

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Toan Van Nguyen v. Kristi Noem, Pamela Bondi, Todd M. Lyons,
Jesus Rocha, and Christopher J. LaRose

Nguyen · No. 3:25-cv-3062-JES-VET · Decided November 21, 2025

SUMMARY

The United States District Court for the Southern District of California granted Toan Van Nguyen’s petition for a writ of habeas corpus under 28 U.S.C. § 2241. The court held that immigration officials violated due process by failing to provide adequate notice of the basis for revoking Nguyen’s release and by failing to provide a prompt informal interview. The court ordered Nguyen’s immediate release subject to his existing order of supervision and denied the remaining claims and temporary restraining order motion as moot.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	James E. Simmons Jr.
JURISDICTION	United States District Court for the Southern District of California
DECIDED	November 21, 2025
DOCKET	3:25-cv-3062-JES-VET
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Petition for a writ of habeas corpus under 28 U.S.C. § 2241 challenging immigration detention and a motion for a temporary restraining order.
STANDARD OF REVIEW	The court reviewed the legality of Nguyen's custody under 28 U.S.C. § 2241 and determined whether the respondents' failure to follow applicable detention and release regulations violated procedural due process.
PRECEDENTIAL VALUE	Unknown; district court order designated per curiam, with no reporter citation and no precedential-status designation in the source metadata.
PARTIES	Toan Van Nguyen v. Kristi Noem, Pamela Bondi, Todd M. Lyons, Jesus Rocha, Christopher J. LaRose

TOPICS

federal habeas corpus

immigration detention

procedural due process

removal proceedings

immigration

PRACTICE AREAS

immigration

habeas corpus

constitutional law

administrative law

QUESTIONS PRESENTED

1. Whether the district court had habeas jurisdiction under 28 U.S.C. § 2241 notwithstanding 8 U.S.C. § 1252.
2. Whether ICE violated procedural due process by re-detaining Nguyen without providing adequate notice of the reasons for revocation of his supervised release and a prompt informal interview.
3. Whether Nguyen's remaining claims concerning *Zadvydas v. Davis* and removal to a third country should be addressed after relief was granted on the due-process claim.

HOLDINGS

1. A district court has jurisdiction under 28 U.S.C. § 2241 to consider Nguyen's challenge to the legality of his immigration detention.
2. Before re-detaining a noncitizen released under supervision, the government must provide adequate notice of the reasons for revocation and a prompt informal interview allowing the noncitizen to respond; failure to comply with these requirements may violate procedural due process.
3. Nguyen's re-detention violated procedural due process because the notice of revocation was inadequate and the respondents failed to show that a prompt informal interview was provided.

KEY QUOTATIONS

“In summary, the Court concludes that Respondents failed to follow their own regulations in re-detaining Petitioner by failing to: (1) provide him notice that states an adequate basis to revoke his release pursuant; and (2) provide him with a “prompt” informal interview so that he could contest the reasons for his revocation.” (at 7)

“Because the Court grants the petition on the Due Process ground raised in Count 1 of the Petition, Respondents are ORDERED to immediately release Petitioner from custody, subject to the conditions of his preexisting Order of Supervision.” (at 7)

FACTUAL BACKGROUND

Toan Van Nguyen, a Vietnamese national who entered the United States as a refugee in 1984, was ordered removed in 2000 after a car-theft conviction. Because ICE could not remove him for more than a year, he was released from detention under an order of supervision in 2001. ICE arrested him during an annual check-in in September 2025 and issued a notice revoking his release, but the record did not show that he received an adequate explanation of the revocation or a prompt informal interview.

PROCEDURAL HISTORY

Nguyen filed a § 2241 habeas petition and a motion for a temporary restraining order after ICE re-detained him during an annual check-in. Following an order to show cause, the respondents filed a return and Nguyen filed a traverse. The court granted habeas relief on the due-process claim, ordered Nguyen released subject to his preexisting order of supervision, denied the remaining grounds without prejudice as moot, denied the TRO as moot, and closed the case.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

Respondents were ordered to immediately release Nguyen from custody subject to the conditions of his preexisting order of supervision. The parties were ordered to file a joint status report by November 26, 2025, confirming his release. The remaining habeas grounds were denied as moot and without prejudice, the TRO motion was denied as moot, and the case was closed.

