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Tien VO

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

Tien VO,

Petitioner-Plaintiff,

v.

Sergio ALBARRAN, Acting Field Office Director of
San Francisco Office of Detention and Removal, U.S.
Immigrations and Customs Enforcement; U.S.
Department of Homeland Security;

Todd M. LYONS, Acting Director, Immigration and
Customs Enforcement, U.S. Department of Homeland
Security;

Kristi NOEM, in her Official Capacity, Secretary,
U.S. Department of Homeland Security; and

Pam BONDI, in her Official Capacity, Attorney
General of the United States;

Respondents-Defendants.

Case No. 3:26-cv-1489

**PETITION FOR WRIT OF
HABEAS CORPUS AND
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

Challenge to Unlawful
Incarceration Under Color of
Immigration Detention Statutes;
Request for Declaratory and
Injunctive Relief

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INTRODUCTION

1. Petitioner, Tien VO (“Mr. Vo” or “Petitioner”), by and through undersigned counsel, hereby files this petition for writ of habeas corpus and complaint for declaratory and injunctive relief to prevent the U.S. Department of Homeland Security (“DHS”), U.S. Immigration and Customs Enforcement (“ICE”) from returning him to immigration detention without first providing him a due process hearing before a neutral adjudicator, namely a federal district Court, where the government bears the burden of demonstrating that his removal to Vietnam is reasonably foreseeable and otherwise whether circumstances have changed such that his re-detention would be justified—that is, whether he poses a danger or a flight risk.

2. Mr. Vo has a removal order to Vietnam (and Vietnam only) from 2000 which the Respondents have not been able to execute. He was recently released from ICE detention on January 22, 2026, after the federal judge in the Easter District of California determined that removal is not foreseeable and ICE did not follow its own procedures. *Vo v. Albarran*, No. 1:25-CV-01530 JLT SKO, 2026 WL 177796, (E.D. Cal. Jan. 22, 2026). He has since filed a compelling motion to reopen his removal order, which is pending before the Board of Immigration Appeals (“BIA”), because he is no longer removable as his convictions were all vacated. Castillo Decl. at Exh. I (Vacatur Documents).

3. Currently, there remains no credible evidence that ICE will ever be able to execute Mr. Vo’s removal because (1) there is no proof of a valid travel permit and (2) Vietnam likely does not consider him a citizen and thus any travel permit is under suspect. Therefore, his removal remains unforeseeable.

4. Mr. Vo has also never been ordered removed to any third country apart from Vietnam, nor has he been notified of such potential removal. He thus seeks additionally to prevent ICE from summarily removing him to a third country without first being provided constitutionally-compliant procedures—in this instance, notice of any third-country removal and an adequate opportunity to apply for fear-based relief as to that country. Given the order of the Supreme Court of the United States on June 23, 2025, in *U.S. Department of Homeland Security, et al. v. D.V.D., et al.*, No. 24A1153, 2025 WL 1732103 (June 23, 2025), which stayed the nationwide injunction that had

1 precluded Respondents from removing noncitizens to third countries without notice and an
2 opportunity to seek fear-based relief, ICE appears emboldened and intent to implement its
3 campaign to send noncitizens to far corners of the planet—places they have absolutely no
4 connection to whatsoever¹—in violation of clear statutory obligations set forth in the Immigration
5 and Nationality Act (“INA”), binding treaty, and due process. In the absence of the nation-wide
6 injunction, individual lawsuits like the instant case are the only method to challenge the illegal
7 third-country removals.

8 5. Mr. Vo survived a gruesome war in Vietnam as a child, and he fled Vietnam in 1980 with
9 his family when he was about five or six years old.

10 6. Mr. Vo entered the United States in 1980 around the age of six as a refugee. He later
11 became a U.S. lawful permanent resident.

12 7. Mr. Vo was in removal proceedings in 2000. At that time, Vietnamese individuals like Mr.
13 Vo who entered the United States before July 1995 would have been aware of the repatriation
14 agreement between the United States and Vietnam that applied to them which prevented
15 repatriation to Vietnam.² He was ordered removed on or about March 20, 2000. He had a removal
16 hearing at the Immigration Court in Imperial, California. Though he did indeed fear removal to
17 Vietnam, as he tried to file an application for asylum, convention against torture and withholding
18 of removal, he initially accepted the removal order, because he knew he would not actually be
19 deported based on the explicit terms of the repatriation agreement between the U.S. and
20 Vietnamese, and his primary goal was to be released from detention as quickly as possible so that

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22 ¹ CBS News, “Politics Supreme Court lets Trump administration resume deportations to third
23 countries without notice for now” (June 24, 2025), available at:
24 [https://www.cbsnews.com/news/supreme-court-lifts-lower-court-order-blocking-deportations-to-](https://www.cbsnews.com/news/supreme-court-lifts-lower-court-order-blocking-deportations-to-third-countries-without-notice/)
25 [third-countries-without-notice/](https://www.cbsnews.com/news/supreme-court-lifts-lower-court-order-blocking-deportations-to-third-countries-without-notice/); International Refugee Assistance Project, “Trump
26 Administration’s Third Country Removals Put Migrants in Harm’s Way,” available at:
27 [https://refugeerights.org/news-resources/trump-administrations-third-country-removals-put-](https://refugeerights.org/news-resources/trump-administrations-third-country-removals-put-migrants-in-harms-way)
28 [migrants-in-harms-way](https://refugeerights.org/news-resources/trump-administrations-third-country-removals-put-migrants-in-harms-way) (last visited No. 19, 2025).

² See U.S. Department of State, “Repatriation Agreement Between the United States of America
and Vietnam” (Jan. 22, 2008), available at: [https://www.state.gov/wp-](https://www.state.gov/wp-content/uploads/2019/02/08-322-Vietnam-Repatriations.pdf)
content/uploads/2019/02/08-322-Vietnam-Repatriations.pdf (“Vietnamese citizens are not
subject to return to Vietnam under this Agreement if they arrived in the United States before July
12, 1995....”).

1 he could begin to rebuild his life. He also had reason to believe that he was no longer a citizen of
2 Vietnam because he had visited while still a lawful permanent resident and was given a tourist visa
3 to enter Vietnam, something that would not have happened to a citizen of that country.

4 8. Due to the existing repatriation agreement, Mr. Vo could not be removed to Vietnam, and
5 therefore his continued detention by ICE would be indefinite and unconstitutionally prolonged if
6 he were to remain in ICE detention. Therefore, consistent with Supreme Court law, he was
7 thereafter released from ICE custody after approximately 180 days and placed on an OSUP in
8 2000, attend regular check in appointments in person at the ICE San Francisco Offices. For the
9 past nearly twenty-five years, Mr. Vo has complied with the terms of his OSUP by regularly
10 attending all his check ins at the ICE San Francisco Office. He also applied for and received a
11 work authorization document.

12 9. He was detained when he reported to ICE for a check in September 5, 2025. At that time,
13 ICE did not have a valid travel document and there was no reasonable expectation that he would
14 be removed in the future. Judge Thurston of the Eastern District of California granted his petition
15 for writ of habeas corpus on January 22, 2026, and he was released from ICE detention.

16 10. Mr. Vo is scheduled to attend a check-in at the ICE San Francisco Field Office on February
17 26, 2026. Castillo Decl. He previously attended his annual check in at the ICE San Francisco
18 Field Office on January 26, 2026. *Id.* At that time, he was instructed to return for another check-
19 in only a month later. *Id.* Undersigned counsel has been communicating with counsel for the
20 Respondents regarding whether ICE intends to detain Mr. Vo at this upcoming appointment. *Id.*
21 On February 17, 2026, Respondents' counsel relayed ICE's claim that they have a travel
22 document for Petitioner but have not provided copy of this alleged document despite undersigned
23 counsel's requests.

24 11. Currently, Vietnam has strict regulations and vetting process to determine which deportee
25 is a citizen prior to providing travel permits. *Id.* at Exh. B (Dr. Thao Ha Declaration) Dr. Ha's
26 report confirms that Mr. Vo is likely not a Vietnamese citizen, which calls into question the
27 validity of any alleged travel permit. This concern is not unfounded. Recent cases involving
28 OSUP deportee show credible proof of alteration of travel permits or biographic information for

1 deportees that, similar to Mr. Vo, should not be receiving travel permits in the first place.
2 *Viengkhone S. v. Albarran*, No. 25-cv-01505, 2025 WL 3521302 at Dkt. 17, 2025 U.S. Dist.
3 LEXIS 253472, at Dkt. 17 (E.D. Cal. Dec. 8, 2025).

4 12. Credible and recent reports of ICE re-incarcerating individuals at their ICE check-ins³—
5 including undersigned counsel’s own experience with two similarly situated clients who were
6 recently re-arrested and re-detained during routine check-in appointments at ICE’s San Francisco
7 Field Office and one in Fresno Field Office—suggest it is highly likely that Mr. Vo will be once
8 again arrested and detained at this appointment, despite the fact that his removal is not reasonably
9 foreseeable as he cannot be repatriated to Vietnam, and he is neither a flight risk nor a danger to
10 the community. *Hoac v. Becerra, et al.*, 2:25-cv-01740-DC-JDP, 2025 WL 1993771 (E.D.C.A.
11 July 16, 2025) (ordering the immediate release of petitioner—a Vietnamese individual who
12 arrived to the United States as a refugee prior to 1995, who also has a final removal order and was
13 released from ICE detention and had been complying with an OSUP for years—after he was
14 unlawfully re-detained at a routine check (despite no changed circumstances) in at the ICE office
15 in San Francisco); *Phan v. Becerra, et al.*, 2:25-CV-01757-DC-JDP, 2025 WL 1993735
16 (E.D.C.A. July 16, 2025) (same). This is particularly true given that ICE has received multiple
17 directives to meet untenable daily arrest quotas that leave the agency no other option but to arrest
18 noncitizens whose incarceration is not necessary or justified.⁴ If Mr. Vo were to be arrested, he

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20 ³ See, e.g., “Immigrants at ICE check-ins detained, held in basement of federal building in Los
21 Angeles, some overnight,” CBS News (June 7, 2025),
22 [https://www.cbsnews.com/news/immigrants-at-ice-check-ins-detained-and-held-in-basement-
of-federal-building-in-los-angeles/](https://www.cbsnews.com/news/immigrants-at-ice-check-ins-detained-and-held-in-basement-of-federal-building-in-los-angeles/); “They followed the government’s rules. ICE held them
23 anyway,” LAist (June 11, 2025), [https://laist.com/news/politics/ice-raids-los-angeles-family-
detained](https://laist.com/news/politics/ice-raids-los-angeles-family-detained).

24 ⁴ See “Trump officials issue quotas to ICE officers to ramp up arrests,” *Washington Post* (January
25 26, 2025), available at: [https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-
raids-trump-quota/](https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/); “Stephen Miller’s Order Likely Sparked Immigration Arrests And Protests,”
26 *Forbes* (June 9, 2025), [https://www.forbes.com/sites/stuartanderson/2025/06/09/stephen-millers-
order-likely-sparked-immigration-arrests-and-protests/](https://www.forbes.com/sites/stuartanderson/2025/06/09/stephen-millers-order-likely-sparked-immigration-arrests-and-protests/) (“At the end of May 2025, ‘Stephen
27 Miller, a senior White House official, told Fox News that the White House was looking for ICE to
28 arrest 3,000 people a day, a major increase in enforcement. The agency had arrested more than
66,000 people in the first 100 days of the Trump administration, an average of about 660 arrests a
day,’ reported the New York Times. Arresting 3,000 people daily would surpass 1 million arrests
in a calendar year.”).

1 would face the very real possibility of being transferred outside of California with little or no
2 notice, far away from his family—including his U.S. citizen wife and U.S. citizen children.
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4 13. By statute and regulation, ICE has the authority to re-detain a noncitizen on an OSUP
5 previously ordered removed *only in specific circumstances*, including where an individual violates
6 any condition of release, changed circumstances show that their removal is reasonably foreseeable
7 because the country of removal has issued a travel document, or the individual's conduct
8 demonstrates that release is no longer appropriate. 8 U.S.C. § 1231; 8 C.F.R. § 241.4(l)(1)–(2).
9 That unilateral authority, however, is proscribed by the Due Process Clause because it is well-
10 established that individuals released from incarceration have a liberty interest in their freedom. In
11 turn, to protect that interest, on the particular facts of Mr. Vo's case, due process requires notice
12 and a hearing before this Court, *prior to any re-detention*, at which the government bears the
13 burden of demonstrating that his removal to Vietnam is reasonably foreseeable and otherwise
14 whether circumstances have changed such that his re-detention would be justified (whether he
15 poses a danger or a flight risk), and he is afforded the opportunity to advance his arguments as to
16 why he should not be re-detained.

