

#300022164

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
FEB - 4 2026
CLERK, U.S. DISTRICT COURT
By OC
Deputy

Hai Tu Doan

Petitioner

v.

Brantley David Starr, Warden

PrairieLand Detention Center

Respondent

(name of warden or authorized person having custody of petitioner)

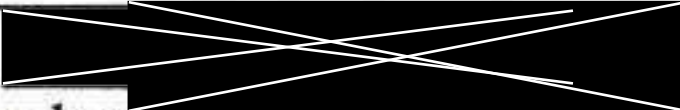
Case No.

(Supplied by Clerk of Court)

3-26CV-286-X

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

Personal Information

- (a) Your full name: Hai Tu Doan
- (b) Other names you have used: None
- Place of confinement:
 - Name of institution: PrairieLand Detention Center
 - Address: 1209 Sunflower Lane, Alvarado, TX 76009
 - Your identification number: 
- Are you currently being held on orders by:

Federal authorities State authorities Other - explain:
- Are you currently:

A pretrial detainee (waiting for trial on criminal charges)

Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime

If you are currently serving a sentence, provide:

 - Name and location of court that sentenced you: _____
 - Docket number of criminal case: _____
 - Date of sentencing: _____

Being held on an immigration charge

Other (explain): _____

Decision or Action You Are Challenging

- What are you challenging in this petition:

How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

- Pretrial detention
- Immigration detention
- Detainer
- The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- Disciplinary proceedings

Other (explain): Applying FOIA Stay or Postponement of ICE removal order to allow state of New Jersey to complete ruling on Post Conviction Relief motion which if granted will return status to Legal Permanent Resident

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: Not challenging any decision - Seeking right to apply for collateral benefit afforded immigration plaintiffs

(b) Docket number, case number, or opinion number: _____

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
N/A

(d) Date of the decision or action: N/A

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

- Yes
- No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not appeal: _____

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

- Yes
- No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes

No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes

No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes

No

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

- Yes No

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

- Yes No

If "Yes," provide:

- (a) Date you were taken into immigration custody: December 18, 2025
- (b) Date of the removal or reinstatement order: December 2004 - see NJ Court order
- (c) Did you file an appeal with the Board of Immigration Appeals?

- Yes No

If "Yes," provide:

- (1) Date of filing: _____
- (2) Case number: _____
- (3) Result: _____
- (4) Date of result: _____
- (5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

- Yes No

If "Yes," provide:

- (1) Name of court: N/A
- (2) Date of filing: _____
- (3) Case number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

- Yes No

If "Yes," provide:

- (a) Kind of petition, motion, or application: _____
- (b) Name of the authority, agency, or court: _____
- (c) Date of filing: _____
- (d) Docket number, case number, or opinion number: _____
- (e) Result: _____
- (f) Date of result: _____
- (g) Issues raised: _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: Requesting a STAY or POSTPORNMENT for the right to
Apply for collateral Benefit afforded non-citizens to remain in the U.S.
Pending the outcome of pending Post Conviction Relief motion in New Jersey,
which if granted, will return status to Legal permanent Resident

(a) Supporting facts (Be brief. Do not cite cases or law.):

SEE Attached Memorandum of Law
in Support of Motion

(b) Did you present Ground One in all appeals that were available to you?

Yes No N/A

GROUND TWO: _____

(a) Supporting facts (Be brief. Do not cite cases or law.):

(b) Did you present Ground Two in all appeals that were available to you?

Yes No

GROUND THREE: _____

(a) Supporting facts (Be brief. Do not cite cases or law.):

(b) Did you present Ground Three in all appeals that were available to you?

Yes No

GROUND FOUR:

(a) Supporting facts (Be brief. Do not cite cases or law.):

(b) Did you present Ground Four in all appeals that were available to you?

Yes No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: Grant a STAY order pending the outcome of the New Jersey Post Conviction Relief Motion or Alternatively grant a POSTPONEMENT OF The Removal Order under The Administrative Procedure Act, Section 705 which will have the same effect of a STAY. Petitioner Prays for injunctive Relief to allow New Jersey Court to make a Ruling on Petitioner's only aggravated felony

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 01/27/2026

Hai Tu Dean, Pro Se
Signature of Petitioner

Signature of Attorney or other authorized person, if any

ATTACHMENTS

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CRIMINAL PART
BERGEN COUNTY
STATE OF NEW JERSEY

v.
HAI T. DOAN
Indictment No. S-362302

2025 DEC 15 P 2: 05

MOTION FOR POST-CONVICTION RELIEF

Petitioner, Hai T. Doan, appearing pro se, (Doan herein) respectfully moves this Honorable Court for Post-Conviction Relief pursuant to Rule 3:22-1. Petitioner seeks to vacate his conviction and withdraw his guilty plea on the grounds that he did not receive constitutionally effective assistance of counsel, that his plea was entered without the benefit of an interpreter and without an understanding of its immigration consequences, and that the well-established exceptions to timeliness and the interests of justice require relaxation of the Rule 3:22-12 time limitations. Petitioner further requests that the Court schedule an evidentiary hearing pursuant to Rule 3:22-10 and appoint counsel to assist with further proceedings.