CASES CITED

- *Zadvydas v. Davis*, 533 U.S. 678 (2001)
- *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004)
- *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973)
- *I.N.S. v. St. Cyr*, 533 U.S. 289, 301 (2001)
- *Demore v. Kim*, 538 U.S. 510, 517 (2003)
- *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017)
- *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)
- *Diaz v. Wofford*, 2025 WL 2581575 (E.D. Cal. Sept. 5, 2025)
- *Bui v. Warden of the Otay Mesa Det. Facility*, 2025 WL 2988356 (S.D. Cal. Oct. 23, 2025)
- *Tran v. Noem*, 2025 WL 3005347 (S.D. Cal. Oct. 27, 2025)
- *Rokhfirooz v. Larose*, 2025 WL 2646165 (S.D. Cal. Sept. 15, 2025)
- *Saengphat v. Noem*, 2025 WL 3240808 (S.D. Cal. Nov. 20, 2025)
- *McSweeney v. Warden of Otay Mesa Det. Facility*, 2025 WL 2998376 (S.D. Cal. Oct. 24, 2025)
- *J.L.R.P. v. Wofford*, 2025 WL 3190589 (E.D. Cal. Nov. 14, 2025)
- *M.S.L. v. Bostock*, 2025 WL 2430267 (D. Or. Aug. 21, 2025)
- *Constantinovici v. Bondi*, 2025 WL 2898985 (S.D. Cal. Oct. 10, 2025)
- *Delkash v. Noem*, 2025 WL 2683988 (C.D. Cal. Aug. 28, 2025)
- *Phan v. Noem*, 2025 WL 2898977 (S.D. Cal. Oct. 10, 2025)
- *Sanchez v. LaRose*, 2025 WL 2770629 (S.D. Cal. Sept. 26, 2025)
- *Van Tran v. Noem*, 2025 WL 2770623 (S.D. Cal. Sept. 29, 2025)

- Rios v. U.S. Department of Homeland Security, 2025 WL 3022854 (S.D. Cal. Oct. 29, 2025)

OPINION

Nguyen

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 TOAN VAN NGUYEN, Case No.: 3:25-cv-3062-JES-VET 12 Petitioner, ORDER: 13 v.

(1) GRANTING PETITION FOR

14 KRISTI NOEM; PAMELA BONDI;

WRIT OF HABEAS CORPUS

TODD M. LYONS; JESUS ROCHA; and

15 PURSUANT TO 28 U.S.C. § 2241; and

CHRISTOPHER J. LAROSE,

16 Respondents. (2) DENYING AS MOOT MOTION

17 FOR TEMPORARY RESTRAINING

ORDER

18 19 [ECF Nos. 1, 2] 20 Before the Court is Petitioner Toan Van Nguyen's ("Petitioner") Petition
for a Writ 21 of Habeas Corpus pursuant to 28 U.S.C. § 2241. ECF No. 1. Petitioner concurrently
filed 22 a Motion for Temporary Restraining ("TRO"). ECF No. 2. Pursuant to the Court's order to
23 show cause (ECF No. 4), Respondents filed a return to the petition and Petitioner filed a 24
traverse. ECF Nos. 8, 9. For the reasons set forth below, the Court GRANTS the petition.

25 I. BACKGROUND

26 Petitioner, a native of Vietnam, came to the United States with his family in 1984 as 27 a
refugee. ECF No. 1 at 4. In 1998, when he was about 20 years old, Petitioner was 28 conviction of
a car theft offense and as a result, placed into removal proceedings. Id. On

1 May 16, 2000, Petitioner was ordered removed on this basis. Id. Immigration and Customs

2 Enforcement ("ICE") subsequently attempted to remove him but were unable to do so for 3 over
a year. Id. Thus, on March 13, 2001, Petitioner was released from detention on an 4 order of

supervision. ECF No. 8-2 ¶ 5. 5 On September 26, 2025, ICE officials arrested Petitioner during
this annual check- 6 in appointment. ECF No. 1 at 4. Petitioner alleges that he was not provided

notice or an 7 opportunity to be heard regarding his re-detention. Id. 8 In his Petition, Petitioner
asserts three claims: (1) ICE failed to comply with its own 9 procedures to re-detain him, in

violation of its own regulations and due process; (2) his re- 10 detention is in violation of
Zadvydas v. Davis, 533 U.S. 678 (2001); and (3) ICE may not 11 remove Petitioner to a third
country without adequate notice and an opportunity to be heard.