17 14. Here, during his over twenty-five years of release, Respondents have created a reasonable
18 expectation that Mr. Vo is permitted to live and work in the United States without being subject to
19 arbitrary arrest and removal. This reasonable expectation creates constitutionally protected liberty
20 and property interests. *Perry v. Sindermann*, 408 U.S. 593, 601–03 (1972) (reliance on policies
21 and practices may establish a legitimate claim of entitlement to a constitutionally-protected
22 interest); *see also Texas v. United States*, 809 F.3d 134, 174 (2015), affirmed by an equally divided
23 court, 136 S. Ct. 2271 (2016) (explaining that “DACA involve[s] issuing benefits” to certain
24 applicants). These benefits are entitled to constitutional protections no matter how they may be
25 characterized by Respondents. *See, e.g., Newman v. Sathyavaglswaran*, 287 F.3d 786, 797 (9th
26 Cir. 2002) (“[T]he identification of property interests under constitutional law turns on the
27 substance of the interest recognized, not the name given that interest by the state or other
28 independent source.”) (internal quotations omitted).

1 15. Further, the Supreme Court has limited the potentially indefinite post-removal order
2 detention to a maximum of six months, because removal is not reasonably foreseeable. *Zadvydas*
3 *v. Davis*, 533 U.S. 678, 701 (2001); *see Cordon-Salguero v. Noem*, No. 1:25-cv-01626-GLR (D.
4 Md. June 18, 2025) (this six-month clock begins to run after the issuance of the final removal order
5 and does not stop upon release or restart upon re-detention). Because (1) the United States and
6 Vietnam have an agreement not to remove Vietnamese individuals who entered the United States
7 before July 12, 1995,⁵ (2) Vietnam has strict procedures in vetting Vietnamese citizenship before
8 issuing travel permits, (3) Dr. Ha’s report confirms Vietnam likely does not consider Mr. Vo a
9 Vietnamese citizen, and (4) ICE never produced proof of an alleged travel permit, Mr. Vo’s
10 removal is not reasonably foreseeable in this case.

11 16. The basic principle that individuals placed at liberty are entitled to process before the
12 government imprisons them has particular force here, where Mr. Vo was *already* previously
13 released twice from ICE detention in 2000 and 2026, the latter later determined to be unlawful
14 specifically because his removal is not reasonably foreseeable. He has begun to once again rebuild
15 his life, dedicate himself to rehabilitation, managed to vacate all his convictions, and now even file
16 a Motion to Reopen before the BIA because he is no longer removable.

17 17. Therefore, at a minimum, in order to lawfully re-arrest Mr. Vo, the government must first
18 establish before a truly neutral decision maker, which must be a federal district court, that his
19 removal to Vietnam is reasonably foreseeable and otherwise whether circumstances have changed
20 such that his re-detention would be justified (whether he poses a danger or a flight risk), such that
21 his re-detention is necessary. Current regulations and administrative limitations on Immigration
22 Courts do not allow the DOJ attorneys who have the title of “Immigration Judge (“IJ”)” to be
23 neutral adjudicators for purposes of due process.

24 18. Moreover, under the INA, Respondents’ only statutory obligation is to remove Mr. Vo to
25 the country designated for removal—in this case, Vietnam. 8 U.S.C. § 1231(b)(2)(A)(ii). Before
26 Mr. Vo could be removed to a third country, Respondents *must* first assert a basis under 8 U.S.C.
27 § 1231(b)(2)(C) and ICE *must* provide him with sufficient notice and an opportunity to respond

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⁵ *Supra* at n.2.

1 a third country.”); *Vaskanyan v. Janecka*, No. 25-cv-1475 (C.D. Cal. Jun. 25, 2025) (TRO
2 prohibiting government from “removing the petitioner “to a third country, i.e., a country other than
3 the countries designated as he countries of removal in Petitioner’s final order of removal...without
4 written notice to both Petitioner and Petitioner’s counsel in a language the Petitioner can
5 understand. Following notice, Petitioner must be given a meaningful opportunity, and a minimum
6 of ten (10) days, to raise a fear-based claim for protection under the Convention Against Torture
7 prior to removal. If Petitioner demonstrates ‘reasonable fear’ of removal to the third country,
8 Respondents must move to reopen Petitioner’s removal proceedings. If Petitioner is not found to
9 have demonstrated a ‘reasonable fear’ of removal to the third country, Respondents must provide
10 a meaningful opportunity, and a minimum of fifteen (15) days, for the non-citizen to seek
11 reopening of his immigration proceedings.”).

12 **CUSTODY**

13 19. Petitioner Mr. Vo is currently released from custody on an OSUP issued by ICE. Since his
14 release January 2026, the terms of his OSUP require him to attend check-ins with the San Francisco
15 ICE Field Office on a monthly basis, or as required, and comply with other conditions of release,
16 including updating his address. Such stringent requirements “impose[] conditions which
17 significantly confine and restrain his freedom; this is enough to keep him in the ‘custody’ of [the
18 DHS] within the meaning of the habeas corpus statute.” *Jones v. Cunningham*, 371 U.S. 236, 243
19 (1963). *See also Rodriguez v. Hayes*, 591 F.3d 1105, 1118 (“*Rodriguez P*”) (holding that
20 comparable supervision requirements constitute “custody” sufficient to support habeas
21 jurisdiction).

22 **JURISDICTION**

23 20. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331, general
24 federal question jurisdiction; 5 U.S.C. § 701, *et seq.*, All Writs Act; 28 U.S.C. § 2241, *et seq.*,
25 habeas corpus; 28 U.S.C. § 2201, the Declaratory Judgment Act; Art. 1, § 9, Cl. 2 of the United
26 States Constitution (Suspension Clause); Art. 3 of the United States Constitution, and the common
27 law.

28 **REQUIREMENTS OF 28 U.S.C. § 2243**

1 21. The Court must grant the petition for writ of habeas corpus or issue an order to show cause
2 (“OSC”) to Respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. §
3 2243. If an OSC is issued, the Court must require Respondents to file a return “within *three days*
4 unless for good cause additional time, *not exceeding twenty days*, is allowed.” *Id.* (emphasis
5 added).

6 22. Courts have long recognized the significance of the habeas statute in protecting individuals
7 from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ
8 known to the constitutional law of England, affording as it does a *swift* and imperative remedy in
9 all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis
10 added).

11 23. Habeas corpus must remain a swift remedy. Importantly, “the statute itself directs courts
12 to give petitions for habeas corpus ‘special, preferential consideration to insure expeditious hearing
13 and determination.’” *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (internal citations omitted).
14 The Ninth Circuit warned against any action creating the perception “that courts are more
15 concerned with efficient trial management than with the vindication of constitutional rights.” *Id.*

16 VENUE

17 24. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because the
18 Respondents are employees or officers of the United States, acting in their official capacity;
19 because a substantial part of the events or omissions giving rise to the claim occurred in the
20 Northern District of California; because Petitioner Mr. Vo is under the jurisdiction of the San
21 Francisco ICE Field Office, which is in the jurisdiction of the Northern District of California;⁷ and
22 because there is no real property involved in this action.

23 INTRADISRICT ASSIGNMENT

24 25. Petitioner Mr. Vo lives in San Francisco, and any decision to re-arrest and re-detain him
25 will be made by the San Francisco Field Office of ICE. Therefore, the assignment to the San
26 Francisco Division of this Court is proper under Local Rule 3-2(d).

27 ⁷ U.S. Immigration and Customs Enforcement, *ICE Field Office*,
28 <https://www.ice.gov/contact/field-offices> (stating the San Francisco ICE Field Office’s area of
responsibility is, as relevant here, “Northern California.”).

1 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

2 26. For habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional.
3 *Hernandez*, 872 F.3d at 988. A court may waive the prudential exhaustion requirement if
4 “administrative remedies are inadequate or not efficacious, pursuit of administrative remedies
5 would be a futile gesture, irreparable injury will result, or the administrative proceedings would
6 be void.” *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation
7 marks omitted)). Petitioner Mr. Vo asserts that exhaustion is satisfied as there is no administrative
8 jurisdiction over this detention status because he already has a final order of removal.

9 27. No statutory exhaustion requirements apply to Petitioner Mr. Vo’s claim of unlawful
10 custody in violation of his due process rights, and there are no administrative remedies that he
11 needs to exhaust. *See Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir.
12 1995) (finding exhaustion to be a “futile exercise because the agency does not have jurisdiction to
13 review” constitutional claims); *In re Indefinite Det. Cases*, 82 F. Supp. 2d 1098, 1099 (C.D. Cal.
14 2000) (same).

15 **PARTIES**

16 28. Petitioner Tien VO was born in Vietnam and fled to the United States as a refugee in 1980,
17 where he subsequently became a U.S. lawful permanent resident. He was detained twice in ICE
18 detention for over 180 days. First in 2000, when he was later released and placed on OSUP and
19 then in 2025 when he filed a petition for writ of habeas corpus, which was granted and again he
20 was placed on OSUP. He has attended regular check-ins at the ICE San Francisco Office for the
21 past more than twenty-five years, and he has worked pursuant to his work authorization document
22 and has begun to rebuild his life and reconnect with family during this time.

23 29. Respondent Sergio ALBARRAN is the Acting Field Office Director of ICE, in San
24 Francisco, California and is named in her official capacity. ICE is the component of the DHS that
25 is responsible for detaining and removing noncitizens according to immigration law and oversees
26 custody determinations. In her official capacity, she is the legal custodian of Petitioner Mr. Vo.

27 30. Respondent Todd M. LYONS is the Acting Director of ICE and is named in his official
28 capacity. Among other things, ICE is responsible for the administration and enforcement of the

1 immigration laws, including the removal of noncitizens. In his official capacity as head of ICE,
2 he is the legal custodian of Petitioner Mr. Vo.

3 31. Respondent Kristi NOEM is the Secretary of DHS and is named in her official capacity.
4 DHS is the federal agency encompassing ICE, which is responsible for the administration and
5 enforcement of the INA and all other laws relating to the immigration of noncitizens. In her
6 capacity as Secretary, Respondent Noem has responsibility for the administration and
7 enforcement of the immigration and naturalization laws pursuant to section 402 of the Homeland
8 Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); *see also* 8 U.S.C.
9 § 1103(a). Respondent Noem is the ultimate legal custodian of Petitioner Mr. Vo.

10 32. Respondent Pam BONDI is the Attorney General of the United States and the most senior
11 official in the U.S. Department of Justice (DOJ) and is named in her official capacity. She has the
12 authority to interpret the immigration laws and adjudicate removal cases. The Attorney General
13 delegates this responsibility to the Executive Office for Immigration Review (EOIR), which
14 administers the immigration courts and the BIA.

15 **STATEMENT OF FACTS**

16 33. Mr. Vo survived a gruesome war in Vietnam as a child, and he fled Vietnam in 1980 when
17 he was about five or six years old.

18 34. Mr. Vo then entered the United States in 1980 at the age of approximately six years old as
19 a refugee. He later became a U.S. lawful permanent resident.

20 35. Mr. Vo was in removal proceedings in 2000. At that time, Vietnamese individuals like Mr.
21 Vo who entered the United States before July 1995 would have been aware of the repatriation
22 agreement between the United States and Vietnam that applied to them which prevented
23 repatriation to Vietnam.⁸ He was ordered removed on or about March 20, 2000. He had a removal
24 hearing at the Immigration Court in Imperial, California. Though he did indeed fear removal to
25 Vietnam, as he initially tried to file an application for asylum, convention against torture and
26 withholding of removal, he accepted the removal order, because he knew he would not actually be
27 deported based on the explicit terms of the repatriation agreement between the U.S. and

28 _____
⁸ *See supra* n.2.

