

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

BINH THAI LUU,

Petitioner.


v.

JASON STREEVAL, in his official capacity as
Warden, Stewart Detention Center.

Respondent.

Case No. _____

HEARING REQUESTED

Agency number: 

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

1. Petitioner Binh Thai Luu (“Petitioner” or “Mr. Luu”) is a citizen of Vietnam who is currently detained at Stewart Detention Center (“Stewart”). He has been in the custody of U.S. Immigration & Customs Enforcement (“ICE”) for more than six (6) months, since on or about July 2, 2025, when he was detained during his check in appointment in Atlanta

2. Like thousands of other Vietnamese nationals with final orders of removal, Mr. Luu had been living in his community under supervised release for over a decade before Immigration and Customs Enforcement (ICE) abruptly revoked his release and arrested him. Mr. Luu remains detained at Stewart Detention Center in Lumpkin, Georgia – far from his wife and

two teenage children.

3. Mr. Luu entered the United States in 1986 on a tourist visa with his family when he was still a minor. He has lived in the United States for around forty (40) years; fifteen (15) of those years have been under an order of supervision. Despite filling out the required information for a travel document, Mr. Luu does not believe Vietnam has issued a travel document.

4. Mr. Luu has now been detained for more than six months post-order, awaiting deportation to Vietnam, and there is no significant likelihood that he will be removed in the reasonably foreseeable future. Mr. Luu's detention, post-removal-order, has become unconstitutionally prolonged under the framework set out in *Zadvydas v. Davis*, 533 U.S. 678 (2001). He therefore challenges his prolonged and indefinite detention as a violation of the Immigration and Nationality Act ("INA") and the Due Process Clause.

5. Mr. Luu respectfully requests that this Court grant him a Writ of Habeas Corpus, ordering Respondent to release him from custody.

JURISDICTION AND VENUE

6. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201-02 (declaratory relief), and art. I. sec. 9, cl. 2 of the U.S. Constitution (Suspension Clause), as Mr. Luu is presently in custody under or by color of the authority of the United States, and he challenges his custody as in violation of the Constitution, laws, or treaties of the United States.

7. "[W]here Congress does not say there is a jurisdictional bar, there is none." *Santiago-Lugo v. Warden*, 785 F.3d 467, 473 (11th Cir. 2015). "Congress knows how to limit courts' subject matter jurisdiction to decide § 2241 petitions when it wishes to do so. The fact that it did not limit courts' subject matter jurisdiction to decide unexhausted § 2241 claims compels

the conclusion that any failure of [the respondent] to exhaust administrative remedies is not a jurisdictional defect.” *Id.* at 474.

8. In the absence of a statutorily mandated exhaustion requirement, whether to apply a common law exhaustion requirement is a decision subject to sound judicial discretion, considering congressional intent and any applicable statutory scheme. *See McCarthy v. Madigan*, 503 U.S. 140, 144 (1992); *see also Richardson v. Reno*, 162 F.3d 1338, 1374 (11th Cir. 1998); *Yahweh v. U.S. Parole Comm’n*, 158 F. Supp. 2d 1332, 1341 (S.D. Fla. 2001).

9. Here, there is no reason to require exhaustion as Mr. Luu has no meaningful administrative remedy to request. Mr. Luu’s prolonged detention raises constitutional issues. “[A] petitioner need not exhaust [their] administrative remedies ‘where the administrative remedy will not provide relief commensurate with the claim.’” *Boz v. United States*, 248 F.3d 1299, 1300 (11th Cir. 2001) (quoting *Haitian Refugee Ctr., Inc. v. Nelson*, 872 F.2d 1555, 1561 (11th Cir. 1989)). Thus, “[b]ecause the BIA does not have the power to decide constitutional claims . . . certain due process claims need not be administratively exhausted.” *Warsame v. U.S. Att’y Gen.*, 796 F. App’x. 993, 1006 (11th Cir. 2020). *See also Haitian Refugee Ctr., Inc.*, 872 F.2d at 1561, *aff’d sub nom. McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479 (1991) (exhaustion had “no bearing” where petitioner made a constitutional challenge to procedures adopted by the INS).

