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UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

HUY HOANG NGUYEN,
Petitioner,
v.

JUAN BALTAZAR,
in his official capacity as Warden of the Aurora Contract Detentoin Facility owned and operated by GEO Group, Inc.;

ROBERT HAGAN,
in his official capacity as Field Office Director, Denver, U.S. Immigration & Customs Enforcement;

KRISTI NOEM
in her official capacity as Secretary, U.S. Department of Homeland Security;

TODD LYONS, in his official capacity as Acting Director of Immigration & Customs Enforcement (ICE);

PAM BONDI,
in his official capacity as Attorney General, U.S. Department of Justice.

Respondents.

Case No. 1:26-cv-00434

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

INTRODUCTION

1. The issue before this Court is not complicated. Respondents illegally incarcerate Petitioner, Huy Hoang Nguyen ("Mr. Nguyen"), at the Denver Contract Detention Facility in Aurora, Colorado ("Aurora Facility").[1] Respondents' authority under 8 U.S.C. § 1231 to jail him expired 180 days after the Immigration Judge ("IJ") ordered that Immigration and Customs Enforcement ("ICE") cannot remove Mr. Nguyen to his only country of citizenship, Vietnam, because it is more likely than not that he will be persecuted there.[2] *See Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (finding the government's authority under 8 U.S.C. § 1231 limited to six months unless the Government shows a significant likelihood of removal in the reasonably foreseeable future). ICE did not appeal the IJ's finding but nevertheless kept. Mr. Nguyen jailed. Unlike the significant likelihood of persecution Mr. Nguyen will experience if removed to Vietnam, there is no significant likelihood that Respondents will remove Mr. Nguyen in the reasonably foreseeable future. This Court must therefore order his immediate release.

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[1] This Petition does not refer to the Aurora Facility or Petitioner's loss of liberty as detention because it does not accurately reflect the conditions at the Aurora Facility. *E.g.*, *L.G. v. Choate*, 744 F. Supp. 3d 1172, 1182 (D. of Colo. 2024) (citation omitted) (acknowledging that the District of Colorado found that the GEO Facility is "more akin to incarceration than civil confinement"). Indeed, the conditions in the Aurora Facility are "abhorrent." *Arosteguí-Maldonado v. Baltazar*, 794 F.supp.3d 926, 940 (D. Colo. 2025).

[2] The IJ granted Mr. Nguyen's application for withholding of removal under 8 U.S.C. § 1231(b)(3) of the Immigration and Nationality Act. A grant of withholding of removal includes a removal order to the noncitizen's country of origin. *Id.* It also includes an order prohibiting ICE from removing the person to that country due to the likelihood of persecution the noncitizen will face there. *Id.* Neither party appealed the IJ's withholding grant, resulting in Mr. Nguyen's removal order (and grant of relief from that order) becoming final on August 7, 2025. 8 C.F.R. § 1003.39.

PARTIES

2. An IJ found on August 7, 2025 that Mr. Nguyen met his burden to demonstrate that it is more likely than not that he would be persecuted if Respondents removed him to his country of citizenship, Vietnam. Now, 181 days later, ICE keeps Mr. Nguyen incarcerated at the Aurora Facility without the statutory authority to do so and in violation of his constitutionally protected liberty interest. If released, Mr. Nguyen will live with his lawful permanent resident ("LPR") cousin in Memphis, Tennessee.

3. Respondent Robert Hagan is sued in his official capacity as Field Office Director of ICE Detention and Removal Operations for the Denver District. He has jurisdiction over the Area of Responsibility in which Mr. Nguyen is jailed, is authorized to release Mr. Nguyen, and is a legal custodian of Mr. Nguyen.

4. Respondent Todd Lyons is sued in his official capacity as the Acting Director for ICE. He is responsible for the enforcement of the immigration laws and is a legal custodian of Mr. Nguyen.

5. Respondent Kristi Noem is sued in her official capacity as the Secretary of the Department of Homeland Security ("DHS"), the arm of the U.S. government responsible for enforcing the immigration laws. Secretary Noem is a legal custodian of Mr. Nguyen because ICE is a sub-agency of DHS.