INTRODUCTION AND GROUNDS FOR RELIEF

1. This motion arises from a conviction entered more than twenty years ago against Petitioner who did not speak English, was not provided an interpreter at the critical stages of the proceedings, and pled guilty only after his attorney assured him that he could never be deported because he entered the United States before 1995.
2. For more than two decades, the federal government's own policy and conduct confirmed that understanding. Only in June 2025, when ICE abruptly reversed decades of policy, did Petitioner learn that he was in danger of being deported to a country he left in 1993.
3. New Jersey courts have repeatedly emphasized that Post Conviction Relief ("PCR") exists to

prevent miscarriages of justice. In *State v. Nash*, 212 N.J. 518, 546 (2013), the Supreme Court described PCR as the “last line of defense” against unconstitutional convictions. The Court has also held that the Rule 3:22-12 time bar must yield where enforcement would produce a “fundamental injustice.” *Id.* See *State v. Norman*, 405 N.J. Super. 149, 159 (App. Div. 2009) (excusable neglect exists where delay is caused by circumstances outside the defendant’s control); *State v. Murray*, 162 N.J. 240, 246 (2000) (time bar should not be used to defeat meritorious constitutional claims).

4. Petitioner’s case presents exactly the type of circumstances these decisions contemplate. His plea was not knowing, intelligent, or voluntary; he was deprived of effective assistance of counsel; he was not provided an interpreter at critical stages of the proceedings; and newly discovered evidence — the 2025 ICE policy reversal — fundamentally alters the consequences of his conviction. Because the delay in filing was caused by counsel’s mis-advice, Petitioner’s inability to understand English, and the federal government’s own long-standing policy that made deportation impossible for more than twenty years, this motion satisfies the exceptions to the time bar recognized in *Norman* and *Murray*.

STATEMENT OF FACTS

5. Petitioner respectfully submits the following Statement of Facts, which is based on his personal knowledge as set forth in the *attached Affidavit of Hai T. Doan (EXHIBIT A)*. The facts described below are drawn directly from Petitioner’s sworn certification and form the evidentiary basis for this motion.

6. As detailed in the attached Affidavit, Petitioner is a lawful permanent resident of the United States who entered this country legally in 1993 at the age of eighteen. He arrived as part of a wave of Vietnamese nationals who fled the aftermath of the Vietnam War and the economic and political instability that followed.

7. Like many refugees of that era, Petitioner came to the United States with limited formal education,

no English proficiency, and no understanding of American legal systems. He settled in New Jersey, lived with extended family, and worked in low-wage labor positions while learning to navigate life in a new country.

8. In 2002, Petitioner was arrested in Bergen County and charged under Indictment No. S-362302 with distribution of controlled dangerous substances, conspiracy to distribute CDS, and distribution of CDS within 1,000 feet of school property. (Judgment, **Attached**)

9. At the time of his arrest and throughout the pendency of the case, Petitioner did not speak, read, or understand English. He could not communicate with law enforcement officers, court staff, or attorneys without assistance. He had no understanding of the criminal justice process, the nature of the charges, or the potential consequences of a conviction.

10. According to Petitioner's sworn statement, Petitioner retained attorney Joseph H. Burns to represent him. Petitioner relied entirely on Mr. Burns because he had no ability to understand the proceedings on his own.

11. Petitioner appeared in court without an interpreter, when he entered a guilty plea. Petitioner recalls sitting in the courtroom during the plea hearing, hearing English words he did not understand, and simply following counsel's instructions to answer "yes" or "no" when prompted. He did not understand the judge's questions, the rights he was waiving, or the consequences of the plea.

12. Petitioner's inability to understand English was not subtle or ambiguous. He could not read the plea forms. He could not understand the plea colloquy. He could not comprehend the legal terminology used in court. He relied entirely on counsel to explain what was happening. Counsel did not explain the elements of the offenses, the potential penalties, or the collateral consequences of the plea. Instead, counsel told Petitioner that pleading guilty would result in a shorter sentence and that he should "just say yes" when the judge asked questions.