10. Thus, this Court has jurisdiction over Mr. Luu’s § 2241 action because exhaustion of administrative remedies is not required, and his petition raises constitutional issues that cannot be addressed administratively.

11. Venue is proper in the Middle District of Georgia, Columbus Division, pursuant to 28 U.S.C. §§ 1391 and 2241(d) because Mr. Luu is detained at the Stewart Detention Center in Lumpkin, Georgia.

PARTIES

12. Petitioner (Petitioner) Binh Thai Luu is a Vietnamese national who has lived in the United States for decades. He resides with his family in Lawrenceville, Georgia and is currently detained at Stewart Detention Center in Lumpkin, Georgia.

13. Respondent Jason Streeval is sued in his official capacity as Warden of Stewart Detention Center (Stewart) in Lumpkin, Georgia, where Mr. Luu is currently detained. As Warden, he is responsible for the operations of Stewart, including overseeing the people in the facility's custody and, as such, is Mr. Luu's immediate physical custodian.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

Repatriation of Vietnamese Nationals

1. In 2008, after ten years of negotiation, Vietnam and the United States executed a repatriation agreement to govern the repatriation of certain Vietnamese immigrants with final orders of removal to Vietnam. Before this agreement was negotiated, Vietnam refused to repatriate the overwhelming majority of Vietnamese immigrants ordered removed from the United States.

2. The repatriation agreement officially opened the door for repatriation of Vietnamese immigrants who arrived to the United States on or after July 12, 1995. However, Vietnam continued to accept only a limited number of persons for repatriation each year. As Mr. Luu entered the U.S. before July 12, 1995, he did not fit under the scope of that agreement.

3. In 2020, the U.S. and Vietnam entered into a Memorandum of Understanding (MOU) for the acceptance and repatriation of Vietnamese citizens who entered the U.S. before July 12, 1995, and currently have final orders of removal. Mr. Luu fits into this category. However, despite this MOU, Mr. Luu has been detained with a final order of removal for more than eight months.

4. This court has addressed the issue of the MOU for other detained Vietnamese citizens at Stewart. *See, e.g., T.C.T. v. Warden, Stewart Det. Ctr., No. 4:25-CV-373 (CDL) (M.D. Ga. Dec. 22, 2025), report and recommendation adopted, No. 4:25-CV-373 (CDL) (M.D. Ga. Feb. 23, 2026)*. However, that case is distinguishable in two ways. One, Mr. Luu is not arguing a theory of aggregating time. Rather, he is contending that the detention that began on July 2, 2025, has become unreasonably prolonged. As Mr. Luu has been detained for more than eight months, all of which being post-order, there is no significant likelihood of removal in the reasonably foreseeable future. Additionally, an ICE officer informed Mr. Luu's family in early January 2026 that he would be included on the next removal flight to Vietnam. More than two months later, however, he remains detained at Stewart.

5. Before a Vietnamese immigrant without a passport or other travel document can be repatriated, Vietnam must issue a passport or other travel document in response to a request from ICE. *See Trinh v. Homan*, 466 F. Supp. 3d 1077, 1083 (C.D. Cal. 2020).

6. The process for requesting a travel document from Vietnam requires the submission of a document package, including documents pertaining to the person's biography, citizenship, and criminal history. Upon request, the Vietnamese government may also interview individuals considered for repatriation about their Vietnamese citizenship, biographical data, and last place of residence.

7. Moreover, the repatriation agreement states that Vietnam will consider each person for repatriation on a case-by-case basis, after determining nationality and taking into account "the humanitarian aspect, family unity[,] and circumstances of each person in each individual case."

8. Upon information and belief, the Vietnamese government's process for determining whether to issue a travel document can be complex and lengthy and may include

outreach to members of the person's family to verify the person's past or present ties to Vietnam.