1 Vietnamese, and his primary goal was to be released from detention as quickly as possible so that
2 he could begin to rebuild his life. He also had reason to believe that he was no longer a citizen of
3 Vietnam because he had visited while still a lawful permanent resident and was given a tourist visa
4 to enter Vietnam, something that would not have happened to a citizen of that country.

5 36. Due to the existing repatriation agreement, Mr. Vo could not be removed to Vietnam, and
6 therefore his continued detention by ICE would be indefinite and unconstitutionally prolonged if
7 he were to remain in ICE detention. Therefore, consistent with Supreme Court law, he was
8 thereafter released from ICE custody after approximately 180 days and placed on an OSUP in 2000,
9 attend regular check in appointments in person at the ICE San Francisco Offices. For the past
10 nearly twenty-five years, Mr. Vo has complied with the terms of his OSUP by regularly attending
11 all his check ins at the ICE San Francisco Office. He was previously informed that ICE had
12 requested travel documents from Vietnam and that none were ever produced. He also applied for
13 and received a work authorization document.

14 37. On September 5, 2025, ICE arrested Mr. Vo during a routine check-in in San Francisco,
15 California. Without notice or the opportunity for a due process hearing, ICE took Mr. Vo into
16 custody. They did not let Mr. Vo talk and only took his fingerprints.

17 38. The only explanation given to Mr. Vo for his re-detention was that he had a “removal,”
18 which presumably is the removal order that existed since he was first ordered removed by the
19 Immigration Court and before his release from ICE detention. This is because Mr. Vo could not
20 be physically removed to any country due to the repatriation agreement in place that specifies that
21 individuals from Vietnam in his situation who entered the U.S. before 1995 would not be removed
22 by the United States and would not be accepted by Vietnam.

23 39. On November 10, 2025, Mr. Vo filed a petition for writ of habeas corpus before the Eastern
24 District of California federal court. *Vo v. Albarran*, No. 1:25-CV-01530 JLT SKO, 2026 WL
25 177796 (E.D. Cal. Jan. 22, 2026). In his petition, Mr. Vo filed a declaration from expert Dr. Thao
26 Ha, who reported that Vietnam likely does not consider Mr. Vo a Vietnamese citizen because of a
27 visa exemption the consulate recently issued him (specifying he could visit Vietnam temporarily
28 without a visa, something that would not even be necessary to provide to a citizen of that country).

1 Dr. Ha stressed that this is material because Vietnam only provides actual travel permits for
2 Vietnamese citizens, and there are strict procedures Vietnam employs to confirm citizenship. On
3 December 23, 2025, Magistrate Judge Oberto recommended a grant for his petition. *Id.* at Dkt. 11.
4 Specifically, Judge Oberto found that Respondents unlawfully detained Mr. Vo and did not
5 establish changed circumstances, such as ability to remove Mr. Vo, prior to detention. *Id.* In
6 support of this finding, Judge Oberto agreed with Mr. Vo in that ICE's Notice of Revocation of
7 Release ("NRR") was likely a boilerplate template that did not establish changed circumstances
8 nor that ICE properly followed their own regulations when revoking Mr. Vo's OSUP. *Id.* Federal
9 Judge Jennifer Thurston agreed and ordered Mr. Vo's immediate release on January 22, 2026. *Id.*
10 at Dkt. 14.

11 40. Following his release, Mr. Vo attended an ICE check-in, where ICE scheduled Mr. Vo for
12 a new check-in on February 26, 2026.

13 41. On January 30, 2026, Mr. Vo filed a Motion to Reopen and Rescind his removal order
14 before the BIA because all his convictions have been vacated as legally invalid, rendering him no
15 longer removable. Castillo Decl. at Exh. F (BIA Motion to Reopen Receipt). In support of his
16 motion, Mr. Vo filed proof of all his criminal conviction vacatur, a psychological evaluation
17 diagnosing him with PTSD due to severe trauma (and thus documenting the equitable tolling
18 relevant to his motion to reopen), recurring volunteer work with at-risk youth, a heroic deed that
19 helped prevent a massive summer fire in Vacaville, and documents confirming Mr. Vo is his
20 family's breadwinner and main source of support. Castillo Decl. at Exh. J (Positive Equities).

21 42. Due to concerns of another unlawful detention, undersigned counsel contacted United
22 States Attorneys from the Northern District of California on February 5, 2026, to notify them of
23 Mr. Vo's intention to file a petition for writ of habeas corpus to require that he receive
24 constitutionally protected procedures before Respondent could lawfully re-detain him.

25 43. On February 17, 2026, an Assistant United States Attorney informed undersigned counsel
26 that ICE alleged to have a travel document for Mr. Vo. Based on Dr. Ha's report confirming that
27 Mr. Vo is likely not a Vietnamese citizen and recent cases of the issuance of travel permits under
28 false pretenses, undersigned counsel requested a copy of the travel document. On February 18,

1 2026, the same United States Attorney reported that she did not have a copy and later suggested
2 that undersigned counsel contact Respondents directly for a copy. Based on credible information
3 and belief, it is undersigned counsel's understanding that ICE does not produce copies of travel
4 documents to the deportees directly. Nevertheless, undersigned counsel emailed ICE on February
5 19, 2026, requesting a copy of the travel document. As of February 19, 2026, there has been no
6 response.

7 44. Currently, Vietnam has strict regulations and vetting process to determine which deportee
8 is a citizen of that country prior to providing travel permits. Castillo Decl. at Exh. B (Dr. Thao Ha
9 Declaration). According to expert information from Dr. Ha, obtaining a travel permit requires "(1)
10 a Vietnamese birth certificate that existed at the time of birth or a reissued copy of the same birth
11 certificate that existed at the time of birth, (2) a completed passport application and biography form
12 (in Vietnamese), and (3) two passport photos meeting consular standards." *Id.* On the other hand,
13 Vietnam issues visa *exemptions* only to non-citizens, and issuance of a Vietnamese visa exemption
14 makes issuance of a Vietnamese travel permit to the same individual very unlikely. *Id.* Mr. Vo in
15 this case already has been issued a visa exemption, which calls into question the validity of any
16 alleged travel permit since it is very unlikely that the Vietnamese government would issue that to
17 him.⁹ This concern is not unfounded. Recent cases involving OSUP deportee show credible proof
18 of alteration of travel permits or biographic information for deportees that, similar to Mr. Vo,
19 should not be receiving travel permits in the first place. *Viengkhone S. v. Albarran*, No. 25-cv-
20 01505, 2025 WL 3521302 at Dkt. 17, 2025 U.S. Dist. LEXIS 253472, at Dkt. 17 (E.D. Cal. Dec.
21 8, 2025)

22 _____
23 ⁹ In reviewing Mr. Vo's Vietnamese visa exemption, Dr. Ha states the following: "What
24 immediately stood out to me were the "passport/international document number of
25 country/territory" sections of the document. Here, the visa exemption indicates the country is
26 "United States" and the number is "~~XXXXXXXXXX~~," which to my knowledge is Mr. Vo's alien
27 registration number. This is interesting because, as I mentioned earlier, Vietnam uses an alien
28 registration number in visa exemptions when they believe an individual is a lawful permanent
resident of the United States. Ms. Castillo confirmed with me that Mr. Tien Vo is no longer a
lawful permanent resident.... It therefore [is] in my professional opinion that Vietnam does not
consider Mr. Tien Vo to be a Vietnamese citizen but rather a United States national given the
contents of his visa exemption. Based on this, it is very unlikely that Vietnam will issue Mr. Tin
Vo a passport." Castillo Decl. at Exh. B (Dr. Thao Ha Declaration) (emphasis added).

1 45. Multiple credible reports demonstrate that numerous noncitizens in the San Francisco Bay
 2 Area, Sacramento Area, Los Angeles, and across the country who have appeared as instructed at
 3 ICE check-ins have been incarcerated or re-incarcerated by ICE.¹⁰ This is not speculative because
 4 it has already happened to Mr. Vo himself. Moreover, on information and belief, on January 25,
 5 2025, officials in the new Trump administration directed senior ICE officials to increase arrests
 6 to meet daily quotas. Specifically, per public reporting, each field office was instructed to make
 7 75 arrests per day.¹¹ Furthermore, recent changes in the leadership of ICE were attributed to
 8 perception that ICE officers were not sufficiently aggressive in meeting the expected number of
 9 immigration arrests, which left the impression that ICE would be engaging in additional actions
 10 to arrest any non-citizen that it is able to encounter who is amenable to arrest (lawfully or
 11 otherwise).¹²

12 46. In recent months, ICE has engaged in highly publicized arrests of individuals who
 13 presented no flight risk or danger, often with no prior notice that anything regarding their status
 14 was amiss or problematic, whisking them away to faraway detention centers without warning.¹³

15 ¹⁰ “ICE arrests at Sacramento immigration courts raises fear among immigrant community,”
 16 KCRA (June 3, 2025), [https://www.kcra.com/article/ice-arrests-sacramento-immigration-courts-](https://www.kcra.com/article/ice-arrests-sacramento-immigration-courts-lawyers-advocacy-groups/64951405)
 17 [lawyers-advocacy-groups/64951405](https://www.kcra.com/article/ice-arrests-sacramento-immigration-courts-lawyers-advocacy-groups/64951405); “ICE confirms arrests made in South San Jose,” NBC Bay
 18 Area (June 4, 2025), [https://www.nbcbayarea.com/news/local/ice-agents-san-jose-](https://www.nbcbayarea.com/news/local/ice-agents-san-jose-market/3884432/)
 19 [market/3884432/](https://www.nbcbayarea.com/news/local/ice-agents-san-jose-market/3884432/) (“The Rapid Response Network, an immigrant watchdog group, said
 20 immigrants are being called for meetings at ISAP – Intensive Supervision Appearance Program
 21 – for what are usually routine appointments to check on their immigration status. But the
 22 immigrants who show up are taken from ISAP to a holding area behind Chavez Supermarket for
 23 processing and apparently to be taken to a detention center, the Rapid Response Network said.”);
 24 “ICE arrests 15 people, including 3-year-old child, in San Francisco, advocates say,” San
 25 Francisco Chronicle (June 5, 2025), [https://www.sfchronicle.com/bayarea/article/ice-arrests-sf-](https://www.sfchronicle.com/bayarea/article/ice-arrests-sf-immigration-trump-20362755.php)
 26 [immigration-trump-20362755.php](https://www.sfchronicle.com/bayarea/article/ice-arrests-sf-immigration-trump-20362755.php); “Cincinnati high school graduate faces deportation after
 27 routine ICE check-in,” ABC News (June 9, 2025), [https://abcnews.go.com/US/cincinnati-high-](https://abcnews.go.com/US/cincinnati-high-school-graduate-faces-deportation-after-routine/story?id=122652262)
 28 [school-graduate-faces-deportation-after-routine/story?id=122652262](https://abcnews.go.com/US/cincinnati-high-school-graduate-faces-deportation-after-routine/story?id=122652262).

¹¹ See “Trump officials issue quotas to ICE officers to ramp up arrests,” *Washington Post*
 (January 26, 2025), available at: [https://www.washingtonpost.com/immigration/2025/01/26/ice-](https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/)
[arrests-raids-trump-quota/](https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/).

¹² See Politico, “Shake-up at ICE will boost immigration numbers — just not the ones that matter
 most to Trump” (Oct. 29, 2025), available at: [https://www.politico.com/news/2025/10/29/ice-](https://www.politico.com/news/2025/10/29/ice-shake-up-will-increase-arrest-numbers-that-doesnt-mean-there-will-be-more-deportations-00628718)
[shake-up-will-increase-arrest-numbers-that-doesnt-mean-there-will-be-more-deportations-](https://www.politico.com/news/2025/10/29/ice-shake-up-will-increase-arrest-numbers-that-doesnt-mean-there-will-be-more-deportations-00628718)
[00628718](https://www.politico.com/news/2025/10/29/ice-shake-up-will-increase-arrest-numbers-that-doesnt-mean-there-will-be-more-deportations-00628718).