13. Most critically, according to Petitioner's sworn-affidavit, counsel told Petitioner that he could

never be deported because he entered the United States before 1995. Counsel explained that Vietnam did not accept the return of individuals who arrived before diplomatic normalization in July 1995.

Counsel presented this as an absolute rule, not a risk assessment or a possibility.

14. Petitioner believed counsel because he had no independent ability to verify or question the information. According to Petitioner's affidavit, no one — not the judge, not the prosecutor, not any court official — ever advised Petitioner that his conviction would be considered an “aggravated felony” under federal immigration law or that deportation was a mandatory consequence of such a conviction.

15. Petitioner accepted the plea solely because he believed counsel's assurances. He did not understand that he was admitting guilt to offenses that carried severe immigration consequences. He did not understand that he was exposing himself to mandatory removal under federal law. He did not understand that the plea would follow him for the rest of his life.

16. Petitioner served approximately two years in state prison. Upon his release in 2004, he was taken into ICE custody for routine post-sentence processing. ICE officers informed him that he would be released because Vietnam would not accept individuals who entered the United States before 1995. Petitioner was released and instructed to report annually to ICE.

17. For the next twenty years, Petitioner complied with every reporting requirement. He appeared at ICE offices annually, answered questions to the best of his ability despite his limited English, and was permitted to return home each time. He was never detained, never warned, and never told that he was at risk of removal.

18. During this period, Petitioner built a stable life in the United States. He married, raised children, worked continuously, and became a grandfather. His entire family — his wife, children, and grandchildren — are U.S. citizens or lawful residents. He has no meaningful ties to Vietnam, has not returned since 1993, and has no family or support system there.

19. For more than two decades, the federal government's conduct appeared to confirm counsel's

assurances. The United States and Vietnam maintained a bilateral repatriation framework under which Vietnam generally refused to accept the return of individuals who entered the United States before July 12, 1995. ICE officers across the country informed pre-1995 Vietnamese nationals that they were not removable. Petitioner reasonably believed that his immigration status, though precarious, was effectively stable.

20. Everything changed in June 2025, when ICE abruptly reversed its long-standing policy and announced that pre-1995 Vietnamese lawful permanent residents with aggravated felony convictions may now be removed. This policy shift occurred in connection with a new Memorandum of Understanding between the United States and Vietnam expanding cooperation on repatriation. For the first time in more than twenty years, Petitioner learned that he was in immediate danger of deportation.

21. The 2025 policy reversal was not reasonably foreseeable at the time of the plea. It contradicted decades of government practice and the assurances Petitioner received from counsel and ICE. It transformed the consequences of Petitioner's conviction from theoretical to existential. Petitioner filed this motion promptly after learning of the policy change.

22. Petitioner now seeks relief because his plea was not knowing, intelligent, or voluntary; because he was deprived of effective assistance of counsel; because he was never provided an interpreter; and because newly discovered evidence — the 2025 ICE policy reversal — fundamentally alters the consequences of his conviction.

ARGUMENT

23. New Jersey's post-conviction relief framework requires courts to look beyond the five-year filing period when a petition presents substantial constitutional claims or when the circumstances surrounding the delay demonstrate excusable neglect or fundamental injustice.

24. This petition raises all of those concerns. The Petitioner's inability to understand English, the

absence of an interpreter at a critical stage of the proceedings, counsel's affirmative mis-advice regarding deportation, and the federal government's long-standing representations about repatriation prevented him from understanding the consequences of his plea or the need to seek relief earlier.

25. The 2025 ICE policy reversal further constitutes newly discovered evidence that fundamentally alters the consequences of the conviction and could not have been discovered sooner. These issues, taken together, require relaxation of the time bar and full consideration of the petitioner's claims, which are addressed in the sections that follow.

A. Excusable Neglect and Fundamental Injustice

26. Although this petition was filed outside the five-year period set forth in Rule 3:22-12(a)(1)(A), New Jersey law does not treat the time bar as absolute. The Supreme Court has made clear that a PCR court must consider whether the delay resulted from excusable neglect and whether enforcing the time bar would produce a fundamental injustice. These concepts are not technicalities; they are the core equitable principles that determine whether an otherwise untimely petition must still be heard.

27. In *Norman*, supra, the Appellate Division explained that excusable neglect exists when the delay is attributable to circumstances beyond the defendant's control, and that courts must consider the defendant's personal limitations, the information available to him, and the practical realities of his situation. In *Murray*, supra, the Supreme Court stressed that the time bar should not be used to defeat meritorious constitutional claims, particularly where the defendant challenges the integrity of the plea process. And in *State v. Mitchell*, 126 N.J. 565 (1992) the Court instructed PCR courts to evaluate the reasons for the delay, the nature of the claims, the extent of the delay, and the prejudice to both parties.