12 Id. at 8-20.

13 II. LEGAL STANDARD

14 A writ of habeas corpus is “available to every individual detained within the United 15 States.”
Hamdi v. Rumsfeld, 542 U.S. 507, 525 (2004) (citing U.S. Const., Art I, § 9, cl. 2). 16 “The
essence of habeas corpus is an attack by a person in custody upon the legality of that 17 custody,
and ... the traditional function of the writ is to secure release from illegal custody.” 18 Preiser v.
Rodriguez, 411 U.S. 475, 484 (1973). A court may grant a writ of habeas corpus 19 to a petitioner
who demonstrates to be in custody in violation of the Constitution or federal 20 law. 28 U.S.C. §
2241(c)(3). Traditionally, “the writ of habeas corpus has served as a means 21 of reviewing the
legality of Executive detention, and it is in that context that its protections 22 have been
strongest.” I.N.S. v. St. Cyr, 533 U.S. 289, 301 (2001). Accordingly, challenges 23 to immigration-
related detention are within the purview of a district court’s habeas 24 jurisdiction. Zadvydas v.
Davis, 533 U.S. 678, 687 (2001); see also Demore v. Kim, 538 25 U.S. 510, 517 (2003).

26 III. DISCUSSION

27 As stated above, Petitioner brings three claims to argue that he should be released 28 from
detention: (1) ICE failed to comply with its own procedures to re-detain him, in 1 violation of the
its own regulations and due process; (2) his re-detention is in violation of 2 Zadvydas; and (3) ICE
may not remove Petitioner to a third country without adequate 3 notice and an opportunity to be
heard. Because the Court finds below that the first claim is 4 meritorious and justifies Petitioner’s
release, the Court will only address this claim on the 5 merits in this Order. 6 A. Jurisdiction 7 As a
threshold matter, Respondents argue that Petitioner’s claims are all barred by 8 8 U.S.C. § 1252.
ECF No. 8 at 5-6. The Court has considered and rejected this argument 9 in its previous orders,
and adopts its reasoning here. See, e.g., Sanchez v. LaRose, No. 25- 10 CV-2396-JES-MMP, 2025
WL 2770629, at *2 (S.D. Cal. Sept. 26, 2025); Van Tran v. 11 Noem, No. 25-CV-2334-JES-MSB,
2025 WL 2770623, at *2 (S.D. Cal. Sept. 29, 2025); 12 Rios v. U.S. Dep’t of Homeland Sec., No.
3:25-CV-01796-JES-DEB, 2025 WL 3022854, 13 at *1 (S.D. Cal. Oct. 29, 2025). Thus, the Court
concludes that it has jurisdiction to hear 14 Petitioner’s first claim on the merits. 15 B. Due
Process 16 “The Due Process Clause of the Fifth Amendment prohibits the Government from 17
depriving individuals of their life, liberty, or property, without due process of 18 law.” Hernandez
v. Sessions, 872 F.3d 976, 990 (9th Cir. 2017). “[T]he Due Process Clause 19 applies to all persons
within the United States, including aliens, whether their presence is 20 lawful, unlawful,
temporary, or permanent.” Zadvydas, 533 U.S. at 679. “Freedom from 21 imprisonment—from
government custody, detention, or other forms of physical restraint— 22 lies at the heart of the
liberty that Clause protects.” Id. at 690. A person at risk of a suffering 23 a serious loss being
given notice and an opportunity to be heard, in a meaningful manner 24 and at a meaningful time,
is the essence of procedural due process. Mathews v. Eldridge, 25 424 U.S. 319, 335 (1976). 26
The detention and release of noncitizens that are subject to a final order of removal 27 is governed
by 8 U.S.C. § 1231. This statute provides that “when an alien is ordered 28 removed, the Attorney
General shall remove the alien from the United States within a 1 period of 90 days.” 8 U.S.C. §