¹³ See, e.g., McKinnon de Kuyper, *Mahmoud Khalil’s Lawyers Release Video of His Arrest*, N.Y.
 Times (Mar. 15, 2025), available at

1 47. In light of credible reports of ICE re-incarcerating individuals at their ICE check-ins¹⁴—
 2 including Mr. Vo’s prior experience and also undersigned counsel’s own experience with two
 3 similarly situated clients who were re-arrested and re-detained during routine check-in
 4 appointments at ICE’s San Francisco Field Office and one in the Fresno Field Office—, it is
 5 highly likely Mr. Vo will be arrested and incarcerated at this appointment. *See Hoac v. Becerra,*
 6 *et al.*, 2:25-cv-01740-DC-JDP (E.D.C.A. July 16, 2025) (ordering the immediate release of
 7 petitioner—a Vietnamese individual who arrived to the United States as a refugee prior to 1995,
 8 who also has a final removal order and was released from ICE detention and had been complying
 9 with an OSUP for years—after he was unlawfully re-detained at a routine check in at the ICE
 10 office in San Francisco); *Phan v. Becerra, et al.*, 2:25-CV-01757-DC-JDP (E.D.C.A. July 16,
 11 2025) (same, after petitioner was transferred from California to Louisiana).

12 48. Mr. Vo is also at risk of being unlawfully removed to a third country without
 13 constitutionally adequate notice and a meaningful opportunity to apply for protection under the
 14 Convention Against Torture, in violation of the INA, binding international treaty, and due process.
 15 Currently, DHS has a policy of removing or seeking to remove individuals to third countries
 16 *without* first providing adequate notice of third country removal, or any meaningful opportunity to
 17 contest that removal if the individual has a fear of persecution or torture in that country. *See*
 18 Castillo Decl. at Exh. A (DHS Policy Regarding Third Country Removal). The U.S. government

19
 20 <https://www.nytimes.com/video/us/politics/100000010054472/mahmoud-khalils-arrest.html>
 21 (Mahmoud Khalil, arrested in New York and transferred to Louisiana); “What we know about the
 22 Tufts University PhD student detained by federal agents,” CNN (Mar. 28, 2025),
 23 <https://www.cnn.com/2025/03/27/us/rumeysa-ozturk-detained-what-we-know/index.html>
 24 (Rumeysa Ozturk, arrested in Boston and transferred to Louisiana); Kyle Cheney & Josh Gerstein,
 25 *Trump is seeking to deport another academic who is legally in the country, lawsuit says*, Politico
 (Mar. 19, 2025), available at <https://www.politico.com/news/2025/03/19/trump-deportationgeorgetown-graduate-student-00239754> (Badar Khan Suri, arrested in Arlington,
 Virginia and transferred to Texas).

26 ¹⁴ *See, e.g.*, “Immigrants at ICE check-ins detained, held in basement of federal building in Los
 27 Angeles, some overnight,” CBS News (June 7, 2025),
 28 <https://www.cbsnews.com/news/immigrants-at-ice-check-ins-detained-and-held-in-basement-of-federal-building-in-los-angeles/>; “They followed the government’s rules. ICE held them
 anyway,” LAist (June 11, 2025), <https://laist.com/news/politics/ice-raids-los-angeles-family-detained>.

1 is actively following this policy and deporting individuals to numerous, and seemingly random,
 2 third countries including El Salvador, Panama, South Sudan, and Eswatini.¹⁵ Recent reports
 3 indicate that ICE has removed individuals to Cameroon who were not citizens of that country, with
 4 no notice at all such removal ahead of time.¹⁶ Since ICE never produced copy of the alleged travel
 5 permit, there is serious concern that this alleged travel permit could be for another country,
 6 *especially* because Vietnam likely does not consider Mr. Vo to be a Vietnamese citizen in the first
 7 place.

8 49. Intervention from this Court is therefore required to ensure that Mr. Vo is not unlawfully
 9 re-arrested, re-detained, and subjected to irreparable harm and further violation of his rights in
 10 the form of summary removal to a third country.

11 LEGAL BACKGROUND

12 **Right to a Hearing Prior to Re-incarceration**

13 50. In Mr. Vo's particular circumstances, the Due Process clause of the Constitution makes it
 14 unlawful for Respondents to re-detain him without first providing a pre-deprivation hearing before
 15 a neutral decisionmaker to determine whether his removal is reasonably foreseeable, or whether
 16 circumstances have changed since his release from immigration custody in 2000 and 2026 such
 17 that detention would now be warranted on the basis that he is a danger or a flight risk.

18 ¹⁵ CNN, "Eswatini receives 10 third-country deportees from USNPR," (Oct. 6, 2025), available
 19 at: <https://www.cnn.com/2025/10/06/africa/eswatini-deportees-united-states-intl-latam>. "U.S.
 20 deports hundreds of Venezuelans to El Salvador, despite court order" (Mar. 16, 2025), available
 21 at: <https://www.npr.org/2025/03/16/g-s1-54154/alien-enemies-el-salvador-trump>; AP, "Panama
 22 releases dozens of detained deportees from US into limbo following human rights criticism"
 23 (Mar. 9, 2025), available at: [https://apnews.com/article/trump-deportations-migrants-panama-
 24 costa-rica-darien-rights-afghanistan-70f79684ac9e0701bc34e3e7144944c5](https://apnews.com/article/trump-deportations-migrants-panama-costa-rica-darien-rights-afghanistan-70f79684ac9e0701bc34e3e7144944c5); The New York
 25 Times, "Trump Administration Poised to Ramp Up Deportations to Distant Countries" (July 13,
 26 2025), available at: [https://www.nytimes.com/2025/07/13/us/politics/south-sudan-third-country-
 27 deportations.html](https://www.nytimes.com/2025/07/13/us/politics/south-sudan-third-country-deportations.html); The Guardian, "Venezuelans deported by Trump are victims of 'torture',
 28 lawyers allege" (May 16, 2025), available at: [https://www.theguardian.com/us-
 news/2025/may/16/venezuelans-deported-trump-lawyers-torture](https://www.theguardian.com/us-news/2025/may/16/venezuelans-deported-trump-lawyers-torture) ("Lawyers hired by Venezuela
 have been unable to confirm 'proof of life' for 252 migrants imprisoned in El Salvador."); NPR,
 "Abrego Garcia says he was severely beaten in Salvadoran prison" (July 3, 2025), available at:
<https://www.npr.org/2025/07/03/g-s1-75775/abrego-garcia-el-salvador-prison-beaten-torture>.
¹⁶ The New York Times, "U.S. Deports Nine Migrants in Secret, Ignoring Legal Protection,"
 (February 16, 2026), available at [https://www.nytimes.com/2026/02/14/world/africa/us-secret-
 deportation-cameroon.html](https://www.nytimes.com/2026/02/14/world/africa/us-secret-deportation-cameroon.html)

1 51. Following a final order of removal, ICE is directed by statute to detain an individual for
2 ninety (90) days in order to effectuate removal. 8 U.S.C. § 1231(a)(2). This ninety (90) day period,
3 also known as “the removal period,” generally commences as soon as a removal order becomes
4 administratively final. *Id.* at § 1231(a)(1)(A); § 1231(a)(1)(B).

5 52. If ICE fails to remove an individual during the ninety (90) day removal period, the law
6 requires ICE to release the individual under conditions of supervision, including periodic
7 reporting. 8 U.S.C. § 1231(a)(3) (“If the alien . . . is not removed within the removal period, the
8 alien, pending removal, shall be subject to supervision.”). Limited exceptions to this rule exist.
9 Specifically, ICE “may” detain an individual beyond ninety days if the individual was ordered
10 removed on criminal grounds or is determined to pose a danger or flight risk. 8 U.S.C. § 1231(a)(6).
11 However, ICE’s authority to detain an individual beyond the removal period under such
12 circumstances is not boundless. Rather, it is constrained by the constitutional requirement that
13 detention “bear a reasonable relationship to the purpose for which the individual [was]
14 committed.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Because the principal purpose of the
15 post-final-order detention statute is to effectuate removal, detention bears no reasonable relation
16 to its purpose if removal cannot be effectuated. *Id.* at 697.

17 53. Post-final order detention is only authorized for a “period reasonably necessary to secure
18 removal,” a period that the Court determined to be presumptively six months. *Id.* at 699–701. After
19 this six (6) month period, if a detainee provides “good reason” to believe that his or her removal
20 is not significantly likely in the reasonably foreseeable future, “the Government must respond with
21 evidence sufficient to rebut that showing.” *Id.* at 701. If the government cannot do so, the
22 individual must be released.

23 54. That said, detainees are entitled to be released even before six months of detention, as long
24 as removal is not reasonably foreseeable. *See* 8 C.F.R. § 241.13(b)(1) (authorizing release after
25 ninety days where removal not reasonably foreseeable). Moreover, as the period of post-final-
26 order detention grows, what counts as “reasonably foreseeable” must conversely shrink. *Zadvydas*
27 at 701. Here, any alleged Vietnamese travel document without proof of existence *and*
28 communication with the Vietnamese embassy to determine if ICE shared the appropriate

1 biographic information hinder any foreseeability that only a pre-deprivation hearing can help
2 solve. *See Salad v. Dep't of Corr.*, 769 F. Supp. 3d 913, 922 (D. Alaska 2025) (“Rather, the “INS’s
3 plans,” as the Federal Respondents describe Salad’s deportation, depend on the occurrence of
4 multiple unguaranteed future events—principally, the denial of Salad’s TPS application and the
5 issuance of a new travel document—and the Federal Respondents have failed to submit sufficient
6 evidence that any of these events are significantly likely to happen.”); *See also Lema v. I.N.S.*, 341
7 F.3d 853, 856–57 (9th Cir. 2003) (the court found that Ethiopia’s decision not to grant travel
8 documents based solely on the non-citizen’s misrepresentation of his nationality to the Ethiopian
9 officials justified prolonged removal and denial of habeas because there was no way for the court
10 to make a full determination whether removal is a “remote possibility,” thus suggesting that
11 legitimacy for a country’s decision to issue or deny travel documents matters significantly for
12 foreseeability analysis).

13 55. Even where detention meets the *Zadvydas* standard for reasonable foreseeability, detention
14 violates the Due Process Clause unless it is “reasonably related” to the government’s purpose,
15 which is to prevent danger or flight risk. *See Zadvydas*, 533 U.S. at 700 (“[I]f removal is reasonably
16 foreseeable, the habeas court should consider the risk of the alien’s committing further crimes as
17 a factor potentially justifying confinement within that reasonable removal period”) (emphasis
18 added); *Id.* at 699 (purpose of detention is “assuring the alien’s presence at the moment of
19 removal”); *Id.* at 690–91 (discussing twin justifications of detention as preventing flight and
20 protecting the community).

21 56. The government’s own regulations contemplate this requirement. They dictate that even
22 after ICE determines that removal is reasonably foreseeable—and that detention therefore does
23 not per se exceed statutory authority—the government must still determine whether continued
24 detention is warranted based on flight risk or danger. *See* 8 C.F.R. § 241.13(g)(2) (providing that
25 where removal is reasonably foreseeable, “detention will continue to be governed under the
26 established standards” in 8 C.F.R. § 241.4).

27 57. The regulations at 8 C.F.R. § 241.4 set forth the custody review process that existed even
28 before *Zadvydas*. This mandated process, known as the post-order custody review, requires ICE

1 to conduct “90-day custody reviews” prior to expiration of the ninety-day removal period and to
2 consider release of individuals who pose no danger or flight risk. 8 C.F.R. § 241.4(e)–(f). Among
3 the factors to be considered in these custody reviews are “ties to the United States such as the
4 number of close relatives residing here lawfully”; whether the noncitizen “is a significant flight
5 risk”; and “any other information that is probative of whether” the noncitizen is likely to “adjust
6 to life in a community,” “engage in future acts of violence,” “engage in future criminal activity,”
7 pose a danger to themselves or others, or “violate the conditions of his or her release from
8 immigration custody pending removal from the United States.” *Id.*

9 58. Individuals with final orders who are released after a post-order custody review are subject
10 to Forms I-220B, Order of Supervision. 8 C.F.R. § 241.4(j). After an individual has been released
11 on an order of supervision, as Mr. Vo was, ICE cannot revoke such an order without cause or
12 adequate legal process. 8 C.F.R. § 241.13(i)(2)–(3).