6. Respondent Pam Bondi sued in her official capacity as the Attorney General of the United States, the chief officer within the Department of Justice ("DOJ"). The DOJ encompasses the Board of Immigration Appeals ("BIA") and the IJs as sub-agencies of the Executive Office of Immigration Review ("EOIR"). Attorney General Bondi shares responsibility for the implementation and enforcement of the immigration laws.

7. Respondent Juan Baltazar is sued in his official capacity as the Warden of the Auroa Facility. He is a legal custodian while Mr. Nguyen is detained at the Aurora Facility.

CUSTODY

8. Mr. Nguyen is in ICE's physical custody. His immediate custodian is Robert Hagan, Field Office Director of ICE Detention and Removal Operations for the Denver District. ICE detains Mr. Nguyen at the Aurora Facility, located at 3130 N. Oakland Street in Aurora, CO. Warden Baltazar oversees the Aurora Facility's operations and is employed by GEO Group, Inc.

9. Section 1231 of 8 U.S.C. authorized ICE's incarceration of Mr. Nguyen from August 7, 2025 through February 3, 2026. 8 U.S.C. § 1231; *Zadvydas*, 533 U.S. at 701 (holding that the statute only permits incarceration for 180 days after a final removal order unless removal is significantly likely in the reasonably foreseeable future).

10. Respondent Hagan and his agents continue to detain Mr. Nguyen; he is therefore "in custody under or by color of the authority of the United States" for purposes of habeas corpus under 28 U.S.C. § 2241(c)(1).

JURISDICTION AND VENUE

11. This action arises under the Constitution of the United States, 28 U.S.C. § 2241(c)(1), (3), and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*

12. Under 28 U.S.C. § 1331, this Court has federal question jurisdiction over actions arising under the Constitution, laws, or treaties of the United States.

13. Federal courts have subject matter jurisdiction under 28 U.S.C. § 2241(c)(1) and (c)(3) (habeas corpus) to determine whether the government unlawfully imprisons people in its custody. *INS v. St. Cyr*, 533 U.S. 289, 305 (2001) *superseded by statute*, REAL

ID Act of 2005, 119 Stat. 310 (codified as amended at 8 U.S.C. § 1252(a)(5) (2005)), *as recognized in Nasrallah v. Barr*, 140 S. Ct 1683 (2020); *Boumediene v. Bush*, 128 S.Ct. 2229, 2248 (2008) (citing *St. Cyr*).

14. Jurisdiction is also proper pursuant to 28 U.S.C. § 1331 (federal question); 5 U.S.C. § 702 (waiver of sovereign immunity); 28 U.S.C. § 1346 (original jurisdiction); Article I, § 9, cl. 2 of the U.S. Constitution (Suspension Clause); the All Writs Act, 28 U.S.C. § 1651; and 28 U.S.C. §§ 2201–02 (Declaratory Judgement Act). Mr. Nguyen also relies on Fed. R. Civ. P. 57 because he seeks declaratory and injunctive relief.

15. Mr. Nguyen is "in custody," and the custody is "in violation of the Constitution or laws or treaties of the United States." *Zadvydas*, 533 U.S. at 688 ("We conclude that § 2241 habeas corpus proceedings remain available as a forum for statutory and constitutional challenges to post-removal-period detention."); *INS v. St. Cyr*, 533 U.S. 289, 301 (2001) ("at its historical core, the writ of habeas corpus has served as a means of reviewing the legality of executive detention, and it is in that context that its protections have been strongest.").

16. Venue properly lies in the District of Colorado. 28 U.S.C. §§ 1391(b)(2), (e); 2241. This petition is filed while Mr. Nguyen is physically present within the district because he is detained by Respondents Baltazar and Hagan at the Aurora Facility in Aurora, CO. Undersigned counsel is also in the district.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

17. Exhaustion is not required because Congress did not codify a requirement that petitioners seeking a writ of habeas corpus exhaust administrative remedies. *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992) ("Where Congress specifically mandates, exhaustion

is required. … But where Congress has not clearly required exhaustion, sound judicial discretion governs.") (citation omitted).

18. While inapplicable here, some situations require a Petitioner to exhaust administrative remedies prior to seeking a writ under § 2241. *Baquera v. Longshore*, 948 F. Supp. 2d 1258, 1259 (D. Colo. 2013) (citing *Williams v. O'Brien*, 792 F.2d 986, 987 (10th Cir. 1986) (per curiam)) *abrogated on different grounds by Nielsen v. Preap*, 139 S. Ct. 954 (2019). However, exhaustion is unnecessary if futile. *Goodwin v. State of Okl.*, 923 F.2d 156, 157 (10th Cir. 1991) (finding that exhaustion is not required due to futility where the state's highest court recently decided the precise legal issue petitioner raised in his federal habeas petition).