1231(a)(1)(A). “If the alien does not leave or is not removed 2 within the removal period, the alien, pending removal, shall be subject to supervision under 3 regulations prescribed by the Attorney General.” Id. § 1231(a)(3). 4 Supervised release and any revocation of such release thereafter is governed by 5 either 8 C.F.R. § 241.4 or 8 C.F.R. § 241.13. *Diaz v. Wofford*, No. 1:25-CV-01079 JLT 6 EPG, 2025 WL 2581575, at *4 (E.D. Cal. Sept. 5, 2025). Petitioner did receive a letter, 7 dated September 28, 2025, titled “Notice of Revocation of Release.” ECF No. 8-2, Ex. C. 8 In this notice, ICE states that his re-detention was pursuant to both provisions so the Court 9 will address what each requires in turn. 10 First, with regards to 8 C.F.R. § 241.4, the Court previously addressed what this 11 provision requires in *Bui v. Warden of the Otay Mesa Det. Facility*, No. 25-CV-2111-JES- 12 DEB, 2025 WL 2988356 (S.D. Cal. Oct. 23, 2025). In that order, the Court found that 13 revocation under any part of this provision—either § 241.4(l)(1) or § 241.4(l)(2))—requires 14 an adequate notice of the reasons for the revocation of release and a prompt initial informal 15 interview to afford the alien an opportunity to respond to the reasons given in the notice. 16 Id. at *3. The Court further held that “failure by Respondents to follow their own 17 regulations, if found, may constitute a due process violation.” Id. The Court adopts the full 18 reasoning in *Bui* here. 19 Second, with regards to 8 C.F.R. § 241.13, courts have similarly held that the 20 regulations impose certain requirements. First, subsection 241.13(i)(2) requires ICE to 21 determine that the detainee is likely to be removed in the reasonably foreseeable future “on 22 account of changed circumstances.” *Tran v. Noem*, No. 3:25-CV-02391-BTM-BLM, 2025 23 WL 3005347, at *2 (S.D. Cal. Oct. 27, 2025). Second, subsection 241.13(i)(3) requires that 24 the alien “will be notified of the reasons for revocation of his or her release.” Id. at *3. 25 Third, subsection 241.13(i)(3) requires, after the alien's detention for revocation of release, 26 a prompt initial informal interview at which Tran could respond to the reasons for 27 revocation. Id. The government's failure to comply with these regulations as well can form 28 the basis of a due process violation supporting a writ of habeas corpus. Id.; see also 1 *Rokhfirooz v. Larose*, No. 25-CV-2053-RSH-VET, 2025 WL 2646165, at *4 (S.D. Cal.

2 Sept. 15, 2025).

3 Thus, these provisions together, at a minimum, require Petitioner to have received 4 adequate notice of the reasons for his revocation of release and an opportunity to be heard 5 on those issues. Petitioner was provided a Notice of Revocation at the same time as his re- 6 detention. ECF No. 8-2, Ex. C. Thus, timing of the notice is not at issue. The Notice 7 provided the following reasons: 8 This letter is to inform you that your order of supervision has been revoked, and you will be detained in the custody of U.S. Immigration and Customs 9 Enforcement (ICE) at this time. This decision has been made based on a 10 review of your official alien file and a determination that there are changed circumstances in your case. 11 12 ICE has determined that you can be expeditiously removed from the United States pursuant to the outstanding order of removal against you. On May 16, 13 2000, you were ordered removed to Vietnam by an authorized U.S. DHS/DOJ 14 official and you were not granted a withholding of removal to Vietnam. Your case is under