13 59. Federal district courts in California and throughout the country have repeatedly
14 recognized that the demands of due process and the limitations on DHS’s authority to re-detain a
15 noncitizen both require a pre-deprivation hearing *before* ICE re-detention by ICE. *See M.R. v.*
16 *Kaiser, et al.*, 25-cv-05436-RFL (N.D. Cal. July 17, 2025) (TRO prohibiting government from
17 re-detaining the petitioner without notice and a hearing before a neutral adjudicator); *Rodriguez*
18 *Diaz v. Kaiser, et al.*, 3:25-cv-05071 (N.D. Cal. June 14, 2025) (same); *T.P.S. v. Kaiser, et al.*,
19 3:25-cv-05428 (N.D. Cal. June 30, 2025) (same); *Soto Garcia v. Andrews*, No. 2:25-cv-01884-
20 TLN-SCR (E.D.C.A. July 14, 2025) (same); *Singh v. Andrews, et al.*, 1:25-cv-00801-KES-SKO
21 (HC) (E.D.C.A. July 11, 2025) (same); *Ortega v. Kaiser*, No. 25-cv-5259 (N.D. Cal. Jun. 26,
22 2025) (same); *see also Doe v. Becerra*, No. 2:25-cv-00647-DJC-DMC, 2025 WL 691664, *4
23 (E.D. Cal. Mar. 3, 2025) (holding the Constitution requires a hearing before any re-arrest); *Meza*
24 *v. Bonnar*, 2018 WL 2554572 (N.D. Cal. June 4, 2018); *Ortega v. Bonnar*, 415 F. Supp. 3d 963
25 (N.D. Cal. 2019); *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5074312, at *3 (N.D. Cal.
26 Aug. 23, 2020); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST, 2021 WL 783561, at *2 (N.D.
27 Cal. Mar. 1, 2021); *Romero v. Kaiser*, No. 22-cv-02508-TSH, 2022 WL 1443250, at *3-4 (N.D.
28 Cal. May 6, 2022) (Petitioner would suffer irreparable harm if re-detained, and required notice

1 and a hearing before any re-detention); *Enamorado v. Kaiser*, No. 25-CV-04072-NW, 2025 WL
2 1382859, at *3 (N.D. Cal. May 12, 2025) (temporary injunction warranted preventing re-arrest at
3 plaintiff's ICE interview when he had been on bond for more than five years); *Garcia v. Bondi*,
4 No. 3:25-cv-05070, 2025 WL 1676855, at *3 (June 14, 2025).

5 **Petitioner's Protected Liberty Interest in His Release**

6 60. Petitioner Mr. Vo's liberty from immigration custody is protected by the Due Process
7 Clause: "Freedom from imprisonment—from government custody, detention, or other forms of
8 physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*
9 *v. Davis*, 533 U.S. 678, 690 (2001).

10 61. Since 2000, and recently January 2026, Mr. Vo has exercised that freedom pursuant to his
11 OSUP. He thus retains a weighty liberty interest under the Due Process Clause of the Fifth
12 Amendment in avoiding re-incarceration, which is not diminished by the supervised nature of his
13 release. *Zadvydas*, 533 U.S. at 679 ("[A] noncitizen's liberty interest is not diminished by their
14 lack of a legal right to live at large, for the choice at issue here is between imprisonment and
15 supervision under release conditions that may not be violated and their liberty interest is strong
16 enough to raise a serious constitutional problem with indefinite detention."); *see also Young v.*
17 *Harper*, 520 U.S. 143, 146-47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973);
18 *Morrissey v. Brewer*, 408 U.S. 471, 482-483 (1972).

19 62. Moreover, the Supreme Court has recognized that post-removal order detention is
20 potentially indefinite and thus unconstitutional without some limitation. *Zadvydas*, 533 U.S. at
21 701. In this case, in the absence of a repatriation agreement that actually permits Mr. Vo's removal
22 to Vietnam and a suspicious alleged travel permit without proof or authenticity, his removal is not
23 foreseeable at all, let alone reasonably. Therefore, his re-detention would be indefinite and thus
24 unconstitutional.

25 63. Just as importantly, Mr. Vo has continued presenting himself before ICE for his regular
26 check-in appointments first for the past over twenty-five years, and then again after his release
27 because his most recent detention was found by the federal court to have been unlawful.

1 64. In *Morrissey*, the Supreme Court examined the “nature of the interest” that a parolee has
2 in “his continued liberty.” 408 U.S. at 481–82. The Court noted that, “subject to the conditions of
3 his parole, [a parolee] can be gainfully employed and is free to be with family and friends and to
4 form the other enduring attachments of normal life.” *Id.* at 482. The Court further noted that “the
5 parolee has relied on at least an implicit promise that parole will be revoked only if he fails to live
6 up to the parole conditions.” *Id.* The Court explained that “the liberty of a parolee, although
7 indeterminate, includes many of the core values of unqualified liberty and its termination inflicts
8 a grievous loss on the parolee and often others.” *Id.* In turn, “[b]y whatever name, the liberty is
9 valuable and must be seen within the protection of the [Fifth] Amendment.” *Morrissey*, 408 U.S.
10 at 482.

11 65. This basic principle—that individuals have a liberty interest in their release—has been
12 reinforced by both the Supreme Court and the circuit courts on numerous occasions. *See, e.g.*,
13 *Young v. Harper*, 520 U.S. at 152 (holding that individuals placed in a pre-parole program created
14 to reduce prison overcrowding have a protected liberty interest requiring pre-deprivation process);
15 *Gagnon v. Scarpelli*, 411 U.S. at 781–82 (holding that individuals released on felony probation
16 have a protected liberty interest requiring pre-deprivation process). As the First Circuit has
17 explained, when analyzing the issue of whether a specific conditional release rises to the level of
18 a protected liberty interest, “[c]ourts have resolved the issue by comparing the specific conditional
19 release in the case before them with the liberty interest in parole as characterized by *Morrissey*.”
20 *Gonzalez-Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010) (internal quotation marks and
21 citation omitted). *See also, e.g.*, *Hurd v. District of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017)
22 (“a person who is in fact free of physical confinement—even if that freedom is lawfully
23 revocable—has a liberty interest that entitles him to constitutional due process before he is re-
24 incarcerated”) (citing *Young*, 520 U.S. at 152, *Gagnon*, 411 U.S. at 782, and *Morrissey*, 408 U.S.
25 at 482).

26 66. In fact, it is well-established that an individual maintains a protectable liberty interest even
27 where the individual obtains liberty through a mistake of law or fact. *See id.*; *Gonzalez-Fuentes*,
28 607 F.3d at 887; *Johnson v. Williford*, 682 F.2d 868, 873 (9th Cir. 1982) (noting that due process

1 considerations support the notion that an inmate released on parole by mistake, because he was
2 serving a sentence that did not carry a possibility of parole, could not be re-incarcerated because
3 the mistaken release was not his fault, and he had appropriately adjusted to society, so it “would
4 be inconsistent with fundamental principles of liberty and justice” to return him to prison) (internal
5 quotation marks and citation omitted).

6 67. Here, when this Court “compar[es] the specific conditional release in [Petitioner’s case],
7 with the liberty interest in parole as characterized by *Morrissey*,” it is clear that they are strikingly
8 similar. *See Gonzalez-Fuentes*, 607 F.3d at 887. Just as in *Morrissey*, Mr. Vo’s release “enables
9 him to do a wide range of things open to persons” who have never been in custody or convicted
10 of any crime, including to live at home, work with his community, and “be with family and friends
11 and to form the other enduring attachments of normal life.” *Morrissey*, 408 U.S. at 482.

12 68. Some district courts have held that a noncitizen released on an OSUP acquires a liberty
13 interest in their continued release. *Momtazian v. Noem*, No. 5:25-cv-03432-AH-KES, 2025 U.S.
14 Dist. LEXIS 266022, at *6–8 (C.D. Cal. Dec. 25, 2025) (granting unopposed TRO); *Viengkhone*
15 *S. v. Albarran*, No. 25-cv-01505, 2025 WL 3521302 at *7, 2025 U.S. Dist. LEXIS 253472, at *17–
16 18 (E.D. Cal. Dec. 8, 2025) (“For nearly twenty years, [the government] allowed [the petitioner]
17 to live at liberty in the United States, even though under an order of supervision. Among other
18 things, petitioner raised his two U.S. citizen children and worked. ... The Court finds that petitioner
19 has a protected liberty interest in his release.”); *Guillermo M. R. v. Kaiser*, 791 F. Supp. 3d 1021,
20 1029 (N.D. Cal. 2025) (“[I]ndividuals conditionally released from detention have a protected
21 interest in their ‘continued liberty.’”).

22 69. Since his release in 2000 and 2026, Mr. Vo has complied with all conditions of his release.
23 He has been focused on rebuilding his life for over twenty-five years, including raising two US
24 citizen children with his US citizen wife and securing employment.

25 **Petitioner’s Liberty Interest Mandates a Due Process Hearing Before any Re-Detention**

26 70. Petitioner Mr. Vo asserts that, here, (1) where his detention would be civil, (2) where he
27 has been at liberty for nine years, during which time he has diligently complied with ICE’s
28 reporting requirements on a regular basis, (3) where his removal is not reasonably foreseeable, (4)

1 where no change in circumstances exist that would justify his detention, and (5) where the only
2 circumstance that has changed is ICE's move to arrest as many people as possible because of the
3 new administration, due process mandates that he receive notice and a hearing before a neutral
4 adjudicator *prior* to any re-arrest.

5 71. "Adequate, or due, process depends upon the nature of the interest affected. The more
6 important the interest and the greater the effect of its impairment, the greater the procedural
7 safeguards the [government] must provide to satisfy due process." *Haygood v. Younger*, 769 F.2d
8 1350, 1355–56 (9th Cir. 1985) (en banc) (citing *Morrissey*, 408 U.S. at 481–82). This Court must
9 "balance [Petitioner's] liberty interest against the [government's] interest in the efficient
10 administration of" its immigration laws in order to determine what process he is owed to ensure
11 that ICE does not unconstitutionally deprive him of his liberty. *Id.* at 1357. Under the test set forth
12 in *Mathews v. Eldridge*, this Court must consider three factors in conducting its balancing test:
13 "first, the private interest that will be affected by the official action; second, the risk of an erroneous
14 deprivation of such interest through the procedures used, and the probative value, if any, of
15 additional or substitute procedural safeguards; and finally the government's interest, including the
16 function involved and the fiscal and administrative burdens that the additional or substitute
17 procedural requirements would entail." *Haygood*, 769 F.2d at 1357 (citing *Mathews v. Eldridge*,
18 424 U.S. 319, 335 (1976)).

19 72. The Supreme Court "usually has held that the Constitution requires some kind of a hearing
20 *before* the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127
21 (1990) (emphasis in original). Only in a "special case" where post-deprivation remedies are "the
22 only remedies the State could be expected to provide" can post-deprivation process satisfy the
23 requirements of due process. *Zinermon*, 494 U.S. at 985. Moreover, only where "one of the
24 variables in the *Mathews* equation—the value of predeprivation safeguards—is negligible in
25 preventing the kind of deprivation at issue" such that "the State cannot be required constitutionally
26 to do the impossible by providing predeprivation process," can the government avoid providing
27 pre-deprivation process. *Id.*

28 73. Because, in this case, the provision of a pre-deprivation hearing is both possible and

1 valuable to preventing an erroneous deprivation of liberty, ICE was required to provide Petitioner
2 Mr. Vo with notice and a hearing *prior* to any re-detention. *See Morrissey*, 408 U.S. at 481-82;
3 *Haygood*, 769 F.2d at 1355-56; *Jones*, 393 F.3d at 932; *Zinermon*, 494 U.S. at 985; *see also*
4 *Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982); *Lynch v. Baxley*, 744 F.2d 1452 (11th Cir.
5 1984) (holding that individuals awaiting involuntary civil commitment proceedings may not
6 constitutionally be held in jail pending the determination as to whether they can ultimately be
7 recommitted). Under *Mathews*, “the balance weighs heavily in favor of [Petitioner’s] liberty” and
8 requires a pre-deprivation hearing before this Court.

