

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION**

**NAK KIM CHHOEUN AND MONY  
NETH, individually and on behalf of a  
class of similarly situated individuals,**

**Petitioners,**

**v.**

**DAVID MARIN, DAVID JENNINGS,  
THOMAS HOMAN, ELAINE DUKE,  
JEFFERSON SESSIONS III, SANDRA  
HUTCHENS, AND SCOTT JONES,**

**Respondents.**

**Case No.: SACV 17-01898-CJC(GJSx)**

**ORDER OVERRULING  
RESPONDENTS' OBJECTION TO  
NOTICE OF RELATED CASE**

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1 Currently before the Court are two cases that arise out of an alleged aggressive  
 2 campaign by United States Immigration and Customs Enforcement (“ICE”), beginning in  
 3 2017, to arrest and detain groups of individuals from specific immigrant communities.  
 4 The first case, *Nak Kim Chhoeun, et al. v. David Marin, et al.*, Case No. 17-cv-01898-  
 5 CJC-GJS (“*Chhoeun*”), was filed on October 27, 2017, and was brought on behalf of a  
 6 putative class of Cambodian citizens. (*See Chhoeun* Dkts. 1, 27.) The second case,  
 7 *Hoang Trinh, et al. v. Thomas Homan, et al.*, Case No. 18-cv-00316-CJC-GJS (“*Trinh*”),  
 8 was filed on February 22, 2018, and was brought on behalf of two putative classes of  
 9 Vietnamese citizens. (*Trinh* Dkt. 1.)

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 11 Many of the allegations in these two cases are identical or similar. The *Chhoeun*  
 12 Petitioners allege that they fled Cambodia as small children in the 1970s and 1980s to  
 13 escape the Khmer Rouge’s violent regime. They were then ordered removed to  
 14 Cambodia because they were convicted of crimes, generally when they were in their  
 15 teens or early twenties. When the removal orders were issued, Cambodia refused to  
 16 accept their repatriation, so the *Chhoeun* Petitioners were released from ICE custody and  
 17 returned to their homes. Since their release, which in many instances occurred decades  
 18 ago, they have lived and worked peaceably in their communities. Then, beginning in  
 19 October 2017, ICE abruptly began re-detaining the *Chhoeun* Petitioners allegedly without  
 20 any evidence that Cambodia would accept their repatriation. Based on these allegations,  
 21 the *Chhoeun* Petitioners bring the following claims: (1) unlawful revocation of release,  
 22 (2) violation of procedures for revocation of release, (3) unlawful detention where  
 23 removal is not reasonably foreseeable, (4) unlawful detention without individualized  
 24 determinations of danger and flight risk, and (5) unlawful removal without due process.

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1           The *Trinh* Petitioners allege that they fled war-torn Vietnam sometime before  
2 1995, when they were young children or teenagers, and have resided in the United States  
3 ever since. The *Trinh* Petitioners were at one point lawful permanent residents of the  
4 United States, but they lost their green cards and were ordered removed to Vietnam  
5 because they were convicted of crimes. Some of the *Trinh* Petitioners, like the *Chhoeun*  
6 Petitioners, were ordered removed many years ago but were released from ICE custody  
7 and lived peaceably in their communities. Then, like in *Chhoeun*, ICE abruptly began re-  
8 detaining them in October 2017 without explanation. Other *Trinh* Petitioners were  
9 recently detained after being arrested on criminal charges. The *Trinh* Petitioners allege  
10 that a 2008 repatriation agreement between Vietnam and the United States expressly  
11 prohibits the removal of any immigrant who entered the United States before July 12,  
12 1995. Because they entered the United States before this date, their removals are not  
13 reasonably foreseeable and, in turn, their detentions are unlawful. Based on these  
14 allegations, the *Trinh* Petitioners bring the following claims: (1) unlawful detention  
15 where removal is not reasonably foreseeable, and (2) unlawful detention without  
16 individualized determinations of danger and flight risk.