28. Applying these principles here, the Petitioner's delay was caused entirely by circumstances he could not control. As he explains in his affidavit, he did not speak or understand English, was not provided an interpreter at critical stages of the proceedings, and relied completely on counsel's

assurances that deportation was impossible. For more than twenty years, ICE officers reinforced this belief by releasing him annually, never detaining him, and never warning him that he was at risk of removal. The Petitioner had no independent ability to investigate or understand immigration law, and no reason to believe that his conviction carried any immigration consequences.

29. Only in June 2025, when ICE abruptly reversed its long-standing policy and announced that pre-1995 Vietnamese lawful permanent residents could now be removed, did the Petitioner learn that he was in danger of deportation. He filed this petition promptly thereafter. Under Norman, Murray, and Mitchell, these circumstances constitute excusable neglect, and enforcing the time bar would produce a profound injustice.

B. Newly Discovered Evidence

30. The 2025 ICE policy reversal constitutes newly discovered evidence that independently justifies PCR review. New Jersey courts recognize that newly discovered evidence includes not only facts existing at the time of trial but also later developments that materially alter the consequences of a conviction. In *State v. Nash*, 212 N.J. 518 (2013) the Supreme Court explained that PCR must remain responsive to changes in law or policy that expose constitutional defects in earlier proceedings.

31. In New Jersey the rule governing “newly discovered evidence” has an inclusive caveat. “A significant change in a governmental rule, statute or policy, especially if it expands or alters evidence admissibility can be treated as a *“material change in circumstances or new development impacting a case allowing for reevaluation...and often influences on going case proceedings or post-conviction relief (PCR) under specific circumstances demonstrating flexibility in NJ Courts new legal landscape”* (See, Expanded Rule 608, Expanded July, 2020). As such, the above facts qualify the “newly discovered evidence” doctrine to apply in this case and allow this case to be heard.

C. Fundamental Injustice

32. The New Jersey Standard of “Fundamental Injustice” is primarily an exception used to relax procedural time bars for filing for post-conviction motions. While courts acknowledge the possibility of “miscarriages of justice,” specific published cases where a conviction was overturned solely and explicitly on the ground of a “fundamental injustice” claim. See, *State v. Hannah*, 256 A.3d 1035; 146 Supreme Court (9021). Court held that a time bar does not prevent a court from reviewing ineffective assistance of counsel claims if enforcing the a time bar would result in a “fundamental injustice,” especially involving a case of actual innocence or denial of a fair trial.”; *State v. Nash*, 58 A.3d 705; 212 N.J. Supreme Court (2013) (Court described post-conviction relief as the “last line of defense against a miscarriage of justice”). The facts contained herein, *passim*, establish that the “fundamental injustice” exception should apply in this case and the court should proceed to hear this motion for PCR.

D. Ineffective Assistance of Counsel

33. The Petitioner was deprived of the effective assistance of counsel. The governing standard is set forth in *Strickland v. Washington*, 104 S.Ct. 2052 (1984) and adopted in New Jersey in *State v. Fritz*, 105 N.J. 42 (1987). A defendant must show that counsel’s performance was deficient and that the deficiency prejudiced the defense. In *Padilla v. Kentucky*, 559 U.S. 356 (2010) the United States Supreme Court held that counsel has an affirmative duty to correctly advise a non-citizen defendant about the immigration consequences of a guilty plea. The New Jersey Supreme Court adopted this rule in *State v. Gaitan*, 209 N.J. 339 (2012) and in *State v. Nunez-Valdez*, 200 N.J. 129 (2009) the Court held that affirmative mis-advice about immigration consequences renders a plea invalid.

34. The Petitioner’s affidavit alleges facts that, if proven, would establish that counsel’s performance fell far below these standards. Counsel did not merely fail to advise the petitioner about immigration consequences; he affirmatively misrepresented that deportation was impossible. Counsel did not explain that the charged offenses constituted aggravated felonies under federal law or that such

convictions trigger mandatory removal. Counsel did not secure an interpreter, despite the Petitioner's inability to understand English. Counsel instructed the petitioner to answer "yes" during the plea colloquy without understanding the questions. These failures violate Padilla, Gaitan, and Nunez-Valdez. The Petitioner further certifies in his sworn affidavit that he would not have pled guilty had he known deportation was possible. Under Nunez-Valdez and the prejudice standard articulated in Strickland and Fritz, this is sufficient to establish deficient performance.