9 **Petitioner’s Private Interest in His Liberty if Profound**

10 74. Under *Morrissey* and its progeny, individuals conditionally released from serving a
11 criminal sentence have a liberty interest that is “valuable.” *Morrissey*, 408 U.S. at 482. In addition,
12 the principles espoused in *Hurd* and *Johnson*—that a person who is in fact free of physical
13 confinement, even if that freedom is lawfully revocable, has a liberty interest that entitles him to
14 constitutional due process before he is re-incarcerated—apply with even greater force to
15 individuals like Mr. Vo, who have been released after civil removal proceedings, rather than
16 parolees or probationers who are subject to incarceration as part of a sentence for a criminal
17 conviction. Parolees and probationers have a diminished liberty interest given their underlying
18 convictions. *See, e.g., U.S. v. Knights*, 534 U.S. 112, 119 (2001); *Griffin v. Wisconsin*, 483 U.S.
19 868, 874 (1987). Nonetheless, even in the criminal parolee context, the courts have held that the
20 parolee cannot be re-arrested without a due process hearing in which they can raise any claims
21 they may have regarding why their re-incarceration would be unlawful. *See Gonzalez-Fuentes*,
22 607 F.3d at 891-92; *Hurd*, 864 F.3d at 683. Thus, Mr. Vo retains a truly weighty liberty interest
23 even though he is under supervised release.

24 75. What is at stake in this case for Mr. Vo is one of the most profound individual interests
25 recognized by our legal system: whether ICE may unilaterally nullify a prior release decision and
26 be able to take away his physical freedom, i.e., his “constitutionally protected interest in avoiding
27 physical restraint.” *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011) (internal quotation
28 omitted). “Freedom from bodily restraint has always been at the core of the liberty protected by

1 the Due Process Clause.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *see also Zadvydas*, 533
2 U.S. at 690 (“Freedom from imprisonment—from government custody, detention, or other forms
3 of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”);
4 *Cooper v. Oklahoma*, 517 U.S. 348 (1996).

5 76. Thus, it is clear that there is a profound private interest at stake in this case, which must be
6 weighed heavily when determining what process he is owed under the Constitution. *See Mathews*,
7 424 U.S. at 334–35.

8 **Petitioner has a Protected Interest in a Neutral Adjudicator, and the Proper Neutral
9 Adjudicator is This Court**

10 77. Due process requires a neutral adjudicator. In this case, that must be this Court or at least
11 a federal district court. “A neutral judge is one of the most basic due process protections.” *Castro-*
12 *Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001), *abrogated on other grounds by Fernandez-*
13 *Vargas v. Gonzales*, 548 U.S. 30 (2006). The Ninth Circuit has noted that the risk of an erroneous
14 deprivation of liberty under *Mathews* can be decreased where a neutral decisionmaker, rather than
15 DHS alone, makes custody determinations. *Diouf v. Napolitano* (“*Diouf II*”), 634 F.3d 1081, 1091–
16 92 (9th Cir. 2011).

17 78. This is not to say that the Immigration Court would not make the effort to be neutral but
18 rather that, due to the nature of the fact that the Immigration Court is ultimately is bound by the
19 supervision of the executive branch, (1) Mr. Vo recognizes the undue pressure this Court is likely
20 under and (2) to protect Mr. Vo’s due process rights, the proper neutral adjudicator is the federal
21 district court, all for reasons stated below.

22 79. Due process requires that a pre-deprivation hearing occur before this Court, because the
23 Immigration Court will not likely be able to provide neutral adjudication. *See L.G.M. v. Larocco*,
24 No. 25-CV-2631-PKC, 2025 WL 2173577 (E.D.N.Y. July 31, 2025) (conducting bond hearing);
25 *Leslie v. Holder*, 865 F. Supp. 2d 627, 633 (M.D. Pa. 2012) (collecting cases where district court
26 conducted bond hearing). *See also Roman*, 977 F.3d at 941 (“Once a [constitutional] right and a
27 violation have been shown, the scope of a district court’s equitable powers to remedy past wrongs
28 is broad, for breadth and flexibility are inherent in equitable remedies.”).

80. The policies in place today build on the inherent lack of fairness in the Immigration Court

1 system. For a while now, there has been significant evidence that bond hearings in immigration
2 court were regarded as “law-free zones” and “implicit bias minefields.” Mary Holper,
3 *Discretionary Immigration Detention*, 74 Duke L.J. 961, 972 (2025). To begin, IJs are by
4 definition not independent adjudicators. They are career attorneys who are employed by the DOJ
5 and thus report to the Attorney General, an appointee of the executive branch, making them “very
6 susceptible to pressure from above to decide cases in a certain way.” *Accord* Karen Musalo et. al.,
7 *With Fear, Favor, and Flawed Analysis: Decision-Making in U.S. Immigration Courts*, 65 B.C. L.
8 Rev. 2743, 2755 (2024); Holper, 74 Duke L.J. at 1010 (describing an IJ as “a prosecutor
9 masquerading as a judge.”).

10 81. Since the current presidential administration took office in early 2025, it has fired IJs *en*
11 *masse*, “many seemingly because their judicial philosophies did not align with the administration’s
12 priorities.”¹⁷ One recently fired IJ who served in that position for twenty years observed:

13 I think the current administration . . . does not see the immigration courts as neutral
14 decision-makers. I think that they see immigration courts as a tool for this administration
15 to advance its policy objectives.¹⁸

16 82. Similarly, former Immigration Judge Dana Leigh Marks states the following:

17 In my opinion, due process is no longer the norm in the immigration court system. Current
18 IJs cannot be relied on to act as neutral arbiters. This is a structural flaw and not an
19 accusation against any particular sitting judge. Since the beginning of 2025, the
20 administration has fired over 100 IJs for their failure to align with the administration’s
21 priorities. I personally know and have worked with many veteran judges who have been
22 terminated without good cause, violating their established civil service protections. They
23 are, without exception, hard-working, knowledgeable, and fair jurists. While no stated
24 reason was given to these judges for their terminations, the observable trend is that judges
25 with high asylum grant rates and professional backgrounds defending immigrants are the
26 ones being fired *en masse*. **In other words, the administration is not interested in
27 maintaining a qualified, fair bench, but in finding “deportation judges” to advance
28 its policy agenda.**

In addition to mass firings, the administration has taken extraordinary other steps to send

¹⁷ Levin, Sam, “‘Hell on earth’: immigrants held in new California detention facility beg for help,”
THE GUARDIAN (Sept. 27, 2025), <https://www.theguardian.com/us-news/2025/sep/27/immigrants-california-detention-facility>

¹⁸ Bennett, Geoff and Ali Schmitz, “Ousted immigration judge describes deepening court backlog”
PBS NEWS HOUR (Nov. 12, 2025), <https://www.pbs.org/newshour/show/ousted-immigration-judge-describes-deepening-court-backlog>.

1 a message to IJs that they must rule consistently with the administration’s anti-immigrant
2 agenda. For example, the administration issued a policy memorandum on June 27, 2025,
3 stating that “there are some Immigration Judges who appear to believe – based on their
4 own personal policy preferences – that exhibiting bias is justifiable in certain situations,
5 as long as that bias is in favor of an alien and against the Department of Homeland Security
(DHS).” **The message in that policy memo is clear: side with DHS, or lose your jobs.**
Castillo Decl. at Exh. G (Previously Filed Declaration from Former Immigration Judge
6 Dana Marks) (emphasis added).

7 83. Shira Levine, one of the immigration judges who was fired during this administration,
8 states the following:

9 **The first time I received guidance attempting to influence my decisions in the**
10 **courtroom outside of such binding legal precedent was in 2025.** Over the months I
11 served as an immigration judge in 2025, I received a series of publicly available policy
12 memorandums that indicated how cases should be decided. At the same time, judges at
13 the San Francisco Immigration Court began to be fired without cause or explanation. **The**
14 **guidance we received from the Agency along with the termination of immigration**
15 **judges created the understanding that decisions which did not further the executive**
16 **branch’s enforcement priorities could put a judge’s employment at risk.** Despite
17 these pressures, I did not change how I ruled on case. I was fired without cause or
18 explanation.

19 Prior to my termination, EOIR issued a policy memorandum that indicated that the way
20 judges ruled could be used to justify their termination. EOIR Policy Memorandum 25-42
21 (Aug. 22, 2025). This memorandum ignored that appeals are the procedural means of
22 challenging legal decisions. Fewer than three percent of my cases were appealed during
23 the four years I was on the bench and none of those cases were reversed while I was an
24 immigration judge. Nonetheless, the policy memorandum focused on case outcomes.
25 Many of the judges, including myself, who were targeted for termination had above
26 average grant rates. **To me, this indicated that terminations targeted judges who were**
27 **not furthering the Agency’s immigration enforcement policies but were instead**
28 **seeking to evenly interpret the law in each case.** Castillo Decl. at Exh. H (Previously
Filed Declaration from Former Immigration Judge Shira Levine) (emphasis added).

84. At the same time, the administration is actively recruiting for attorneys to become new
immigration judges, whose employment would be even more clearly based on the pleasure of the
Attorney General. Among these new hires are military lawyers who are being recruited to sit as
IJs after minimal training.¹⁹ The move alarms legal experts for myriad reasons, including because
of the president’s outsized influence over the military. *Id.* The administration has even widely

¹⁹ Villarreal, Alexandra, “Hiring of military lawyers as immigration judges alarms law experts”
THE GUARDIAN (Sept. 22, 2025), <https://www.theguardian.com/us-news/2025/sep/22/trump-administration-military-lawyers-immigration-judges>.

1 issued policy guidance admitting the DHS (its enforcement arm) is actively coordinating with the
2 DOJ (under which the BIA and IJs sit) to expand mandatory detention.²⁰ The DOJ has also
3 launched a campaign to hire new IJs that advertises the position as “deportation judges” and
4 describes it as an opportunity to “[b]ring the hammer down on criminal illegal aliens . . . Defend
5 your communities, your very way of life.”²¹ See *National TPS Alliance, et al. v. Noem, et al.*, 25-
6 5724, (9th Cir. 2026) (“I find it necessary to address the ample evidence of racial and national
7 origin animus in the record, which reinforces the district court’s conclusion that the Secretary’s
8 actions were preordained and her reasoning pretextual. This case presents one of the rare situations
9 where the strong showing of bad faith needed to look beyond the administrative record is easily
10 met.”) This is evidence that the Immigration Court cannot be a neutral adjudicator when one of
11 the parties before the Court is the same branch of the government that also supervises the Court
12 itself, and has made its displeasure known regarding judges whose decisions it did not like by
13 terminating their employment.

14 85. Nor does appellate review by the BIA “play a corrective role[,] because it is subject to
15 essentially the same institutional constraints as IJs.” Musalo, 65 B.C. L. Rev. at 2756. After taking
16 office, the current administration purged BIA members from twenty-six to nine.²² This allowed
17 for a smaller majority to publish decisions and thus highlighted the agency’s lack of
18 independence.²³ Indeed, since January 20, 2025, the BIA has issued at least sixty-three precedent
19
20
21

22 ²⁰ Interim Guidance from U.S. Department of Homeland Security to All ICE Employees Re:
23 “Detention Authority for Applications for Admission” (July 8, 2025), [https://www.aila.org/ice-](https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission)
[memo-interim-guidance-regarding-detention-authority-for-applications-for-admission](https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission).

24 ²¹ See Gutierrez, Hilda and Michael Bott, “‘An all-out attack on immigration court:’ SF
25 immigration judges speak out after firings” NBC BAY AREA (Nov. 25, 2025),
[https://www.nbcbayarea.com/investigations/san-francisco-immigration-judges-speak-out-](https://www.nbcbayarea.com/investigations/san-francisco-immigration-judges-speak-out-firings/3986850/)
[firings/3986850/](https://www.nbcbayarea.com/investigations/san-francisco-immigration-judges-speak-out-firings/3986850/).

26 ²² See Catholic Legal Immigration Network, Inc., “Precedent or Policy? A Quiet Transformation
27 of the Board of Immigration Appeals” (Aug. 22, 2025),
[https://www.cliniclegal.org/resources/precedent-or-policy-quiet-transformation-board-](https://www.cliniclegal.org/resources/precedent-or-policy-quiet-transformation-board-immigration-appeals)
[immigration-appeals](https://www.cliniclegal.org/resources/precedent-or-policy-quiet-transformation-board-immigration-appeals).

