

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA**

Ut Van Nguyen v. Kristi Noem, et al.

Nguyen · No. 25cv3032-LL-MMP · Decided December 12, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 UT VAN NGUYEN, Case No.: 25cv3032-LL-MMP 12 Petitioner, ORDER
GRANTING PETITION 13 v. FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 14
KRISTI NOEM, et al., 15 Respondents. [ECF No. 1] 16 17 Pending before the Court is Petitioner
Ut Van Nguyen’s Petition for Writ of Habeas 18 Corpus under 28 U.S.C. § 2241.

ECF No. 1. The matter is fully briefed, and the Court 19 deems it suitable for determination on the
papers and without oral argument pursuant to 20 Civil Local Rule 7.1. For the reasons below, the
Court GRANTS the Petition for Writ of 21 Habeas Corpus, DENIES AS MOOT the Motion for
Temporary Restraining Order, and 22 ORDERS Petitioner’s immediate release from custody.

23 I. BACKGROUND 24 Petitioner was born in Vietnam and came to the United States as a
refugee with his 25 family in 1984. ECF No. 1 (“Pet.”) at 5. He was ten years old. Id. They soon
obtained green 26 cards. Id. In 1997, he was convicted of robbery. ECF No. 7-1. He was ordered
removed by 27 an immigration judge, spending several months in detention while ICE attempted
to 28 remove him.

Pet. at 5. When Vietnam failed to issue him a travel document, he was released 1 on supervision in
2000. Id. Perhaps due to some mental illness, he was arrested numerous 2 times over the last 25
years: going to jail, then into ICE custody, and eventually released 3 back on supervision. Id. 4 On
February 25, 2025, ICE re-detained him, where he has remained in detention for 5 the past nine-
and-a-half months.

Id. Petitioner swears that ICE did so without offering “any 6 details [as to] why” his “supervision
was being revoked” or the like. ECF No. 1-2 (“Nguyen 7 Decl.”) ¶¶ 5–7. These failings, Petitioner
argues, violated ICE’s own regulations: 8 The Service may revoke an alien’s release under this
section and return 9 the alien to custody if, on account of changed circumstances, the Service
determines that there is a significant likelihood that the alien may be 10 removed in the reasonably
foreseeable future....

Upon revocation, the 11 alien will be notified of the reasons for revocation of his or her release.
The Service will conduct an initial informal interview promptly after his 12 or her return to

Service custody to afford the alien an opportunity to 13 respond to the reasons for revocation stated in the notification. 14 See 8 C.F.R. §§ 241.13(i)(2)–(3), 241.4(l).

15 Therefore, on November 7, 2025, Petitioner sought his release through a writ of 16 habeas corpus on three grounds: (1) that his detention is unlawful under *Zadvydas v. Davis*, 17 533 U.S. 678 (2001), and 8 U.S.C. § 1231; (2) that he was denied an explanation, interview, 18 and chance to respond when he was re-detained, violating ICE’s rules and his constitutional 19 due process rights; and (3) that ICE may seek to remove him to a third country without 20 notice and an opportunity to be heard.

Pet. at 11–22. Petitioner moved for appointed 21 counsel and a temporary restraining order as well. ECF Nos. 2, 3. The Court has since 22 granted in part his requests, appointing Federal Defenders of San Diego, Inc. to represent 23 him and enjoining the Government from removing him to a third country. ECF No. 4. 24 Finding the second claim (due process) to be dispositive, the Court declines to rule on 25 claims one (*Zadvydas*) and three (removal to a third country).

26 II. DISCUSSION 27 A. Jurisdiction 28 Courts have long had jurisdiction to issue writs of habeas corpus to petitioners held 1 in custody “in violation of the Constitution or laws or treaties of the United States.” 2 28 U.S.C § 2241(c)(3).

In doing so, we carry out the “historic purpose of the writ,” namely 3 “to relieve detention by executive authorities without judicial trial.” *Zadvydas*, 533 U.S. at 4 699. Had Petitioner sought to challenge the Government’s decision to execute his removal 5 order, it would bar this Court’s review. See *Arce v. United States*, 899 F.3d 796, 800 6 (9th Cir. 2018) (applying 8 U.S.C. § 1252(g)’s “jurisdiction-stripping power to actions 7 challenging the Attorney General’s discretionary decisions to initiate proceedings, 8 adjudicate cases, and execute removal orders”).

But Petitioner only contests his detention 9 resulting from violations of the Government’s mandatory duties under certain statutes, 10 regulations, and the Constitution, so the Court has jurisdiction to determine the lawfulness 11 of his detention. See *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 12 19 (2020) (rejecting the government’s “implausible” suggestion that § 1252(g) covers all 13 claims arising from deportation proceedings); *Hernandez v. Sessions*, 872 F.3d 976, 981 14 (9th Cir.

2017) (“[T]he government’s discretion to incarcerate noncitizens is always 15 constrained by the requirements of due process.”). 16 B. Due Process 17 The Court finds that the Government has violated its own regulations under 18 § 241.13(i) and § 241.4(l).