19. Here, exhaustion is futile because the detention statute does not provide for a bond hearing when an individual is held pursuant to 8 U.S.C. § 1231. *Johnson v. Guzman Chavez*, 141 S. Ct. 2271, 2277 (2021) (when a noncitizen "is ordered removed and the order becomes 'administratively final,' detention becomes mandatory."). An IJ lacks jurisdiction over Mr. Nguyen's custody status.

20. In other words, ICE is judge and jailer. ICE conducts its own custody reviews for detained noncitizens every 90 days after a final removal order. 8 C.F.R. §§ 241.4(d), (h), (i), (k). During those reviews, ICE must consider, *inter alia*, whether the noncitizen is a non-violent person; whether they will remain non-violent if released; whether they are likely to violate conditions of release; whether they had any disciplinary infractions or incidents while incarcerated; whether they have criminal legal contacts; whether they will adjust to life in the community; and whether they will engage in future criminal activity if released. 8 C.F.R. §§ 241.4(e),(f).

21. After his removal order became final on August 7, 2025, ICE first met with Mr. Nguyen in October of 2025. ICE decided in November to continue Mr. Nguyen's incarceration. ICE met with Mr. Nguyen again in January. ICE once again decided to continue Mr. Nguyen's incarceration.

22. Although no statutory exhaustion requirements apply to Mr. Nguyen's claim of unlawful incarceration, he exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action. The Supreme Court agrees. *See Zadvydas*, 533 U.S. at 692 (criticizing the limited protections Respondents provide in the post-removal process as likely unconstitutional).

STATEMENT OF FACTS AND PROCEDURAL BACKGROUND

23. Mr. Nguyen is twenty-two years old and was born in Vietnam. He has no ties to any country other Vietnam and the United States. He unlawfully entered the United States in October of 2024 to seek asylum; ICE has incarcerated him ever since.. ICE placed Mr. Nguyen in removal proceedings pursuant to 8 U.S.C. § 1229(a) and Mr. Nguyen contested his removal through the application of fear-based relief.

24. On August 7, 2025, the IJ granted Mr. Nguyen statutory relief pursuant to INA § 241(b)(3); 8 U.S.C. § 1231(b)(3). Neither Mr. Nguyen nor ICE reserved appeal of that decision. Mr. Nguyen's removal order and grant of relief from removal became final on August 7, 2025. 8 C.F.R. § 1003.39. In other words, on that date, Mr. Nguyen became subject to a final order of removal to Vietnam and ICE became subject to a final order preventing it from removing Mr. Nguyen to Vietnam.

25. Mr. Nguyen has remained incarcerated at the Aurora Facility for the past 181 days. While incarcerated, ICE superficially interviewed Mr. Nguyen twice.

26. The first interview occurred in October of 2025. ICE told Mr. Nguyen that it could not deport him to Vietnam. ICE also told Mr. Nguyen that it had sent inquires to several other countries requesting that ICE be allowed to remove Mr. Nguyen to one of those countries. ICE did not tell Mr. Nguyen to how many countries it sent requests, but ICE did tell Mr. Nguyen that no country had agreed to let ICE deport him there.

27. During the October 2025 interview, ICE asked Mr. Nguyen if there was another country to which he wanted to be deported. Mr. Nguyen said no. Mr. Nguyen asked ICE until when it was going to keep him incarcerated. ICE responded that he would be jailed until the end of the Trump Administration.

28. During the October 2025 interview, ICE did not ask Mr. Nguyen where he would live if released. ICE did not ask Mr. Nguyen with whom he would live if released. ICE did not ask Mr. Nguyen his employment history. ICE did not ask Mr. Nguyen about his family or community ties to the United States. ICE did not ask Mr. Nguyen for documents to review when deciding whether to release him. ICE also did not tell Mr. Nguyen he could provide that evidence. ICE did not ask Mr. Nguyen to sign any documents related to the October 2025 interview.