28 ²³ *Id.*

1 decisions.²⁴ All but one of these decisions found against the noncitizen²⁵; all involving bond
 2 proceedings ruled against the noncitizen; some reversed prior grants and called for re-detention.²⁶
 3 By contrast, in all of 2024 the BIA issued just fourteen precedent decisions, some of which were
 4 in favor of the DHS while others favored the noncitizen.²⁷

5 86. Moreover, the administration's copious precedential decisions are largely published *post*
 6 *hoc* to defend the administration's policies, rather than proceeding from neutral adjudication of
 7 controversies. As one example in the bond context, the BIA has issued a series of bond decisions
 8 that now subjects vast swaths of noncitizens mandatory detention. *See, e.g., Matter of Q. Li*, 29
 9 I&N Dec. 66; *Matter of Yajure Hurtado*, 29 I&N Dec. 216. These decisions upend decades-long
 10 understanding of federal law, as federal judges have repeatedly found.²⁸ Notably, they come as the
 11 DHS has received exorbitantly more money to detain immigrants in for-profit immigration
 12 detention centers.²⁹ For example, CoreCivic received \$13.5 million to open CCDF earlier this
 13 year.³⁰

14 87. On February 6, 2026, the DOJ issued a new rule that effectively guts any remaining due
 15 process protections in the form of appellate review of the Immigration Judge adjudications.³¹ The

16 _____
 17 ²⁴ See U.S. DOJ, Executive Office for Immigration Review, *BIA Precedent Decisions, Vol. 29*,
 online at <https://www.justice.gov/eoir/volume-29> (last accessed Dec. 15, 2025).

18 ²⁵ The one decision purportedly in favor of the noncitizen described the methods in which an IJ
 19 can pretermite an application for relief prior to any evidentiary hearing, and remanded the case back
 20 to the IJ to follow that method. *See* Catholic Legal Immigration Network, Inc., "Precedent or
 Policy? A Quiet Transformation of the Board of Immigration Appeals" (citing *Matter of C-A-R-*
R-, 29 I&N Dec. 13 (BIA 2025)).

21 ²⁶ *Id.*

22 ²⁷ See U.S. DOJ, Executive Office for Immigration Review, *BIA Precedent Decisions, Vol. 28*,
 online at <https://www.justice.gov/eoir/volume-28>.

23 ²⁸ Gerstein, Josh and Kyle Cheney, "Immigration appeals court expands mandatory detention for
 millions" POLITICO (Sept. 5, 2025), [https://www.politico.com/news/2025/09/05/immigration-](https://www.politico.com/news/2025/09/05/immigration-mandatory-detention-00548660)
[mandatory-detention-00548660](https://www.politico.com/news/2025/09/05/immigration-mandatory-detention-00548660).

24 ²⁹ Dickerson, Caitlin, "ICE's Mind-Bogglingly Massive Blank Check" THE ATLANTIC (July 31,
 25 2025), [https://www.theatlantic.com/politics/archive/2025/07/ice-budget-immigration-](https://www.theatlantic.com/politics/archive/2025/07/ice-budget-immigration-enforcement/683678/)
[enforcement/683678/](https://www.theatlantic.com/politics/archive/2025/07/ice-budget-immigration-enforcement/683678/).

26 ³⁰ Levin, Sam, "'Hell on earth': immigrants held in new California detention facility beg for help,"
 27 THE GUARDIAN.

28 ³¹ Appellate Procedures for the Board of Immigration Appeals, 91 FR 5267 (Feb. 6, 2026)
 (effective Mar. 9, 2026). Available at [https://public-inspection.federalregister.gov/2026-](https://public-inspection.federalregister.gov/2026-02326.pdf)
[02326.pdf](https://public-inspection.federalregister.gov/2026-02326.pdf)

1 new rules once they go into effect allows the BIA, the agency that reviews IJ decisions, to simply
 2 dismiss all such appeals unless in the rare event that the full panel of Board members (who are
 3 also employees of the DOJ) vote to review the appeal on its merits.³² This means that the vast
 4 majority of all appeals from the Immigration Court to the BIA will be simply dismissed without
 5 consideration of the merits of the appeal. Further, the process itself is being changed to create
 6 barriers to such appeals even being properly filed. Under the newly announced procedures, appeals
 7 must be filed within 10 days of the Immigration Judge decision (many of which are issued on paper
 8 and delivered across the country by U.S. mail), or else the non-citizen foregoes any option for
 9 administrative or federal circuit court review.³³ Furthermore, the new rule allows the Board to
 10 dismiss appeals within fifteen days of timely filing unless majority Board members agree to hear
 11 the case.³⁴

12 88. Overall, the message here and in other federal cases is clear: the government can no longer
 13 receive the presumption of regularity in that their public officers would properly discharge their
 14 duties. *United States v. Chemical Foundation, Inc.*, 272 U.S. 1, 14–15, 47 S.Ct. 1, 71 L.Ed. 131
 15 (1926); see *Latif v. Obama*, 677 F.3d 1175, 1178-181 (D.C. Cir. 2011) (same); *Paracha v. Trump*,
 16 Civil Action No. 04-2022 (PLF), 2019 WL 5296839, at *2 (D.D.C. Oct. 18, 2019). Meaning IJs
 17 and the BIA, employees of the DOJ, cannot be trusted as neutral adjudicators.³⁵

18 ³² *Id.*

19 ³³ *Id.*

20 ³⁴ *Id.*

21 ³⁵ *United States v. Oregon*, 6:25-cv-01666-MTK, Dkt. 73 (D. Or Feb. 6, 2026) (“The presumption
 22 of regularity that has been previously extended to Plaintiff that it could be taken at its word—with
 23 little doubt about its intentions and stated purposes—no longer holds”); *In re Search of One Device*
 24 *and Two Individuals under Rule 41*, Search Warrant No. 25-0082 (ZMF), 784 F.Supp.3d 234, 244
 25 n.10 (D.D.C. May 29, 2025) (“Blind deference to the government? That is no longer a thing. Trust
 26 that had been earned over generations has been lost in weeks. Numerous career prosecutors have
 27 had to resign instead of taking actions that they believe violated their oath of office, or worse, were
 28 fired for upholding that oath.”); *Washington v. Trump*, Civil Action No. 25-0127 (JCC), Verbatim
 Report of Proceedings (W.D. Wash. Jan. 24, 2025) [Dkt. No. 53] at 13:13-15 (“I’ve been on the
 bench for over four decades. I can’t remember another case where the question presented was as
 clear as this one is. This is a blatantly unconstitutional order.”); *New Hampshire Indonesian Cmty.*
Support v. Trump, 765 F. Supp. 3d 102, 109 (D.N.H. 2025) (“[T]he Executive Order contradicts
 the text of the Fourteenth Amendment and the century-old untouched precedent that interprets
 it.”); *Wilmer Cutler Pickering Hale and Dorr LLP v. Executive Office of the President*, 774 F.
 Supp. 3d 86, 89 (D.D.C. 2025) (“The retaliatory nature of the Executive Order at issue here is clear

1 89. The above, exacerbated by the new Board rule, severely undermines the idea that the IJ can
2 be a neutral adjudicator. Mr. Vo no longer has the due process rights of a neutral adjudicator.
3 Therefore, this Court is the proper neutral adjudicator for any subsequent pre-deprivation hearing
4 for Mr. Vo.

5 **The Government's Interest in Re-Detaining Petitioner Without a Hearing is Low and the**
6 **Burden on the Government to Refrain from Re-Detaining Him Unless and Until he is**
7 **Provided a Hearing That Comports with Due Process is Minimal**

8 90. The government's interest in re-detaining Mr. Vo without a due process hearing is low,
9 and when weighed against Mr. Vo's significant private interest in his liberty, the scale tips sharply
10 in favor of enjoining Respondents from re-detaining Mr. Vo unless and until the government
11 demonstrates that his removal is reasonably foreseeable and that circumstances have changed such
12 that he is now a danger or a flight risk. It becomes abundantly clear that the *Mathews* test favors
13 Mr. Vo when the Court considers that the process he seeks—notice and a hearing prior to his re-
14 detention—is a standard course of action for the government. Providing Mr. Vo with a hearing
15 before a neutral decisionmaker to determine whether Mr. Vo's removal is reasonably foreseeable
16 and there is evidence that he is a flight risk or danger to the community would impose only a *de*
17 *minimis* burden on the government, because the government routinely conducts these reviews for
18 individuals in Mr. Vo's same circumstances. 8 C.F.R. § 241.4(e)–(f).

19 91. As immigration detention is civil, it can have no punitive purpose. The government's only
20 interest in holding an individual in immigration detention can be to prevent danger to the
21 community or to ensure a noncitizen's appearance at immigration proceedings. *See Zadvydas*, 533
22 U.S. at 690. Moreover, the Supreme Court has made clear that indefinite detention of noncitizens
23 who cannot be removed to the country in the removal order is unconstitutional. In this case, the

24 _____
25 from its face"); *Perkins Coie LLP v. U.S. Dep't. of Justice*, Civil Action No. 25-716 (BAH),
26 783 F.Supp.3d 105, 120 (D.D.C. May 2, 2025) (“In a cringe-worthy twist on the theatrical phrase
27 ‘Let's kill all the lawyers,’ EO 14230 takes the approach of ‘Let's kill the lawyers I don't like,’
28 sending the clear message: lawyers must stick to the party line, or else.”) (emphasis in original);
United States v. Adams, 77 F. Supp. 3d 185, 192 (S.D.N.Y. 2025) (The implication “that public
officials may receive special dispensation if they are compliant with the incumbent
administration's policy priorities is fundamentally incompatible with the basic promise of equal
justice under law”).

1 government cannot plausibly assert that it has any basis for re-detaining Mr. Vo when he has lived
2 at liberty complying with the terms of his release since 2000.

3 92. Since being released from ICE detention in 2000 and 2026, Mr. Vo has continued to appear
4 before ICE on a regular basis for each and every appointment that has been scheduled. *See*
5 *Morrissey*, 408 U.S. at 482 (“It is not sophistic to attach greater importance to a person’s
6 justifiable reliance in maintaining his conditional freedom so long as he abides by the conditions
7 on his release, than to his mere anticipation or hope of freedom”) (quoting *United States ex rel.*
8 *Bey v. Connecticut Board of Parole*, 443 F.3d 1079, 1086 (2d Cir. 1971).

9 93. As to flight risk, Mr. Vo’s post-release conduct in the form of full compliance with his
10 check-in requirements further confirms that he is not a flight risk and that he is likely to present
11 himself at any future ICE appearances, as he always has done. The government’s interest in
12 detaining him at this time is therefore low. That ICE has a new policy to make a minimum number
13 of arrests each day under the new administration does not constitute a material change in
14 circumstances or increase the government’s interest in detaining him.³⁶ Moreover, nothing has
15 changed regarding the lack of foreseeability of his removal to Vietnam.

16 94. Moreover, the “fiscal and administrative burdens” that a pre-deprivation hearing would
17 impose is nonexistent in this case. *See Mathews*, 424 U.S. at 334–35. Mr. Vo does not seek a
18 unique or expensive form of process, but rather a routine hearing regarding whether his release
19 should be revoked and whether he should be re-incarcerated.

20 95. In the alternative, providing Mr. Vo with a hearing before a neutral decisionmaker
21 regarding detention is a routine procedure that the government provides to those in immigration
22 jails on a daily basis. At that hearing, this Court would have the opportunity to determine whether
23 his removal is reasonably foreseeable and otherwise whether circumstances have changed
24 sufficiently such that he is now a danger or a flight risk and his re-detention is warranted. But
25 there is no justifiable reason to re-incarcerate Mr. Vo prior to such a hearing taking place. As the
26 Supreme Court noted in *Morrissey*, even where the State has an “overwhelming interest in being
27 able to return [a parolee] to imprisonment without the burden of a new adversary criminal trial if

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³⁶ *Id.*

1 in fact he has failed to abide by the conditions of his parole . . . the State has no interest in revoking
2 parole without some informal procedural guarantees.” 408 U.S. at 483.