9. Because of the Vietnamese government's overall lack of cooperation, the United States government has been unable to carry out most orders of removal to Vietnam. Consequently, ICE has for years routinely released Vietnamese immigrants with final orders of removal from immigration custody upon or even before expiration of the 90-day removal period. Thousands of Vietnamese returned to their families, their jobs, and their communities and built productive, peaceful lives following completion of their removal proceedings.

Mr. Luu's Background and History

10. Mr. Luu is a 48-year-old citizen of Vietnam who came to the United States as a child his family. Mr. Luu left Vietnam when he was a young child, and his family moved to Italy. Upon information and belief, no one in Mr. Luu's family never received permanent residency or citizenship status in Italy. A few years later, Mr. Luu and his family resettled in the Houma, Louisiana. Mr. Luu believes he was around nine years old when they moved to the U.S.

11. Mr. Luu's early years in the U.S. were unfortunately mottled with more struggle. He dropped out of high school when he was in ninth grade and was arrested several times as a teenager and in his early twenties. But in prison, Mr. Luu began to turn his life around, earning his GED.

12. While Mr. Luu was incarcerated, he was placed in removal proceedings and appeared via video. On December 22, 1998, an immigration judge ordered his removal. Ex. 2, Order of Removal. The charge of removability was for overstaying a nonimmigrant visa under INA § 237(a)(1)(B). Ex. 3. Because Mr. Luu waived appeal of his removal order, it became administratively final the same day. *Id.*

13. After his order became final, Mr. Luu remained in state custody. However,

because Vietnam would not accept Mr. Luu for repatriation, ICE never effectuated his removal.

14. On November 4, 2011, ICE placed Mr. Luu under an Order of Supervision (“OSUP”), which required him to report in person when instructed to the ICE Field Office in New Orleans. Ex. 3.

15. Since his release from criminal custody, Mr. Luu has settled into a quiet and meaningful life. With his work authorization, he has been able to maintain steady employment. United States Citizenship and Immigration Services (USCIS), which is part of DHS, approved Mr. Luu’s application for work authorization (employment authorization document) several times under the (c)(18) category, in which USCIS considers whether the noncitizen can be removed in a timely manner. 8 CFR § 241.5(c)(1). He married in 2018 and is the father of two teenage children. ICE approved his request to move to Georgia, and he began to report in Atlanta. Ex. 3.

16. Mr. Luu’s peaceful life was disrupted in July 2025 when ICE suddenly revoked his Order of Supervision, detaining him during his regularly scheduled check-in at the ICE Field Office in Atlanta. He was transferred to Stewart Detention Center in Lumpkin, Georgia without explanation.

17. Several days after ICE detained Mr. Luu, on or about July 4, 2025, ICE prepared several documents, including the Warning for Failure to Depart, Assumption of Custody Notification, and Warning to Alien Ordered Removed or Deported. Ex. 3.

18. A Deportation Officer called Mr. Luu’s wife on or about December 16, 2025, while Mr. Luu was present. Exh. 5. The Deportation Officer asked Mr. Luu’s wife for information for the travel document form. *Id.* Mr. Luu’s wife asked for the information via email, and she responded to the Deportation Officer with information on December 23, 2025. *Id.* On Sunday, January 4, 2026, the Deportation Officer called Mr. Luu’s wife and informed her that Mr. Luu

would be on the next flight to Vietnam, but she did not provide an exact date. *Id.* Mr. Luu’s wife has asked for an update several times, but the Deportation Officer no longer answers. *Id.*

19. Since Mr. Luu’s wife has been in contact with the Deportation Officer, Mr. Luu has met with his Deportation Officer. Ex. 6. Although he does not know the exact date, Mr. Luu estimates his last interaction with ICE was toward the end of February, and the officer told him the request was still pending. *Id.*

20. ICE’s detention of Mr. Luu has separated him from his community and family, including his two teenage children.

LEGAL FRAMEWORK

21. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects.” *Zadvydas*, 533 U.S. at 690.

