

1 Naira Zohrabyan, Esq. [SBN 337925]
2 ZOHRABYAN LAW, APC
3 100 W. Broadway, Suite 540
4 Glendale, CA 91210
5 Tel: 818-270-5150
6 Fax: (747) 327-4059
7 Email: naira@zohrabyanlaw.com

DETAINED

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9 Attorneys for Petitioner **Thi Thuy Vinh Nguyen**

10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 **In the matter of:**

Case Number:

13 **THI THUY VINH NGUYEN**

14 **A** 

15 **v.**

16 **3:26-cv-02749-BAS-VET**

17 **CHRISTOPHER LAROSE,**
18 **WARDEN OF OTAY MESA**
19 **DETENTION CENTER**

20 **TRAVERSE**

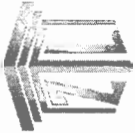
21 **Challenge to Unlawful Incarceration;**
22 **Request for Declaratory and**
23 **Injunctive Relief**

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28 **TRAVERSE**



- 1 1. Petitioner is a native and citizen of Vietnam who entered the United States on
2 December 1, 2024. Since that date, Petitioner has remained in continuous
3 immigration custody, and as of today, has been detained for over sixteen (16)
4 months without release. See *Zadvydas v. Davis*, 533 U.S. 678, 690
5 (2001) (prolonged immigration detention raises serious constitutional concerns).
- 6 2. On November 6, 2025, the San Diego Immigration Court granted Petitioner
7 Withholding for Vietnam of Removal pursuant to INA § 241(b)(3). DHS did not
8 appeal, and the order became final. See *INS v. Aguirre-Aguirre*, 526 U.S. 415,
9 419 (1999) (withholding protects against removal to a specific country where
10 persecution is likely).
- 11 3. Despite this, Respondents are seeking to remove Petitioner to a third country,
12 Palau, without adequate procedural protections.
- 13 4. Petitioner filed the instant Petition for Writ of Habeas Corpus on April 30, 2026,
14 at 3:35 p.m.
- 15 5. Respondents admit that they transferred the Petitioner on the same day on April
16 30, 2026, at 6:30 p.m., with an actual knowledge of the instant Petition.
- 17 6. Petitioner filed this habeas action on April 30, 2026, at 3:35 p.m. Respondents
18 transferred Petitioner the same day at 6:30 p.m., with actual knowledge of the
19 pending petition. This transfer was undertaken in violation of this Court's
20 jurisdiction and in an apparent attempt to defeat judicial review. See *Ex parte*
21 *Endo*, 323 U.S. 283, 306 (1944) (jurisdiction not defeated by post-filing transfer
22 of petitioner); *Rumsfeld v. Padilla*, 542 U.S. 426, 441 (2004) (jurisdiction
23 attaches at time of filing).
- 24 7. As of today, Petitioner remains outside this District despite the Court's order,
25 and Respondents have failed to return her. Such conduct undermines the Court's
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1 authority and warrants immediate intervention. See *Land v. Dollar*, 330 U.S. 731,
2 735 (1947) (courts retain authority to preserve jurisdiction).

3 8. Respondents now seek to remove Petitioner to Palau while this petition remains
4 pending. Petitioner is facing imminent removal, rendering this Court's review
5 moot absent immediate intervention. See *Nken v. Holder*, 556 U.S. 418, 435
6 (2009); *Leiva-Perez v. Holder*, 640 F.3d 962, 969–70 (9th Cir. 2011).

7 9. Respondents deprived Petitioner of due process by providing untimely, English-
8 only notice of removal to Palau, failing to notify counsel, and imposing a 24-
9 hour response requirement without a meaningful opportunity to be heard.
10 See *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (due process requires
11 meaningful opportunity to be heard); *Orantes-Hernandez v. Thornburgh*, 919
12 F.2d 549, 554 (9th Cir. 1990) (affirming due process protections in removal
13 context).

14 10. Further, Petitioner does not speak or understand English, yet Respondents served
15 notice only in English. This failure to provide adequate notice renders the process
16 constitutionally deficient. See *Mullane v. Central Hanover Bank & Trust Co.*,
17 339 U.S. 306, 314 (1950) (notice must be reasonably calculated to apprise
18 interested parties).

19 11. Respondents admit that they have provided the Petitioner of their notice of
20 deportation to Palau in English. ECF Docket No. 6.

21 12. Respondents only served this notice on May 11, 2026.

22 13. Neither Petitioner, nor Petitioner's counsel had a chance to do research on the
23 country condition in Palau.