29. In November of 2025, ICE issued Mr. Nguyen a "Decision to Continue Detention" letter. That letter indicated that ICE decided to continue Mr. Nguyen's incarceration because ICE concluded that he posed a significant risk of flight pending his removal from the United States.

30. ICE's second interview with Mr. Nguyen occurred on January 25, 2026. ICE did not give Mr. Nguyen prior notice of the interview. During the interview, Mr. Nguyen confirmed with ICE that ICE was in possession of his only travel document, a Vietnamese

passport. Mr. Nyugen also provided ICE evidence of his LPR cousin and her willingness to support him emotionally and financially and with housing if released.

31. During the second interview, ICE did not ask Mr. Nguyen to sign any documents related to securing his removal to another country. ICE also did not advise Mr. Nguyen that it was seeking his removal to a third country.

32. ICE has never shown Mr. Nguyen a travel document to another country

33. ICE has never asked Mr. Nguyen to sign papers to request travel documents to another country.

34. Mr. Nguyen has no disciplinary infractions or issues while in ICE custody.

35. Mr. Nguyen has no diagnosed mental health conditions and ICE is not treating him for any at the Aurora Facility.

36. Mr. Nguyen has always been cooperative with all ICE demands. ICE has never told him otherwise, as would be required. 8 C.F.R. § 241.4(g)(5).

LEGAL FRAMEWORK FOR RELIEF SOUGHT

ICE's Incarceration of Mr. Nguyen Violates the Statute and Constitution

37. ICE is generally required to physically remove someone subject to a final removal order during the 90-day removal period. 8 U.S.C. § 1231(a). The removal period begins on: "(i) [t]he date the order of removal becomes administratively final." 8 U.S.C. § 1231(a)(1)(B)(i). Incarceration during the removal period is mandatory. 8 U.S.C. § 1231(a)(2). Pursuant to 8 U.S.C. § 1231(a)(6), ICE "may" keep someone incarcerated beyond the 90 days under limited circumstances. 8 U.S.C. § 1231(a)(6).

38. In *Zadvydas*, the U.S. Supreme Court held that 8 U.S.C. § 1231(a)(6), when "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. A "habeas court must [first] ask whether the detention in question exceeds a period reasonably necessary to secure removal." *Id.* at 699. If the individual's removal "is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by the statute." *Id.* at 699–700.

39. The "presumptively reasonable period of detention" for someone subject to a final order of removal is six months. *Zadvydas*, 533 U.S. at 701. ICE's administrative regulations also recognize that the Headquarters Post-Order Detention Unit ("HQPDU") has a six-month period for determining whether there is a significant likelihood of a noncitizen's removal in the reasonably foreseeable future. 8 C.F.R. § 241.4(k)(2)(ii).

40. ICE cannot continue to detain someone beyond the presumptive six months pursuant to 8 U.S.C. § 1231(a)(1)(C) except in limited circumstances. "A review of the case law shows that the courts have read § 1231(a)(1)(C) narrowly." *Farez-Espinoza v. Chertoff*, 600 F. Supp. 2d 488, 501 (S.D.N.Y. 2009) (collecting cases). "The Congressional intent underlying § 1231 is for the Attorney General to remove a [ ] [noncitizen] subject to an order of removal within the 90-day removal period, if possible." *Farez-Espinoza*, 600 F. Supp 2d at 502; *Morales-Fernandez v. INS*, 418 F.3d 1116, 1123 (10th Cir. 2005). It is "the responsibility of [ICE] to make a bona fide attempt to do so within the removal period." *Farez-Espinoza*, 600 F.Supp.2d at 502. When ICE does not fulfill its responsibility, § 1231(a)(1)(C) does not apply. *Id.*; *Nzayikorera*, 2021 WL 9385836, at *2 ("[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute") (citation and quotations omitted).

41. After six months of incarceration, if there is "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." *Zadvydas*, 533 U.S. at 701; *Aguilar v. Noem*, 25-cv-03463—NYW, 2025 WL 3514282, at *4 (D. Colo. Dec. 8, 2025).