22. The Due Process Clause requires that the deprivation of Mr. Luu’s liberty be narrowly tailored to serve a compelling government interest. *See Reno v. Flores*, 507 U.S. 292, 301-02 (1993) (holding that due process “forbids the government to infringe certain ‘fundamental’ liberty interests . . . unless the infringement is narrowly tailored to serve a compelling state interest”). As the Supreme Court held in *Zadvydas*, indefinite detention raises a “serious constitutional problem” and runs afoul of the Due Process Clause. 533 U.S. at 690.

23. 8 U.S.C. § 1231 governs the detention and removal of noncitizens, like Mr. Luu, who have been ordered removed. Section 1231(a)(2) authorizes a 90-day period of mandatory post-final-removal-order detention, during which ICE is supposed to effectuate removal.

24. Those who are not removed within the 90-day removal period should be released under conditions of supervision, such as periodic reporting and other reasonable restrictions. *See*

§ 1231(a)(3). The Government may continue to detain certain noncitizens beyond the 90-day removal period if they have been ordered removed on inadmissibility grounds after violating nonimmigrant status or conditions of entry, or on grounds stemming from criminal convictions, or security concerns, or if they have been determined to be a danger or flight risk. *See* § 1231(a)(6). If these groups of noncitizens are released, they are also subject to the supervision terms set forth in § 1231(a)(3). *Id.*

25. In *Zadvydas*, the Supreme Court held that § 1231(a)(6), when “read in light of the Constitution’s demands, limits [a noncitizen]’s post-removal-period detention to a period reasonably necessary to bring about that alien’s removal from the United States.” 533 U.S. at 689. A “habeas court must [first] ask whether the detention in question exceeds a period reasonably necessary to secure removal.” *Id.* at 699. “[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized.” *Id.* At that point, the individual must be released because his continued detention would violate both the statute and the Due Process Clause of the Constitution. *Id.*

26. In determining a period reasonably necessary to effectuate removal, the *Zadvydas* Court adopted a “presumptively reasonable period of detention” of six months, inclusive of the 90-day removal period. *Id.* at 701. “After this six-month period, once the [noncitizen] provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing.” *Id.* Thus, after six months, the Government bears the burden of disproving a detained person’s “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Clark v. Martinez*, 543 U.S. 371, 386 (2005) (granting habeas relief to Cuban petitioners whose detention lasted beyond six months post-removal-order and whose removal to

Cuba was not reasonably foreseeable); *see also Adu v. Bickham*, No. 7:18-cv-103-WLS-MSH, 2018 WL 6495068 (M.D. Ga. Dec. 10, 2018) (R&R recommending release under *Zadvydas*).

27. A noncitizen who has been detained beyond the presumptive six-month period should be released if the Government is unable to present documented confirmation that removal is likely to occur in the reasonably foreseeable future. *Clark*, 543 U.S. at 386; *see also McKenzie v. Gillis*, No. 5:19-cv-139, 2020 WL 5536510, at *3 (S.D. Miss. July 30, 2020) (“Six months have passed since [the ICE Deportation Officer] stated that Petitioner’s removal was imminent. Yet, Petitioner remains in ICE custody, and nothing in [the Supervisory Detention and Deportation Officer’s] declaration demonstrates that Petitioner will be removed anytime soon. Neither ICE’s belief that Petitioner will be removed, nor the information provided by Respondent satisfy the Government’s burden to rebut Petitioner’s showing that he will not be removed in the foreseeable future.”), *report and recommendation adopted*, 2020 WL 5535367 (S.D. Miss. Sept. 15, 2020).

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

29. Release is the proper remedy for unconstitutionally prolonged post-removal-order detention. *See Zadvydas*, 533 U.S. at 699–700 (explaining that supervised release is the appropriate relief when “the detention in question exceeds a period reasonably necessary to secure removal”

because at that point, detention is “no longer authorized by statute”).