24 14. Respondents also failed to obtain or provide a valid travel document prior to
25 removal and improperly asserted that acceptance by Palau suffices. Removal
26 without valid documentation violates statutory and regulatory requirements and
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1 reflects arbitrary agency action. See *Judulang v. Holder*, 565 U.S. 42, 52
2 (2011) (agency action must not be arbitrary or capricious).

3 15. Here, Respondents have provided no evidence to rebut this showing that they are
4 in the process of removing Petitioner in their Response other than a vague
5 declaration that there is a “high likelihood” of Petitioner’s removal to Palau by
6 the end of this month. ECF Docket No. 5-1.

7 16. Moreover, Respondents denied Petitioner any meaningful opportunity to assert
8 fear of removal to Palau. Under existing policy, individuals must affirmatively
9 raise fear within a severely truncated timeframe, which is constitutionally
10 inadequate under these circumstances. See *Orantes-Hernandez*, 919 F.2d at 565
11 (procedural barriers to asserting fear claims violate due process).

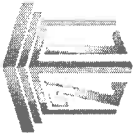
12 17. Here, the Declaration of David J Townsend actually confirmed that ICE as of
13 today failed to obtain a travel document, wrongfully confirming that Petitioner
14 does not need a travel document because “The Petitioner’s acceptance by
15 Palau serves as the travel document in the Petitioner’s removal.” ECF
16 Docket No. 5-1.

17 18. Furthermore, Declaration confirms that Respondents failed to obtain a valid
18 travel document, did not provide the travel document to Petitioner and
19 Petitioner’s counsel, and/or offer Petitioner the opportunity to travel to a third
20 country in over six months after granting of withholding.

21 19. Removal without a valid travel document violates statutory and regulatory
22 requirements and underscores the arbitrary nature of Respondents’ actions.

23 20. Under this policy, ICE “will not affirmatively ask whether the alien is afraid of
24 being removed to the country of removal.” *Id.* (emphasis original). If the
25 noncitizen “does not affirmatively state a fear of persecution or torture if
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1 removed to the country of removal listed on the Notice of Removal within 24
2 hours, [ICE] may proceed with removal to the country identified on the notice.”

3 21. Petitioner was not given an opportunity to assert her credible fear of removal to
4 Palau. Her attorney was not informed that Respondents plan to remove her to
5 Palau until on May 11, 2026. Petitioner has a fear of removal to Palau based on
6 the possibility of chain refoulement to Vietnam, where it is more likely than not,
7 she will be persecuted in Vietnam. She may also have other fears of removal to
8 Palau upon further investigation.

9 22. Petitioner is facing imminent removal, rendering this Court’s review moot absent
10 immediate intervention.

11 23. Petitioner faces a substantial risk of chain refoulement to Vietnam, where she
12 has already been granted withholding based on likely persecution. Removing her
13 to a third country without adequate safeguards risks indirect return to
14 persecution. See *Nuru v. Gonzales*, 404 F.3d 1207, 1216 (9th Cir. 2005) (non-
15 refoulement principles prohibit return to persecution, including indirect
16 removal).

17 24. Respondents deprived Petitioner of due process by providing untimely, English-
18 only notice, failing to notify counsel, and imposing a 24-hour response
19 requirement without a meaningful opportunity to be heard.

20 25. Given these violations, injunctive relief is warranted. Petitioner satisfies all
21 factors for a stay: likelihood of success, irreparable harm, balance of equities,
22 and public interest. See *Nken*, 556 U.S. at 434.

23 26. The public interest strongly favors ensuring that removal proceedings comply
24 with statutory and constitutional requirements. See *Nken*, 556 U.S. at 436.

25 27. As such, Petitioner respectfully requests that this Court order that Respondents:
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- (1) Are enjoined from removing Petitioner from the United States unless and until they obtain a valid travel document;
- (2) Provide any such travel document to Petitioner and her counsel sufficiently in advance of removal;
- (3) Are enjoined from removing Petitioner to any third country, including Palau, absent:
 - (a) written notice to Petitioner and counsel in a language Petitioner understands; and
 - (b) a meaningful opportunity to respond, including reopening of proceedings before an Immigration Judge if necessary;
- (4) Return Petitioner to this District pending adjudication of this Petition; and
- (5) Grant such other relief as the Court deems just and proper.

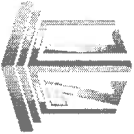
DATED: May 15, 2026

Respectfully submitted



Naira Zohrabyan
Attorney for Petitioner

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CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this TRAVERSE using the CM/ECF system.

DATED: May 15, 2026

Respectfully submitted



Naira Zohrabyan
Attorney for Petitioner
Zohrabyan Law, APC



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