

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Thanh Quoc Ngo v. Kristi Noem, Pamela Bondi, Todd M. Lyons,
Jesus Rocha, and Christopher LaRose

No. 25-CV-2439 TWR (KSC) (S.D. Cal. Oct. 16, 2025) · No. 25-CV-2439 TWR (KSC) · Decided October 16,
2025

SUMMARY

The United States District Court for the Southern District of California orders the respondents to respond to Thanh Quoc Ngo’s 28 U.S.C. § 2241 habeas petition and show cause why further injunctive relief should not issue. The court grants Ngo’s motion for appointed counsel, temporarily restrains removal to any country other than Vietnam while the petition is pending, and sets a show-cause hearing.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Todd W. Robinson
JURISDICTION	United States District Court for the Southern District of California
DECIDED	October 16, 2025
DOCKET	25-CV-2439 TWR (KSC)
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner filed a 28 U.S.C. § 2241 petition challenging his immigration detention and seeking relief concerning possible removal to a third country, along with motions for appointment of counsel and a temporary restraining order. The district court ordered respondents to respond, appointed counsel, partially granted temporary restraining relief, and set a show-cause hearing.
STANDARD OF REVIEW	The court applied the standard that summary dismissal of a habeas petition is appropriate only when the allegations are vague or conclusory, palpably incredible, or patently frivolous or false. Appointment of counsel was evaluated under the interests-of-justice standard, including the apparent likelihood of success, the petitioner's ability to articulate claims, and the complexity of the legal issues.
PRECEDENTIAL VALUE	nonprecedential interlocutory district-court order

PARTIES

Thanh Quoc Ngo v. Kristi Noem, Pamela Bondi, Todd M. Lyons, Jesus Rocha, Christopher LaRose

TOPICS

immigration detention

federal habeas corpus

injunctions

removal proceedings

immigration

PRACTICE AREAS

immigration law

habeas corpus

injunctive relief

civil procedure

QUESTIONS PRESENTED

1. Whether summary dismissal of Ngo's § 2241 petition was warranted at the preliminary stage.
2. Whether appointment of counsel was appropriate in the interests of justice under 18 U.S.C. § 3006A(a)(2)(B).
3. Whether temporary restraining relief should issue to prevent respondents from removing Ngo to a country other than Vietnam while the petition was pending.
4. Whether respondents should be required to show cause why a temporary restraining order or preliminary or permanent injunction should not issue.

HOLDINGS

1. Summary dismissal was unwarranted at that stage because the petition did not present allegations that were vague or conclusory, palpably incredible, or patently frivolous or false.
2. Appointment of counsel was appropriate in the interests of justice, and Federal Defenders of San Diego, Inc. was appointed to represent Ngo in the habeas proceeding.
3. The motion for a temporary restraining order was granted in part, and respondents were temporarily restrained from removing Ngo to any country other than Vietnam while the petition remained pending.

KEY QUOTATIONS

“Summary dismissal is appropriate only where the allegations in the petition are vague or conclusory, palpably incredible, or patently frivolous or false.” (at 1)

“The Court therefore GRANTS Petitioner’s Motion for Counsel (ECF No. 2) and APPOINTS Federal Defenders of San Diego, Inc. to represent him in this habeas proceeding.” (at 2)

“TEMPORARILY RESTRAINS Respondents from removing Petitioner to any country other than Vietnam while the Petition remains pending.” (at 2)

FACTUAL BACKGROUND

Ngo was detained by Immigration and Customs Enforcement and alleged that ICE was detaining him in violation of its regulations concerning notice and an opportunity to be heard. He also alleged that his continued detention implicated *Zadvydas v. Davis* and sought to prevent removal to a third country without an opportunity

to assert fear of persecution or torture before an immigration judge. The court's order temporarily restrained removal to any country other than Vietnam while the petition remained pending.

PROCEDURAL HISTORY

Ngo filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241 and motions for appointment of counsel and a temporary restraining order. The court determined that summary dismissal of the petition was unwarranted at that stage, required respondents to respond, appointed Federal Defenders of San Diego, Inc., temporarily restrained removal to any country other than Vietnam while the petition remained pending, and scheduled a show-cause hearing.

DISPOSITION

other

CASES CITED

- Kourteva v. INS, 151 F. Supp. 2d 1126, 1128 (N.D. Cal. 2001)
- Hendricks v. Vasquez, 908 F.2d 490 (9th Cir. 1990)
- Phan v. Noem, No. 25-CV-2422 RBM (MSB) (S.D. Cal. filed Sept. 16, 2025)
- Zadvydas v. Davis, 533 U.S. 678 (2001)
- Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 THANH QUOC NGO, Case No.: 25-CV-2439 TWR (KSC) 12 Petitioner,
ORDER (1) REQUIRING RESPONSE 13 v. TO PETITION FOR WRIT OF HABEAS CORPUS,
(2) GRANTING 14 KRISTI NOEM, Secretary of the PETITIONER’S MOTION FOR
Department of Homeland Security; 15 APPOINTMENT OF COUNSEL, PAMELA BONDI,
Attorney General; (3) GRANTING IN PART 16 TODD M. LYONS, Acting Director,
PETITIONER’S MOTION FOR Immigration and Customs Enforcement; 17 TEMPORARY
RESTRAINING JESUS ROCHA, Acting Field Office ORDER, (4) ORDERING 18 Director, San
Diego Field Office; and RESPONDENTS TO SHOW CAUSE CHRISTOPHER LAROSE,
Warden at 19 WHY A TRO AND/OR INJUNCTION Otay Mesa Detention Center, SHOULD
NOT ISSUE, AND 20 Respondents.