30. Mr. Luu’s detention fits squarely within the *Zadvydas* framework. His removal order became final in December 1998. To Petitioner’s knowledge, nothing suspended or tolled the removal period. Nothing has suspended or tolled the removal period since ICE detained him on or about July 2, 2025, when he reported to the ICE office in Atlanta for a check in.

31. Therefore, Mr. Luu is subject to permissive post-removal-order detention under 8 U.S.C. § 1231(a)(6) and his claim is ripe for court review.

32. “[F]or detention to remain reasonable, as the period of post-removal confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink.” *Zadvydas*, 533 U.S. at 701. ICE has had over twenty-eight (28) years to try to remove Mr. Luu since his removal order became final, and it has failed to do so. Even since the MOU went into effect, ICE has had several years.

33. Removal “seems a remote possibility at best.” *Zadvydas*, 533 U.S. at 690. Thus, Mr. Luu’s continued detention violates the implicit requirement in 8 U.S.C. § 1231(a)(6) that detention may not become unreasonably prolonged. In addition, his continued detention does not serve a legitimate government purpose and lacks sufficient procedural protections in violation of the Due Process Clause.

34. Finally, even if DHS’ claim that they had made “significant gains” with the Vietnamese government that would allow removal to become foreseeable, Mr. Luu’s detention is not “reasonably related” to preventing danger or a flight risk. Mr. Luu is not a danger to his community, but rather an upstanding resident of Lawrenceville and a proud father to two U.S. citizens. Similarly, he has spent 15 years complying fully with an ICE supervision order and poses no flight risk.

CLAIMS FOR RELIEF

**Count One
Violation of the Fifth Amendment of the U.S. Constitution
Procedural and Substantive Due Process**

1. Mr. Luu incorporates by reference all preceding paragraphs as if fully set forth here.
2. The Fifth Amendment to the U.S. Constitution provides that “[n]o person . . . shall be . . . deprived of life, liberty, or property, without due process of law.” U.S. Const., amend. V.
3. The Fifth Amendment’s due process protections extend to all individuals within the United States, “whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
4. The Due Process Clause of the Fifth Amendment also requires detention to “bear a reasonable relationship” to the purpose for which an individual is detained. *Zadvydas v. Davis*, 533 U.S. at 690. Post-final-order detention bears no reasonable relation to its principal purpose if removal cannot be effectuated. *Id.* at 697.
5. ICE’s detention of Mr. Luu violates his right to substantive due process because ICE has not demonstrated that his removal is reasonably foreseeable. *See Zinermon v. Burch*, 494 U.S. 113, 125 (explaining that the Due Process Clause “bars certain arbitrary, wrongful government actions regardless of the fairness of the procedures used to implement them”) (internal quotation marks and citation omitted); *Zadvydas*, 533 U.S. at 696 (finding a “serious question as

to whether” indefinite detention is unconstitutional “irrespective of the procedures used”).

6. Mr. Luu has been detained continuously for more than six months since ICE detained him on July 2, 2025. The government must now show that removal is “reasonably foreseeable.” It cannot simply rely on generalized evidence of the possibility of repatriation to Vietnam but must present particularized evidence that Mr. Luu’s removal is reasonably foreseeable. *See Nguyen v. Hyde*, 788 F. Supp. 3d 144, 152 (D. Mass. 2025) (finding ICE failed to show it had made an individualized determination that the petitioner’s removal was reasonably foreseeable because ICE neither had travel documents for petitioner nor any indication of approval from the Vietnamese government); *Nguyen v. Bondi*, No. EP-25-CV-323-KC, 2025 WL 3120516, at *7 (W.D. Tex. Nov. 7, 2025) (finding no change in circumstances making the petitioner’s removal likely where ICE simply presented evidence of removal of over 400 Vietnamese nationals to Vietnam in 2025 without more specifically assessing the petitioner’s particular circumstances); *Lam v. Noem*, Civil Action No. 3:25-cv-00397, 2026 WL 492383, at *6-7 (W.D. Pa. Feb. 23, 2026) (2020 MOU and representation that a travel document request was in process did not establish a likelihood of removal).

