



Trinh v. Vitiello Community Advisory

What is this case about?

This class action lawsuit (*Trinh*) was filed in February 2018 to challenge the immigration detention of Vietnamese immigrants who were ordered removed but cannot be sent back to Vietnam. The United States and Vietnam have an agreement about who can be sent back to Vietnam. Under the agreement, Vietnamese immigrants who came to the United States before July 12, 1995, cannot be deported to Vietnam.

In 2017, Immigration and Customs Enforcement (ICE) suddenly began detaining pre-1995 Vietnamese immigrants with removal orders for long periods of time. ICE also began re-arresting people who were released years ago because Vietnam refused to take them back. The lawsuit demands that ICE: (1) immediately release all pre-1995 Vietnamese immigrants who have been detained for longer than 90 days after being ordered removed, unless the government has proof that Vietnam will accept the person; and (2) give people who have been detained for longer than 180 days an opportunity to be released on bond.

What is the status of the case?

In September 2018, the judge denied the government's request to dismiss the case. In October 2018, the judge approved the lawsuit to be a class action that includes all pre-1995 Vietnamese immigrants who have been or may in the future be in ICE custody for more than 90 days after receiving a removal order. You do not have to "opt in" or take any steps to be a class member. Class members will benefit from any positive outcome of this case.

Is Vietnam accepting pre-1995 Vietnamese immigrants?

No. The government has admitted that Vietnam will not accept pre-1995 immigrants.

A week after the court denied the government's request to dismiss the case, the government admitted for the first time that ICE no longer thinks it can deport pre-1995 Vietnamese immigrants. The government reported that ICE reached this conclusion after a meeting between Vietnamese and U.S. government officials during the week of August 6, 2018.

The government says that ICE is in the process of releasing all pre-1995 Vietnamese immigrants who have been detained for longer than 90 days after receiving a removal order. The government says that ICE's policy going forward is to release pre-1995 immigrants within 90 days.



If ICE is releasing pre-1995 Vietnamese immigrants, does that mean this lawsuit is over?

No. It is a major victory for the community that ICE has admitted that it is unable to deport pre-1995 Vietnamese immigrants and has agreed to release them after 90 days. But ICE's word alone is not adequate protection for pre-1995 Vietnamese immigrants. ICE must be held accountable in court. We will request a court order stating that ICE is unable to deport pre-1995 Vietnamese immigrants and generally should not detain them for more than 90 days after they are ordered removed.

If I am a pre-1995 Vietnamese immigrant, am I safe from deportation?

ICE is currently unable to deport pre-1995 Vietnamese immigrants to Vietnam. But a person with a removal order is never 100% safe from deportation. It is still a good idea to consult with an immigration lawyer on whether it is possible to challenge your removal order and get your green card back.

If you know of a pre-1995 Vietnamese immigrant who is in ICE custody more than 90 days after a removal order, please call Asian Americans Advancing Justice – Los Angeles at any of the following toll-free numbers:

- Vietnamese / Cần sự giúp đỡ: 800.267.7395
- Chinese / 需要協助嗎: 800.520.2356
- English / Other Languages: 888.349.9695

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