(5) SETTING SHOW CAUSE 21 HEARING 22 (ECF Nos. 1–3) 23 24 Presently before the Court
are Petitioner Thanh Quoc Ngo’s (1) Petition for Writ of 25 Habeas Corpus (“Pet.,” ECF No. 1),
filed pursuant to 28 U.S.C. § 2241; (2) Motion for 26 Appointment of Counsel (“Mot. for
Counsel,” ECF No. 2); and (3) Notice of Motion and 27 Memorandum of Law in Support of
Temporary Restraining Order (“TRO”) (“Mot. for 28 TRO,” ECF No. 3), each of which the Court
addresses in turn.

1 First, having reviewed the Petition, the Court concludes that summary dismissal is 2 unwarranted at this time. See *Kourteva v. INS*, 151 F. Supp. 2d 1126, 1128 (N.D. Cal. 3 2001) (“Summary dismissal is appropriate only where the allegations in the petition are 4 vague or conclusory, palpably incredible, or patently frivolous or false.” (citing *Hendricks v. Vasquez*, 908 F.2d 490 (9th Cir.

1990))). As in *Phan v. Noem*, No. 25-CV-2422 RBM 6 (MSB) (S.D. Cal. filed Sept. 16, 2025), Petitioner contends that he is being detained by 7 Immigration and Customs Enforcement (“ICE”) in violation of ICE’s own regulations 8 concerning notice and an opportunity to be heard and the United States Supreme Court’s 9 decision in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and asks that the Court enjoin ICE 10 from removing him to a third country without providing him an opportunity to assert fear 11 of persecution or torture before an immigration judge.

(See generally Pet.) Accordingly, 12 at this stage in the proceedings, the questions before the Court are (1) whether ICE 13 complied with its regulations, including 8 C.F.R. §§ 241.4(l) and 241.13(i), before re- 14 detaining Petitioner; (2) whether Petitioner’s detention is lawful under *Zadvydas*, 533 U.S. 15 678; and (3) whether ICE can remove Petitioner to a third country without adequate notice 16 and an opportunity to be heard.

Respondents Kristi Noem, Secretary of the Department of 17 Homeland Security; Pamela Bondi, Attorney General; Todd M. Lyons, Acting Director, 18 ICE; Jesus Rocha, Acting Field Office Director, San Diego Field Office; and Christopher 19 LaRose, Warden at Otay Mesa Detention Center SHALL RESPOND to the Petition on or 20 before noon (12:00 p.m.) on Tuesday, October 21, 2025.

Petitioner SHALL SERVE on 21 Respondents copies of the Petition, the TRO Motion, and this Order as soon as practicable 22 and SHALL FILE proof of such service no later than noon (12:00 p.m.) on Friday, 23 October 17, 2025. 24 Second, Petitioner seeks appointment of Federal Defenders of San Diego, Inc. in the 25 interests of justice under 18 U.S.C. § 18 U.S.C. § 3006A(a) (2)(B).

(See generally Mot. for 26 Counsel.) Having considered the arguments raised in Petitioner’s Motion for Counsel, the 27 Court finds that the appointment of counsel is appropriate in this case given Petitioner’s 28 likelihood of success on the merits and ability to articulate his claims pro se in light of the 1 || complexity of the legal issues involved. See *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th 2 1997).

The Court therefore GRANTS Petitioner’s Motion for Counsel (ECF No. 2) 3 APPOINTS Federal Defenders of San Diego, Inc. to represent him in this habeas 4 || proceeding. 5 Third, the Court GRANTS IN PART Petitioner’s Motion for Temporary 6 || Restraining Order (ECF No. 3) and,

until further Order of this Court, TEMPORARILY 7 || RESTRAINS Respondents from removing Petitioner to any country other than Vietnam 8 || while the Petition remains pending.

The Court also ORDERS Respondents TO SHOW 9 || CAUSE why a temporary restraining order and/or preliminary or permanent injunction 10 ||{should not issue on or before noon (12:00 p.m.) on Tuesday, October 21, 2025. 11 Finally, the Court SETS a Show Cause Hearing for Thursday, October 23, 2025, at 12 11:00 a.m., in Courtroom 14A, to address both the Petition and Petitioner's Motion for 13 || Temporary Restraining Order.

14 IT IS SO ORDERED. 15 Dated: October 16, 2025 — (2 16 [aD (re 17 Honorable Todd W. Robinson 8 United States District Judge 19 20 21 22 23 24 25 26 27 28