current review for removal to an alternate country. 15 Id. This language is substantially similar, if not identical, to language from other notices 16 that courts in this Circuit have held to be not sufficient. See, e.g., *Saengphat v. Noem et al.*, 17 No. 3:25-CV-2909-JES-BLM, 2025 WL 3240808, at *7 (S.D. Cal. Nov. 20, 2025) (finding 18 same language in notice to be too “conclusory” to provide adequate notice); *McSweeney v. 19 Warden of Otay Mesa Det. Facility*, No. 3:25-CV-02488-RBM-DEB, 2025 WL 2998376, 20 at *5 (S.D. Cal. Oct. 24, 2025) (holding that language in notice stating that “ICE has 21 determined that you can be expeditiously removed from the United States pursuant to an 22 outstanding order of removal” was “conclusory and unclear” and failed to provide adequate 23 notice of the basis of the revocation decision); *J.L.R.P., v. Wofford et al.*, No. 1:25-CV- 24 01464-KES-SKO (HC), 2025 WL 3190589, at *7 (E.D. Cal. Nov. 14, 2025) (holding that 25 same language in the notice of revocation of release “did not provide any specific changed 26 circumstance applicable to petitioner”). 27 28 1 As to the informal interview, even though the Notice mentions that Petitioner is 2 entitled to one, nothing in Respondents return to the petition nor the Petitioner’s traverse 3 states that he ever received it. See generally ECF Nos. 8, 9. It has now been close to two 4 months since Petitioner’s re-detention on September 28, 2025. Courts have routinely found 5 a due process violation where no informal interview took place after the revocation of 6 release. *M.S.L. v. Bostock*, No. 6:25-CV-01204-AA, 2025 WL 2430267, at *11 (D. Or.

7 Aug. 21, 2025) (collecting cases); *Constantinovici v. Bondi*, No. 3:25-CV-02405-RBM-8 AHG, 2025 WL 2898985, at *6 (S.D. Cal. Oct. 10, 2025) (due process violation where 9 “[n]othing in the record indicates that Petitioner was provided with an interview in 10 connection with the revocation of his release or otherwise afforded an opportunity to 11 respond to the reasons for his re-detention”); *Delkash v. Noem*, No. 5:25-CV-01675-HDV- 12 AGR, 2025 WL 2683988, at *5 (C.D. Cal. Aug. 28, 2025) (same where there was “no 13 evidence that [petitioner] has been afforded an informal or formal interview”); *Phan v. 14 Noem*, No. 3:25-CV-02422-RBM-MSB, 2025 WL 2898977, at *4 (S.D. Cal. Oct. 10, 2025) 15 (finding same where no interview was conducted). 16 In summary, the Court concludes that Respondents failed to follow their own 17 regulations in re-detaining Petitioner by failing to: (1) provide him notice that states an 18 adequate basis to revoke his release pursuant; and (2) provide him with a “prompt” 19 informal interview so that he could contest the reasons for his revocation. Like many other 20 district courts within this circuit, the Court finds that these failures constitute a violation of 21 Petitioner’s due process rights and justify his release. *M.S.L.*, 2025 WL 2430267, at *12; 22 *Constantinovici*, 2025 WL 2898985, at *7; *Phan*, 2025 WL 2898977, at *5; *Delkash*, 2025 23 WL 2683988, at *6; *Diaz*, 2025 WL 2581575, at *9. 24 Accordingly, Petitioner’s habeas petition is GRANTED on this ground, and 25 Petitioner is ordered RELEASED. In light of the disposition, the Court declines to address 26 the remaining claims in the Amended Petition. 27 // 28 //

1 IV. CONCLUSION

2 For the reasons discussed above, the Court GRANTS Petitioner’s writ of habeas 3 corpus.

Because the Court grants the petition on the Due Process ground raised in Count 1| 4 the Petition, Respondents are ORDERED to immediately release Petitioner from 5 || custody, subject to the conditions of his preexisting Order of Supervision. The petition is 6 || DENIED AS MOOT AND WITHOUT PREJUDICE to the other grounds. Further, the 7 || motion for TRO is also DENIED AS MOOT. 8 The Parties are ORDERED to file a Joint Status Report no later than 5:00 p.m. on 9 || November 26, 2025, confirming that the Petitioner has been released. The Clerk of Court 10 |}is ORDERED to CLOSE this case. 11 IT IS SO ORDERED. 12 || Dated: November 21, 2025 13 “| oe inne 14 Honorable James E. Simmons Jr. 15 United States District Judge 16 17 18 19 20 21 22 23 24 25 26 27 28