42. Here, ICE's statutory authority to jail Mr. Nguyen expired on February 3, 2026 and it is not significantly likely that ICE will remove Mr. Nguyen in the reasonably foreseeable future. Indeed, ICE cannot remove Mr. Nguyen to Vietnam due to the IJ's grant of withholding of removal and Vietnam is the only country outside of the United States to which Mr. Nguyen has any ties. ICE has not asked Mr. Nguyen to sign any documents requesting travel documents elsewhere. Instead, ICE told Mr. Nguyen that he must remain incarcerated until the end of the Trump Administration because it cannot deport him to Vietnam and it does not have documents to deport him to a third country.

43. Mr. Nguyen's removal is therefore not significantly likely in the reasonably foreseeable future.

CLAIMS FOR RELIEF

COUNT ONE

Violation of 8 U.S.C. § 1231

43. Respondents' continued detention of Mr. Nguyen is no longer authorized by statute. *Zadvydas*, 533 U.S. at 700–01. ICE has kept Mr. Nguyen jailed for 181 days since his removal order became final. The removal period began on August 7, 2025. 8 U.S.C. § 1231(a)(1)(B)(i). Mr. Nguyen never sought a stay of removal from a federal court and nothing stopped the removal period clock. 8 U.S.C. § 1231(a)(1)(B). He has been

cooperative with ICE throughout the removal period and he is not a danger to the community.

44. There is no evidence that ICE will succeed in deporting Mr. Nguyen in the reasonably foreseeable future. On the contrary, ICE's failure to secure Mr. Nguyen's removal during the removal period is evidence enough that his removal is not significantly likely in the reasonably foreseeable future.

45. What's more, ICE is prohibited from removing Mr. Nguyen to Vietnam, the only country to which he has citizenship. ICE has not asked Mr. Nguyen to sign any applications for travel documents; ICE has not shown Mr. Nguyen any applications for travel documents; and according to ICE itself, there is no country willing to accept Mr. Nguyen. This Court must therefore order ICE to release Mr. Nguyen immediately. *Morales-Fernandez v. INS*, 418 F.3d at 1124 ("The Government having brought forward nothing to indicate that a substantial likelihood of removal subsists despite the passage of six months . . . the petitions for habeas corpus should have been granted"); *See Zadvydas*, 533 U.S. at 701 (after "the [noncitizen] provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence to rebut that showing" or the petition will be granted).

46. ICE failed to deport Mr. Nguyen within a constitutionally compliant timeframe and there is no significant likelihood that it will be able to deport him in the reasonably foreseeable future. ICE's decision to continue Mr. Nguyen's detention is unreasonable and unlawful. *Zadvydas*, 533 U.S. at 701; *Clark v. Martinez*, 543 U.S. 371, 386 (2005).

COUNT TWO

Respondents Unreviewed Incarceration of Mr. Nguyen Violates Due Process

47. Due process requires "adequate procedural protections" to ensure that the government's asserted justification for physical confinement "outweighs the [detained] individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (internal citation omitted).

48. ICE has not provided Mr. Nguyen with any meaningful procedural protections and its decision to keep him incarcerated is an unconstitutional use of 8 U.S.C. § 1231. This Court should order his release because of this consequential failure.

PRAYER FOR RELIEF

WHEREFORE, Mr. Nguyen prays that this Court grant the following relief:

(1) Assume jurisdiction over this matter;

(2) Enjoin Respondents from transferring Mr. Nguyen outside of the jurisdiction of the District of Colorado pending the resolution of this case;

(3) Issue a writ of habeas corpus directing Respondents to immediately release Mr. Nguyen from ICE custody on his own recognizance;

(4) Award Mr. Nguyen attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and

(5) Grant any other and further relief that this Court deems just and proper.

Dated this 4th day of February, 2026

/s/ Conor T. Gleason

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VERIFICATION

I, Leslie Bezanilla, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that, on information and belief, the factual statements in the foregoing Petition for Writ of Habeas Corpus are true and correct.

Dated: February 4, 2026

CERTIFICATE OF SERVICE

I, Conor T. Gleason, hereby certify that on February 4, 2026, I filed the foregoing with the Clerk of Court using the CM/ECF system. I, Leslie Bezanilla, hereby certify that I will mail a hard copy of the document to the individuals identified below pursuant to Fed.R.Civ.P. 4 via certified mail within 72 hours of filing or pursuant to any forthcoming Court order requiring something else. Kevin Traskos, attorney for Respondents, confirmed with undersigned counsel that he will accept service on behalf of all Respondents.

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