E. The Plea Was Not Knowing, Intelligent, or Voluntary

35. New Jersey law requires that a defendant understand the nature of the charges, the rights being waived, and the consequences of the plea. Rule 3:9-2 codifies this requirement, and cases such as *State v. Slater*, 198 N.J. 145 (2009) reaffirm that a plea must be entered with full comprehension. When a defendant has limited English proficiency, courts must ensure that appropriate language assistance is provided. In *State v. Rodriguez*, 179 N.J. Super. 129 (1981), the Appellate Division held that a plea entered without adequate interpretation cannot stand because the defendant cannot meaningfully understand the proceedings.

PREJUDICE:

36. Under the standards of *Strickland v. Washington*, 466 US 688 (1984) and *State v. Fritz*, 519 N.J. 336, 342 (1987) to establish prejudice, a petitioner must show that, "but for counsel's errors (i.e. deficient performance) the result of the proceedings would have been different." A "reasonable probability" has been defined as a probability sufficient to undermine the outcome." *Strickland/Frit, supra*. Courts have also declared a "reasonable probability" can be defines as whether it is "more likely than not" that the outcome of the proceedings would have been different.

37. Applying these bedrock standards, the question becomes whether having been in the United States since 1993, having established a family with children and now grandchildren, having been gainfully employed with opportunities that could not be acquired in Viet Nam, having established a

livelihood whereby he was depended upon by his family, would risk automatic deportation by not proceeding to trial to try and avoid deportation. The answer to this question is in the negative. Therein lies the actual prejudice. Logic dictates that any normal person facing such consequences would opt for trial as they would have nothing to lose because deportation would ultimately ruin his entire life and that of his family. Doan declares that he would not have accepted the plea and would have proceeded to trial if accurately and truthfully informed by his attorney. See, *State v. Nunez-Valdez*, 200 N.J. 129, 139 (2009) citing the Strickland prejudice under a guilty-plea circumstances whereby defendant must show a reasonable probability that but for counsel's errors he would not have accepted the guilty plea and would have proceeded to trial. See also, *State v. DeFrisco*, 137 N.J. 434, 457 (1994) (same). Accordingly, Doan has established both prongs of the Strickland/Fritz Standard of ineffective assistance of counsel and this Court should move forward with this PCR motion and conduct an evidentiary hearing.

F. An Evidentiary Hearing is Required

38. New Jersey law requires an evidentiary hearing when a defendant presents a prima facie case for relief and when the existing record is insufficient to resolve the disputed issues. In *State v. Preciose*, 129 N.J. 451 (1992) the Supreme Court emphasized that PCR is intended to serve as a safeguard against constitutional violations and that a hearing is necessary whenever material facts are in dispute or when the defendant's claims cannot be evaluated solely on the existing record. The Court explained that a hearing is particularly important where the defendant's allegations, if true, would entitle him to relief, and where the factual issues raised concern matters outside the trial record.

39. The Petitioner's affidavit raises several material factual issues that cannot be resolved without testimony and cross-examination. These include the nature and content of counsel's advice regarding deportation, the Petitioner's inability to understand English, the absence of an interpreter during

attorney meetings and court proceedings, the Petitioner's understanding of the plea colloquy, and the circumstances surrounding the 2025 ICE policy reversal.

40. None of these issues can be resolved by reference to the plea transcript alone. The transcript does not reflect the Petitioner's comprehension, the private communications between counsel and client, or the immigration advice that was or was not provided. Nor does it capture the Petitioner's language limitations or the absence of interpretation during critical stages of the proceedings.

41. When a defendant asserts that he did not understand the proceedings due to language barriers and lack of interpretation, a hearing is required to assess credibility and to determine whether the plea was knowing and voluntary. The same is true when a defendant asserts that counsel provided affirmative mis advice regarding deportation. These issues cannot be resolved on paper; they require testimony from the petitioner, plea counsel, and potentially other witnesses. The petitioner's sworn statements, if credited, would establish ineffective assistance of counsel, an involuntary plea, and a fundamental injustice. Under *Preciose*, the petitioner has more than met the threshold for an evidentiary hearing, and the Court should schedule one to fully develop the factual record.

CONCLUSION

42. For all the reasons set forth above, the Petitioner has demonstrated that his delay in filing was the product of the well establish exceptions, ante, that enforcing the time bar would result in a fundamental injustice, and that newly discovered evidence independently warrants review. He has further shown that he was deprived of the effective assistance of counsel and that his plea was not knowing, intelligent, or voluntary due to language barriers, lack of interpretation, and affirmative mis-advice regarding deportation.