3 96. Enjoining Mr. Vo’s re-arrest until he is provided a hearing before this Court is far *less*
4 costly and burdensome for the government than keeping him detained. As the Ninth Circuit noted
5 in 2017, which remains true today, “[t]he costs to the public of immigration detention are
6 ‘staggering’: \$158 each day per detainee, amounting to a total daily cost of \$6.5 million.”
7 *Hernandez*, 872 F.3d at 996.

8 **Without a Due Process Hearing Prior to Any Re-Arrest, the Risk of an Erroneous**
9 **Deprivation of Liberty is High, and Process in the Form of a Constitutionally Compliant**
10 **Hearing Where ICE Carries the Burden Would Decrease That Risk**

11 97. Providing Mr. Vo with a pre-deprivation hearing would decrease the risk of him being
12 erroneously deprived of his liberty. Before Mr. Vo can be lawfully detained, he must be provided
13 with a hearing before a neutral adjudicator at which the government is held to show that his
14 removal is reasonably foreseeable and otherwise whether circumstances have changed such that
15 he is a danger to the community or a flight risk.

16 98. Under the process that ICE maintains is lawful—which affords Mr. Vo no process
17 whatsoever—ICE can simply re-detain him at any point if the agency desires to do so. The risk
18 that Mr. Vo will be erroneously deprived of his liberty is high if ICE is permitted to re-incarcerate
19 him after making a unilateral decision to re-arrest him Pursuant to 8 C.F.R. § 241.4(l), revocation
20 of release on an OSUP is at the discretion of the Executive Associate Commissioner. Thus, the
21 regulations permit ICE to unilaterally re-detain individuals, even for an oversight of any kind.
22 After re-arrest, ICE makes its own, one-sided custody determination and can decide whether the
23 agency wants to hold Petitioner Mr. Vo. 8 C.F.R. § 241.4(e)–(f). This occurred during Mr. Vo’s
24 unlawful detention on September 5, 2025, where the government used an improper NRR that was
25 likely never served to Mr. Vo.

26 99. By contrast, the procedure Petitioner Mr. Vo seeks—a hearing before this Court *before* any
27 re-arrest—is much more likely to produce accurate determinations regarding these factual
28 disputes. *See Chalkboard, Inc. v. Brandt*, 902 F.2d 1375, 1381 (9th Cir.1989) (when “delicate
judgments depending on credibility of witnesses and assessment of conditions not subject to

1 measurement” are at issue, the “risk of error is considerable when just determinations are made
2 after hearing only one side”).

3 100. Due process also requires consideration of alternatives to detention at any custody
4 redetermination hearing that may occur. The primary purpose of immigration detention is to ensure
5 removal *if* reasonably foreseeable. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related
6 to this purpose if, as here, removal is not actually foreseeable. Accordingly, alternatives to
7 detention must be considered in determining whether Mr. Vo’s re-detention is warranted.

8 **Right to Constitutionally Adequate Procedures Prior to Third Country Removal**

9 101. Under the INA, Respondents have a clear and non-discretionary duty to execute
10 final orders of removal *only* to the designated country of removal. The statute explicitly states that
11 a noncitizen “*shall* remove the [noncitizen] to the country the [noncitizen] . . . designates.” 8 U.S.C.
12 § 1231(b)(2)(A)(ii) (emphasis added). And even where a noncitizen does not designate the country
13 of removal, the statute further mandates that DHS “shall remove the alien to a country of which
14 the alien is a subject, national, or citizen. *See id.* § 1231(b)(2)(D); *see also generally Jama v. ICE*,
15 543 U.S. 335, 341 (2005).

16 102. As the Supreme Court has explained, such language “generally indicates a
17 command that admits of no discretion on the part of the person instructed to carry out the
18 directive,” *Nat’l Ass’n of Home Builders v. Defenders of Wildlife*, 551 U.S. 644, 661 (2007)
19 (quoting *Ass’n of Civilian Technicians v. Fed. Labor Relations Auth.*, 22 F.3d 1150, 1153 (D.C.
20 Cir. 1994)); *see also Black’s Law Dictionary* (11th ed. 2019) (“Shall” means “[h]as a duty to; more
21 broadly, is required to This is the mandatory sense that drafters typically intend and that courts
22 typically uphold.”); *United States v. Monsanto*, 491 U.S. 600, 607 (1989) (finding that “shall”
23 language in a statute was unambiguously mandatory). Accordingly, any imminent third country
24 removal fails to comport with the statutory obligations set forth by Congress in the INA and is
25 unlawful.

26 103. Moreover, prior to any third country removal, ICE must provide Mr. Vo with
27 sufficient notice and an opportunity to respond and apply for fear-based relief as to that country,
28 in compliance with the INA, due process, and the binding international treaty: The Convention

1 Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.³⁷ Currently,
2 DHS has a policy—stated in writing—of removing or seeking to remove individuals to third
3 countries without first providing constitutionally adequate notice of third country removal; or any
4 meaningful opportunity to contest that removal if the individual has a fear of persecution or torture
5 in that country. Castillo Decl. at Exh. A (DHS Policy Regarding Third Country Removal). This
6 policy clearly violates due process and the United States’ obligations under the Convention
7 Against Torture.

8 104. The U.S. District Court for the District of Massachusetts previously issued a
9 nationwide preliminary injunction blocking such third country removals without notice and a
10 meaningful opportunity to apply for relief under the Convention Against Torture, in recognition
11 that the government’s policy violates due process and the United States’ obligations under the
12 Convention Against Torture. *D.V.D., et al. v. U.S. Department of Homeland Security, et al.* v., No.
13 25-10676-BEM (D. Mass. Apr. 18, 2025). The U.S. Supreme Court has since granted the
14 government’s motion to stay the injunction on June 23, 2025, just before the Court published
15 *Trump v. Casa*, No. 24A884 (June 27, 2025) limiting nationwide injunctions. Thus, the Supreme
16 Court’s order, which is not accompanied by an opinion, signals only disagreement with nature,
17 and not the substance, of the nationwide preliminary injunction.

18 105. Thus, it is clear that if Mr. Vo were to be removed to any third country, it would
19 violate his due process rights unless he is first provided with constitutionally adequate notice and
20 a meaningful opportunity to apply for protection under the Convention Against Torture. In the
21 absence of any other injunction, intervention by this Court is necessary to protect those rights.

22 **FIRST CAUSE OF ACTION**

23 **Procedural Due Process – Unconstitutionally Indefinite Detention**

24 **U.S. Const. amend. V**

25 106. Petitioner Mr. Vo re-alleges and incorporates herein by reference, as if set forth
26 fully herein, the allegations in all the preceding paragraphs.

27
28 _____
³⁷ See *supra* n.7.

1 107. The Due Process Clause of the Fifth Amendment forbids the government from
2 depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V.

3 108. Mr. Vo has a vested liberty interest in his supervised release. Due Process does not
4 permit the government to strip him of that liberty without a hearing before a neutral adjudicator.
5 *See Morrissey*, 408 U.S. at 487–488.

6 109. The Court must therefore order that, prior to any re-arrest, the government must
7 provide him with a hearing before a neutral adjudicator which is a federal district court and not
8 an adjudicator who is employed by the executive branch of the government. At the hearing, the
9 neutral adjudicator would evaluate, *inter alia*, whether his removal is reasonably foreseeable and
10 otherwise whether circumstances have changed such that he now poses a danger or a flight risk.
11 During any custody redetermination hearing that occurs, the neutral adjudicator must consider
12 alternatives to detention when determining whether Petitioner’s re-incarceration is warranted.

13 **SECOND CAUSE OF ACTION**

14 **Substantive Due Process**

15 **U.S. Const. amend. V**

16 110. Petitioner Mr. Vo re-alleges and incorporates herein by reference, as is set forth
17 fully herein, the allegations in all the preceding paragraphs.

18 111. The Due Process Clause of the Fifth Amendment forbids the government from
19 depriving individuals of their right to be free from unjustified deprivations of liberty. U.S. Const.
20 amend. V.

21 112. Mr. Vo has a vested liberty interest in his conditional release. Due Process does
22 not permit the government to strip him of that liberty without it being tethered to one of the two
23 constitutional bases for civil detention: to mitigate against the risk of flight or to protect the
24 community from danger.

25 113. Since 2000, Mr. Vo has fully complied with the terms of his supervised release
26 imposed on him by ICE, thus demonstrating that he is neither a flight risk nor a danger. Re-
27 arresting him now would be punitive and violate his constitutional right to be free from the
28 unjustified deprivation of his liberty.

1 114. For these reasons, Mr. Vo's re-arrest without first being provided a hearing would
2 violate the Constitution.

3 115. The Court must therefore order that, prior to any re-arrest, the government must
4 provide him with a hearing before a neutral adjudicator. At the hearing, the neutral adjudicator
5 would evaluate, *inter alia*, whether his removal is reasonably foreseeable and otherwise whether
6 circumstances have changed such that he now poses a danger or a flight risk. During any custody
7 redetermination hearing that occurs, the neutral adjudicator must consider alternatives to
8 detention when determining whether Petitioner's re-incarceration is warranted.

9 **THIRD CAUSE OF ACTION**

10 **Procedural Due Process – Unconstitutionally Inadequate Procedures Regarding Third
11 Country Removal**

12 **U.S. Const. amend. V**

13 116. Petitioner Mr. Vo re-alleges and incorporates herein by reference, as if set forth
14 fully herein, the allegations in all the preceding paragraphs.

15 117. The Due Process Clause of the Fifth Amendment requires sufficient notice and an
16 opportunity to be heard prior to the deprivation of any protected rights. U.S. Const. amend. V; *see*
17 *also Louisiana Pacific Corp. v. Beazer Materials & Services, Inc.*, 842 F.Supp. 1243, 1252 (E.D.
18 Cal. 1994) (“[D]ue process requires that government action falling within the clause's mandate
19 may only be taken where there is notice and an opportunity for hearing.”).

20 118. Mr. Vo has a protected interest in his life. Thus, prior to any third country removal,
21 he must be provided with constitutionally-compliant notice and an opportunity to respond and
22 contest that removal if he has a fear of persecution or torture in that country.

23 119. For these reasons, Mr. Vo's removal to any third country without adequate notice
24 and an opportunity to apply for relief under the Convention Against Torture would violate his due
25 process rights. The only remedy for this violation is for this Court to order that he not be summarily
26 removed to any third country unless and until he is provided constitutionally adequate procedures.

27 **PRAYER FOR RELIEF**

28 WHEREFORE, the Petitioner prays that this Court grant the following relief:

(1) Assume jurisdiction over this matter;

1 (2) Enjoin Respondents from re-arresting Petitioner unless and until a hearing is
2 held before this Court or a federal district court (and not an adjudicator who is
3 employed by the executive branch of the government) to determine whether
4 his re-detention would be lawful because the government has shown that his
5 removal is reasonably foreseeable and otherwise whether circumstances have
6 changed such that he is now a danger or a flight risk, and that this Court must
7 further consider whether, in lieu of detention, alternatives to detention exist to
8 mitigate any risk that DHS may establish;

9 (3) Order that Petitioner cannot be removed to any third country without first
10 being provided constitutionally-compliant procedures, including:

11 a. Written notice to Petitioner and counsel of the third country to which he
12 may be removed, in a language that Petitioner can understand, provided
13 at least 21 days before any such removal;

14 b. A meaningful opportunity for Petitioner to raise a fear of return for
15 eligibility for protection under the Convention Against Torture,
16 including a reasonable fear interview before a DHS officer;

17 c. If Petitioner demonstrates a reasonable fear during the interview, DHS
18 must move to reopen his underlying removal proceedings so that he may
19 apply for relief under the Convention Against Torture;

20 d. If it is found that Petitioner does not demonstrate a reasonable fear
21 during the interview, a meaningful opportunity, and a minimum of 15
22 days, for Petitioner to seek to move to reopen his underlying removal
23 proceedings to challenge potential third-country removal;

24 (4) Award Petitioner reasonable costs and attorney fees; and

25 (5) Grant such further relief as the Court deems just and proper.
26

27 Dated: February 19, 2026

Respectfully submitted,

28 /s/ Lorena C. Castillo

Zachary Nightingale
Lorena C. Castillo
Attorneys for Petitioner

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VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed with the Petitioner the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this February 19, 2026, in San Francisco, California.

/s/ Lorena C. Castillo
Zachary Nightingale
Lorena C. Castillo
Attorneys for Petitioner