7. Upon information and belief, Vietnam still has not issued Mr. Luu these travel documents, and the government has presented no individualized evidence that it will do so in the reasonably foreseeable future. As a result, Mr. Luu is likely to be detained indefinitely absent intervention from this Court. His detention is no longer reasonably related to the primary statutory purpose of ensuring his imminent removal.

8. Nor does Mr. Luu’s continued detention bear any relationship to the governmental purposes of preventing flight and protecting the community. Since his initial order of supervision in 2011, Mr. Luu has been an upstanding member of his community. He has not

been arrested or convicted of any further crimes. He has fully complied with his OSUP.

9. Mr. Luu's removal is not practically attainable, and he poses no danger or flight risk. Consequently, his detention is punitive in effect and violates the Due Process Clause. He is therefore entitled to immediate release under an order of supervision.

10. Prolonged civil detention also violates procedural due process unless it is accompanied by strong procedural protections to guard against the erroneous deprivation of liberty. *Id.* at 690-91; *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992); *Kansas v. Hendricks*, 521 U.S. 346, 364-69 (1997); *United States v. Salerno*, 481 U.S. 739, 750-752 (1987).

11. ICE's revocation of Mr. Luu's order of supervision constitutes a deprivation of liberty under the Due Process Clause of the Fifth Amendment. "Freedom from imprisonment—from government custody, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Id.* at 690.

12. "The fundamental requirement of procedural due process is the opportunity to be heard "at a meaningful time and in a meaningful manner." *Matthews v. Eldridge*, 424 U.S. 319, 333 (1976). Due process calls for "such procedural protections as the particular situation demands," taking into account the governmental and private interests affected, as well as the risk of erroneous deprivation of a constitutionally protected interest. *Id.* at 334-35.

13. Mr. Luu has a strong private interest in remaining out of custody so that he can continue raising his two teenage children and supporting his family. He also has a strong interest in enjoying the "opportunity to prepare for an orderly departure" – which was explicitly guaranteed to him in his release notification – should ICE successfully procure a travel document for him. *See Ragbir v. Sessions*, 2018 WL 623557 (S.D. N.Y. January 29, 2018) (finding sudden re-detention of a noncitizen under supervised release for years with "no showing or even intimation that he

would have fled or hidden to avoid leaving as directed” violated due process and was “unnecessarily cruel”); *Rombut v. Souza*, 296 F. Supp. 3d 383, 388 (D. Mass. 2017) (holding ICE violated the Due Process Clause by re-detaining a noncitizen without allowing him time to prepare for an orderly departure).

14. Moreover, the risk of erroneous deprivation of Mr. Luu’s liberty interest is high because the “sole procedural protections” associated with detention are found in administrative proceedings, where the noncitizen bears the burden of proving he should be released. *See Zadvydas*, 533 U.S. at 692 (commenting that “[t]he Constitution demands greater procedural protection” than that provided by the regulations “even for property”).

15. The value of additional procedural safeguards – namely, a hearing before a neutral arbiter – would be significant, affording Mr. Luu the opportunity to rebut the government’s evidence, if any, that his detention is necessary. On the other hand, the government’s interest in detaining Mr. Luu without a hearing is weak, given that he has been living in the community without incident and reporting to ICE for over a decade.

16. Any pro forma internal post-order custody reviews ICE conducted in Mr. Luu’s case do not meet the minimum procedural safeguards required by due process. *See Diouf v. Napolitano*, 634 F.3d 1081, 1092 (9th Cir. 2011).