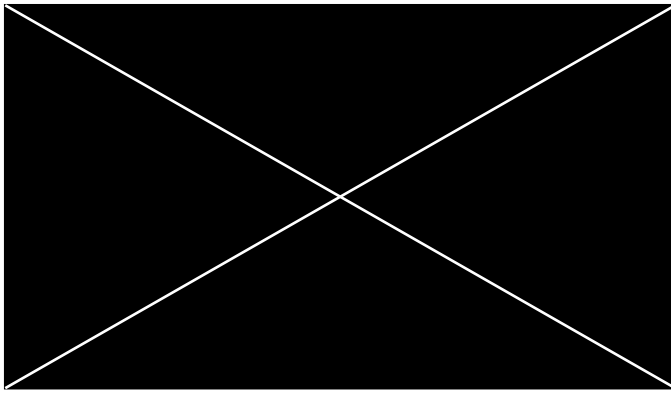
43. These circumstances strike at the core of the constitutional protections that govern the plea process and undermine confidence in the outcome of the proceedings. The petitioner respectfully requests that the Court relax the time bar, grant post-conviction relief, vacate the conviction, permit

withdrawal of the guilty plea, and schedule an evidentiary hearing to fully develop the factual record.

Respectfully submitted,

Hai T. Doan

Hai T. Doan, Pro se



12/13/2025

Dated

EXHIBIT A

Affidavit of Hai T. Doan

I, Hai T, Doan, being duly sworn according to law, certify as follows:


1. I came to the United States in the 1993 and have lived here continuously since that time. English is not my first language, and at the time of my arrest and plea I did not speak, read, or understand English. I relied entirely on others to communicate for me. I was not provided an interpreter by my attorney or by the court, during the critical stages of the proceedings.
2. When I met with my attorney before entering my plea, we did not use an interpreter. I did not understand the conversations we had unless he spoke slowly or used gestures. I trusted him to explain everything to me because I could not understand the legal system or the English language.
3. My attorney told me that I could not be deported because I entered the United States before 1995. He said that Vietnam would not take people back who came before that date and that immigration was "not an issue" for me. I believed him because I had no way to check or understand immigration law on my own.
4. My attorney never told me that the charges I was pleading to were considered aggravated felonies under immigration law. He never told me that deportation would be mandatory. He never warned me that pleading guilty could cause me to lose my green card or be removed from the United States.
5. On the day of my plea, I did not understand the plea form or the questions the judge asked me. My attorney told me to answer "yes" to the judge's questions, and I did so because I trusted him and because I did not understand what was being said. I did not knowingly or voluntarily waive my rights because I did not understand them.
6. For more than twenty years after my conviction, I reported to ICE as required. Every year, ICE officers told me that I could not be deported because I came to the United States before 1995. They released me each time without detaining me and never warned me that I was at risk of removal. This

confirmed what my attorney had told me, and I believed that immigration was not a problem for me.

7. I did not know that I had any reason to challenge my conviction or my plea. I did not know that my attorney had given me wrong information. I did not know that my plea carried immigration consequences. I did not know that I could file for post-conviction relief. Because I did not understand English and had no knowledge of the law, I had no way to discover these issues on my own.

8. In June 2024, I learned for the first time that ICE had changed its policy and that Vietnam would now accept the return of people who entered the United States before 1995. This was the first time I understood that I could be deported. I was shocked because this was inconsistent with what I had understood based on prior communications with my attorney and ICE over the years.

9. As soon as I learned that I was at risk of deportation, I sought legal help and began the process of filing this petition. I filed it as quickly as I could once I understood the danger I was in. [Note: The specific date when I sought legal assistance was September, 2025, and this petition was filed on December 15, 2025.

10. I have lived in the United States for more than thirty years, since 1993]. My wife Chrisy Li, Children, Sophia tu anh Doan, 23 years old, Sebastian bao anh Doan, 18 years old, , 2 years old. and grandchildren [number and ages] all live here in the United States and are [U.S. citizens/lawful permanent residents]. I have no meaningful ties to Vietnam and no family there. I have not returned to Vietnam since [year] and do not speak [Vietnamese language proficiency]. Being deported would separate me from my entire family and everything I have built in my life, including [specific details about employment, community ties, property ownership, etc.].

11. If I had known that I could be deported because of my plea, I would never have pled guilty. I would have insisted on going to trial or would have sought to negotiate a different outcome that would not result in deportation. I relied on my attorney's advice regarding the immigration consequences of my plea, and I was not properly advised of the deportation risk.