First, ICE must determine that the detainee is significantly likely 19 to be removed in the reasonably foreseeable future “on account of changed circumstances.” 20 § 241.13(i)(2). The Government asserts that it has assessed that changed circumstances 21 will result in Petitioner’s removal to Vietnam in the reasonably foreseeable future. “While 22 that may [perhaps] be the case

now, § 241.13(i)(2) requires that this determination is made 23 before the removable alien has had his release revoked.” *Tran v. Noem*, No. 25-cv-2391- 24 BTM-BLM, 2025 WL 3005347, at *2 (S.D.

Cal. Oct. 27, 2025). The record does not show 25 that a changed-circumstances determination was made at or before Petitioner’s re-detention 26 on February 25, 2025. Even if ICE assessed the likelihood of Petitioner’s removal before 27 revoking his release, it would not have been “on account of” changed circumstances.

The 28 Government, in fact, did not even submit a request to Vietnam for travel documents until 1 September 11, 2025—more than six months after re-detaining him. With “no evidence of 2 an actual determination of changed circumstances that justified the initial revocation of 3 [Petitioner’s] release,” the Government has violated its own rule under § 241.13(i)(2).

4 See *id.* (finding the same). 5 Second, an alien must “be notified of the reasons for revocation of his or her release” 6 that are actually “stated in the notification.” § 241.13(i)(3); see *Tran*, 2025 WL 3005347, 7 at *3 (holding that this “notice must be in writing and contain all the reasons for the 8 revocation of the alien’s release”).

The Government suggests that it need not have provided 9 anything more than its DHS I-213 form. However, the Government is silent on whether it 10 gave Petitioner a copy of this form at or reasonably close to his arrest. Also, the I-213 11 simply states that he was being re-detained. ECF No. 7-1. It “does not state that he was 12 advised of the reasons supporting the revocation of release.” *Tran*, 2025 WL 3005347, at 13 *3.

Because such a bare-bones explanation does not contain reasons for the revocation of 14 Petitioner’s release, it does not satisfy the “the due-process notification requirement of 15 § 241.13(i)(3).” See *id.* (finding the same); *Lesic v. LaRose*, No. 25-cv-2746-LL-BJW, 16 2025 WL 3158675, at *3 (S.D. Cal. Nov. 12, 2025) (same). 17 Finally, after re-detaining an alien, ICE must “promptly” conduct “an initial informal 18 interview” to “afford the alien an opportunity to respond to the reasons for revocation.” 19 § 241.13(i)(3).

Once again, the Government is silent on whether it interviewed Petitioner 20 shortly after his re-detainment. Meanwhile, Petitioner declares that the Government did not 21 offer “any details [as to] why” his “supervision was being revoked,” effectively stripping 22 him of an opportunity to fight his re-detention. *Nguyen Decl.* ¶¶ 5–7. These failings, too, 23 violated Petitioner’s due process rights.

See *Tran*, 2025 WL 3005347, at *3 (finding the 24 same); see also *Grannis v. Ordean*, 234 U.S. 385, 394 (1914) (“The fundamental requisite 25 of due process of law is the opportunity to be heard.”). 26 The Government does not dispute that it has failed to follow its own rules for re- 27 detainment, instead arguing that “[e]ven assuming the agency’s compliance with the 28 relevant

regulations fell short,” it is not enough to release Petitioner back on supervision 1 || pending his deportation to Vietnam in the reasonably foreseeable future.

See Opp. at 9-10. 2 || However, courts “have found that when ICE fails to follow its own regulations in revoking 3 || release, the detention is unlawful, and the petitioner’s release must be ordered.” *Truong v. 4 || Noem*, No. 25-cv-2597-JES-MMP, 2025 WL 2988357, at *6 (S.D. Cal. Oct. 22, 2025) 5 ||(collecting cases). This is so even when, unlike here, the Government has obtained a 6 || petitioner’s travel document back to his or her country of origin after their re-detainment.

7 || See *id.* at *1—6 (granting habeas and releasing the petitioner with a deportation order back 8 ||)on supervision when the respondents failed to comply with § 241.13(i) and § 241.4(1) 9 || despite later securing travel documents for his country of origin); *Tran*, 2025 WL 3005347, 10 || at *1—4 (same). 11 Because Respondents failed to comply with § 241.13(i) and § 241.4(1) when they 12 ||revoked Petitioner’s supervised release, issuing a writ to reinstate that release is warranted.

13 || This will be “without prejudice” to the remedies that Respondents may otherwise have, 14 ||namely their readiness to deport Petitioner to Vietnam in the future. See *Tran*, 2025 WL 15 3005347, at *3. “Respondents may exercise their discretion to allow him to say goodbye 16 his family, settle his affairs, and report for his removal.” See *id.* 17 || I. CONCLUSION 18 Accordingly, the Court GRANTS the Petition for Writ of Habeas Corpus under 19 U.S.C. § 2241 and DENIES AS MOOT the Motion for TRO.

The Government shall 20 ||immediately release Petitioner from custody on the February 25, 2025 re-detention. 21 || Petitioner shall comply with all conditions that were in effect before his February 25, 2025 22 ||re-detention. By December 15, 2025, at 10:00 a.m., the parties must also file a joint status 23 || report to confirm that Petitioner has been released, after which the Clerk will close the case.

24 IT IS SO ORDERED. 25 ||Dated: December 12, 2025 NO 26 QF | 27 Honorable Linda Lopez 38 United States District Judge