17. Thus, Mr. Luu’s detention violates both substantive and procedural due process.

18. As a result, Mr. Luu is entitled to immediate release from custody.

Count Two
Violation of the Immigration and Nationality Act, 8 U.S.C. 1231(a)

19. Mr. Luu incorporates by reference all preceding paragraphs as if fully set forth here.

20. Mr. Luu is detained pursuant to the discretionary, post-removal-order detention

provision, § 1231(a)(6), because more than 90-days have elapsed since his removal order became administratively final and he has not done anything to impede his removal or toll the removal period. See 8 U.S.C. § 1231(a); 8 C.F.R. § 1241.1.

21. Section 1231(a)(6) contains an implicit temporal limitation of six months, after which detention is no longer presumptively reasonable. *Zadvydas*, 533 U.S. at 701. After that point, if the habeas petitioner “provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing,” and due process “requires ordering [the p]etitioner released.” *Adu*, 2018 WL 6495068, at *2-3 (quoting *Zadvydas*, 533 U.S. at 701).

22. Mr. Luu’s detention under §1231 is no longer presumptively reasonable because he has been continuously detained pursuant to a final removal order for over six months.

23. Mr. Luu has demonstrated “good reason to believe” that his removal is not reasonably foreseeable because ICE has detained him for more than eight months, and there is no indication that Vietnam has obtained a travel document or will issue one in the reasonably foreseeable future. *Id.* at 701. The burden has thus shifted to Respondent to produce individualized evidence to rebut Mr. Luu’s showing and due process “requires ordering [the p]etitioner released.” *Id.* at 681; *Adu*, 2018 WL 6495068, at *2-3 (quoting *Zadvydas*, 533 U.S. at 701).

24. Mr. Luu could remain detained for several months or even years beyond the six months recognized as reasonably necessary to effectuate removal in *Zadvydas*. Here, Mr. Luu has already been detained for more than eight months, all post-order.

25. Nor is there any “sufficiently strong special justification” for Mr. Luu’s prolonged detention beyond the six-month limit. See *Zadvydas*, 533 U.S. at 690-91 (requiring a showing of dangerousness accompanied by some other “special circumstance” to justify continued detention

when removal is not significantly likely in the reasonably foreseeable future).

Thus, Mr. Luu's detention violates § 1231, and he is entitled to immediate release from custody.

PRAYER FOR RELIEF

WHEREFORE Petitioner requests that the Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Order Respondent to show cause why a writ of habeas corpus should not be granted "within three (3) days unless for good cause additional time, not exceeding twenty (20) days, is allowed," that Petitioner be afforded one (1) week to file a response to Respondents' return, and set a hearing on this Petition within one (1) week after Petitioner's response is due, pursuant to 28 U.S.C. § 2243;
- c. Order that as part of their filing showing cause why the Petition should not be granted, Respondents provide all documents relevant to efforts made to obtain travel documents for Mr. Luu, which Mr. Luu does not have access to;
- d. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under Chapter 153 (habeas corpus) of Title 28;
- e. In the event that this Court determines that a genuine dispute of material fact exists regarding the likelihood of removal to Vietnam in the reasonably foreseeable future, schedule an evidentiary hearing pursuant to 28 U.S.C. § 2243. *Singh v. U.S. Attorney Gen.*, 945 F.3d 1310, 1315-16 (11th Cir. 2019);
- f. Grant a writ of habeas corpus ordering Respondent to immediately release Mr. Luu from their custody;
- g. Enter preliminary and permanent injunctive relief enjoining Respondent from further unlawful detention of Mr. Luu;
- h. Declare that Mr. Luu's detention without a bond hearing violates the Immigration and Nationality Act;
- i. Declare that Mr. Luu's detention violates the Due Process Clause of the Fifth Amendment;
- j. Enjoin Respondent from transferring Mr. Luu outside of this judicial district pending litigation of this matter;
- k. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
- l. Grant such further relief as this Court deems just and proper.

Dated: March 13, 2026

Respectfully submitted,

/s/ Matthew O. Boles
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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner-Plaintiff because I am the Petitioner-Plaintiff's attorney. I have discussed with the Petitioner-Plaintiff the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

Dated: March 13, 2026

/s/Matthew Boles

Attorney for Petitioner