Immigration and Nationality Act and the Foreign Affairs Reform and Restructuring Act (FARRA), which implements the Convention Against Torture.

FOURTH CLAIM

37. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

38. The deportation of Petitioner to any previously undesignated third country without an opportunity to apply for withholding of removal and protection under the Convention Against Torture violates the Due Process Clause of the United States Constitution.

FIFTH CLAIM

39. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

40. The deportation of Petitioner to any previously undesignated third country where Petitioner is likely to be imprisoned or harmed constitutes unlawful punishment in violation of the United States Constitution.

REQUEST FOR RELIEF

The Petitioner herein respectfully requests that this Court:

1 (1) Assume jurisdiction over this petition;

2 (2) Declare that the continued detention of Petitioner violates the Immigration and
3 Nationality Act, including 8 U.S.C. 1231(a)(6);

4 (3) Declare that the continued detention of Petitioner violates the Due Process Clause of
5 the United States Constitution;

6 (4) Issue an order that Petitioner be released immediately from ICE custody under
7 reasonable and appropriate terms of supervision;

8 (5) Issue an order that the Respondents may not remove or seek to remove Petitioner to a
9 third country without notice and a meaningful opportunity to respond in reopened removal
10 proceedings, in compliance with the Immigration and Nationality Act and Due Process;

11 (6) Issue an order that the Respondents may not remove or seek to remove Petitioner to a
12 third country where Petitioner may be imprisoned or harmed;

13 (7) Issue an order prohibiting ICE from removing Petitioner out of this jurisdiction;

14 (8) Grant such other relief as may be just and appropriate, including costs, expenses and
15 reasonable attorney fees.

16 Dated this 28th day of January, 2026 .

17 /s/ Robert Pauw

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21 Attorney for Vu Loc Nguyen

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3 **VERIFICATION**

4 Robert Pauw, being duly sworn upon oath, hereby states: I represent the Petitioner in
5 these habeas corpus proceedings. I have discussed with the Petitioner's sister and his prior
6 counsel the matters alleged in the foregoing Petition. I verify that the information contained in
7 the foregoing Petition is true and correct to the best of my knowledge and belief.

8 Dated: January 28, 2026

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22 /s/ Robert Pauw