I declare under penalty of perjury under the laws of the State of New Jersey that the foregoing statements made by me are true and correct pursuant to N.J.S.A. 2C-28-1; 28 U.S.C. Section 1746.

Hai T. Doan

Date: December 13, 2025

Hai T Doan

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

APPLICATION FOR A STAY OF DEPORTATION OR REMOVAL

<p align="center">Action Block - For ICE Use Only</p> <p> <input type="checkbox"/> GRANTED <input type="checkbox"/> One Year <input type="checkbox"/> Six Months <input type="checkbox"/> Three Months <input type="checkbox"/> Other: <u>N/A</u> <input type="checkbox"/> DENIED <input type="checkbox"/> Denial letter attached. <input type="checkbox"/> REJECTED <input type="checkbox"/> Incorrect Fee <input type="checkbox"/> Application was not submitted in person <input type="checkbox"/> Other: <u>N/A</u> <input type="checkbox"/> Additional information attached. </p> <p>Date: _____ Decision made by: _____ <u>N/A</u> (Printed Name/Title)</p> <p>Deciding Official Signature _____ Office: <u>N/A</u> (Sign in Ink): _____</p>	<p align="center">Fee/Date Stamp</p>
---	---

A-File Number: [REDACTED]	Date: [REDACTED]	If you are currently detained by ICE, provide the name of the detention facility: <u>N/A</u>
Last Name: <u>Doan</u>	First Name: <u>Hai</u>	Middle Name: <u>Tu</u>
Address (Number and Street): [REDACTED]		Country of Citizenship: <u>Vietnam</u>
Apartment Number: <u>N/A</u>		Passport No: [REDACTED]
Town/City: [REDACTED]		Expiration Date: [REDACTED]
State: [REDACTED]	Zip Code: [REDACTED]	Length of stay requested: <input checked="" type="checkbox"/> One year <input type="checkbox"/> Six months <input type="checkbox"/> Three months <input type="checkbox"/> Other: <u>N/A</u>
Telephone Number: [REDACTED]	Cell Telephone Number: [REDACTED]	Arrested by police or other law enforcement agency (other than for immigration reasons) <input type="checkbox"/> Yes - Documents attached <input checked="" type="checkbox"/> No

REASON(S) FOR REQUESTING A STAY OF DEPORTATION OR REMOVAL:

Mr. Doan respectfully requests a stay of removal. He has a pending Post-Conviction Relief motion in New Jersey challenging the underlying conviction, a pending I-130 filed by his U.S.-citizen spouse, and more than 20 years of full ICE compliance. Removal would cause severe hardship to his U.S.-citizen family. Please see the attached cover letter, supporting declaration, and exhibits for a full explanation.

EVIDENCE SUBMITTED (attached):

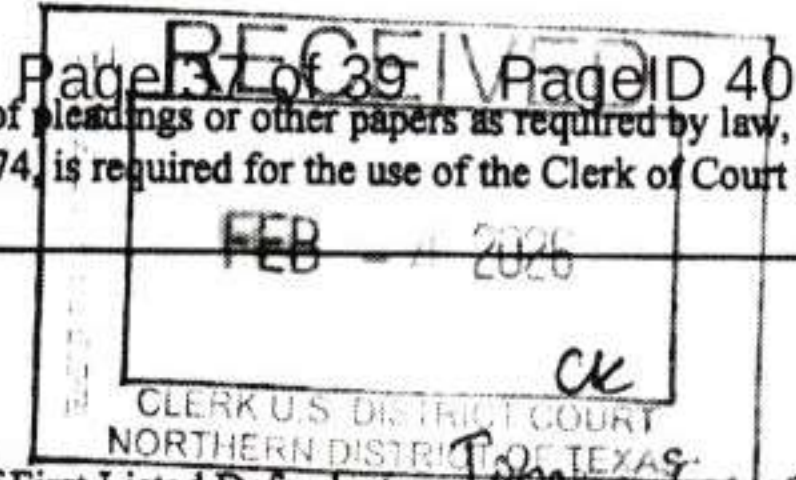
<input type="checkbox"/> Medical <input checked="" type="checkbox"/> Brief <input type="checkbox"/> Other (specify): _____ See attached brief and exhibits. Pending PCR, pending I-130, long-term ICE compliance, U.S.-citizen family hardship.
I certify under penalty of perjury that the information provided and contained herein is true and correct to the best of my knowledge and belief: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p align="center"><u>Hai Tu Doan</u> (Printed Name)</p> </div> <div style="width: 45%;"> <p align="center">_____ (Signature) (Sign in Ink)</p> </div> </div>

INFORMATION IF FORM PREPARED BY OTHER THAN APPLICANT:

I declare under penalty of law that this document was prepared by me at the request of the applicant and is based on all information of which I have knowledge. I understand that providing false information on behalf of the applicant could result in criminal prosecution and, upon conviction, a fine or imprisonment or both.				
<p align="center"><u>Timothy Andrew Gambacorta</u> (Printed Name)</p>		<p align="center">_____ (Signature) (Sign in Ink)</p>		
<p align="center">[REDACTED] (Telephone Number)</p>	<p align="center">[REDACTED] (Street Address)</p>	<p align="center">[REDACTED] (City)</p>	<p align="center"><u>IL</u> (State)</p>	<p align="center"><u>60077</u> (Zip Code)</p>

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)



I. (a) PLAINTIFFS

DEFENDANTS

(b) County of Residence of First Listed Plaintiff Johnson County
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Johnson County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)
Pro se, Prairieland Detention Center

Attorneys (If Known) Warden
209 Sunflower Lane
Alvardo, TX 76009 phone: 214-424-7800

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|---------------------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input checked="" type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input checked="" type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	PERSONAL INJURY	LABOR	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		INTELLECTUAL PROPERTY RIGHTS	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	PERSONAL PROPERTY	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 791 Employee Retirement Income Security Act	SECURITIES	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PRISONER PETITIONS		<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability		<input checked="" type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 510 Motions to Vacate Sentence	<input checked="" type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 500 Securities/Commodities/Exchange
		<input type="checkbox"/> 530 General		<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 535 Death Penalty		<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	Other:		OTHER STATUTES	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 555 Prison Condition			<input checked="" type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 448 Education				

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. § 2241
Brief description of cause: requesting stay or postponement of removal order pending outcome of state vacatur

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

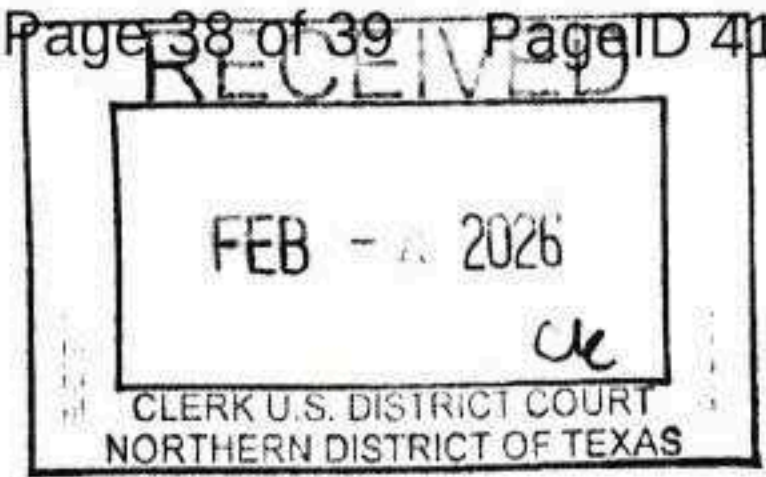
VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 01/29/2026 SIGNATURE OF ATTORNEY OF RECORD Hai Tu Doan, pro se

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____



Hai Tu Doan
ID#: [REDACTED]
Prairieland Detention Center
1209 Sunflower Lane
Alvarado, TX 76009

January 27, 2026

Clerk of The Court
U.S. District Court
Northern District of Texas
1100 Commerce Street, #1452
Dallas, TX 75242

RE: Hai Tu Doan v. Brantley David Starr, Warden
Emergency Motion for Habeas Corpus Relief
Pursuant to 28 U.S.C. Section 2241

Dear Sir or Madam:

Enclosed are documents for filing which include:

1. Civil Cover Sheet *Financial Affidavit*
2. Emergency Motion for Appointment of Counsel
3. Application for habeas corpus, pursuant to 28 U.S.C. Section 2241
4. Memorandum of Law in support of emergency motion pursuant to Section 2241
5. Attachments
6. Hai Doan's proof of Legal Resident Alien
7. Judgment from State of New Jersey aggravated felony
8. Homeland Security Order of Supervision
9. Homeland Security Notice of June, 2025 changed Policy
10. Homeland Security Order of Supervision
11. ICE Court report of annual reporting from 2024
12. Post-Conviction Relief Motion from State of New Jersey
13. Filing of Application of Stay filed by an attorney

Attached to this letter is the check of \$5.00 for the filing fee. Thank You for your kindness and consideration in this matter. If there are any questions please advise immediately.

Your Truly,

A handwritten signature in cursive script that reads "Hai Tu Doan".

Hai Tu Doan