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18           On February 23, 2018, one day after *Trinh* was filed, the *Chhoeun* Petitioners filed  
19 a Notice of Related Case indicating that *Trinh* and *Chhoeun* involve various factual and  
20 legal similarities. (*Chhoeun* Dkt. 83.) On February 28, 2018, Respondents in *Chhoeun*  
21 filed an objection to the Notice of Related Case. (*Chhoeun* Dkt. 84.) Respondents argue  
22 that the cases are not related because the only similarity between the two actions is the  
23 allegation of illegal detention. (*Id.* at 2.) On March 7, 2018, the *Chhoeun* Petitioners  
24 filed a response to Respondents' objection. (*Chhoeun* Dkt. 88.) Petitioners assert that  
25 while the actions are not identical, they are related because they both involve the same  
26 allegations of ICE's conduct, call for consideration of similar constitutional and statutory  
27 issues, and name as Respondents the United States Secretary of Homeland Security, the  
28

1 United States Attorney General, and ICE officials. (*Id.* at 1–2.) The Court agrees with  
 2 Petitioners.

3  
 4 Pursuant to this Court’s Local Rule 83-1, a Notice of Related Case shall be filed  
 5 when two or more civil cases filed in this District:

- 6  
 7 (a) arise from the same or a closely related transaction, happening, or event;  
 8 (b) call for determination of the same or substantially related or similar  
 9 questions of law and fact; or  
 10 (c) for other reasons would entail substantial duplication of labor if heard by  
 11 different judges.

12  
 13 When a party files a Notice of Related Case, the judge assigned to the earlier filed case  
 14 may accept a transfer of the later filed case. *See* General Order No. 16-05. A district  
 15 court’s decision to accept transfer of a related case is discretionary. *See Escandon v. Cty.*  
 16 *of Los Angeles*, 700 F. App’x 586, 587 (9th Cir. 2017) (citing *Hinton v. Pac. Enters.*, 5 F.  
 17 3d 391, 395 (9th Cir. 1993)).

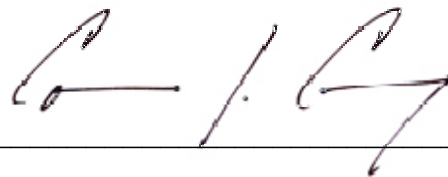
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 19 The Court finds that *Chhoeun* and *Trinh* are related for all of the reasons  
 20 enumerated in the Local Rule. First, the cases arise out of closely related events—ICE’s  
 21 decision in the fall of 2017 to abruptly round up and re-detain groups of immigrants from  
 22 certain countries that have historically restricted repatriation. Both *Chhoeun* and *Trinh*  
 23 are brought on behalf of these immigrants who have been detained or are at risk of  
 24 detention, and challenge the detention as a violation of specific immigration statutes and  
 25 of due process. Petitioners in both cases allege their detention is unlawful because there  
 26 is no evidence that removal to Cambodia or Vietnam is likely in the reasonably  
 27 foreseeable future.

1           Consequently, the claims for relief in both actions will call for the determination of  
2 similar, if not identical, statutory and constitutional issues. One of the key statutes  
3 relevant to both cases is 8 U.S.C. § 1231. According to Petitioners in both cases, Section  
4 1231 makes it unlawful for ICE to detain individuals for more than 90 days or, in certain  
5 limited circumstances, 180 days.

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7           Requiring two separate judges to make these complex statutory and constitutional  
8 determinations will result in substantial duplication of efforts and risk inconsistent  
9 judgments. Respondents are correct that the class definitions proposed in each action  
10 differ, and there are distinguishing facts relevant to each putative class that may bear on  
11 the outcome of these actions. Respondents point out that removals to Cambodia are  
12 arranged under a 2002 Memorandum of Understanding, while removals to Vietnam are  
13 subject to a 2008 agreement with the United States. Nevertheless, significant factual and  
14 legal similarities remain. Both actions arise out of the abrupt re-detention of specific  
15 immigrant communities around the same time, both actions allege the detention is  
16 unlawful as removal is not likely to occur, and both actions invoke the same statutory and  
17 constitutional authorities. Therefore, requiring the actions to proceed independently will  
18 result in substantial duplication of efforts and risk disparate constructions of the same  
19 legal authorities.

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21           For these reasons, the Court hereby **OVERRULES** Respondents' objection.  
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25           DATED:     March 14, 2018

A handwritten signature in dark ink, appearing to read 'C. J. Carney', is written over a horizontal line.

CORMAC J. CARNEY

UNITED STATES DISTRICT JUDGE

## General Information

<b>Court</b>	United States District Court for the Central District of California; United States District Court for the Central District of California
<b>Federal Nature of Suit</b>	Other Immigration Actions[465]
<b>Docket Number</b>	8:17-cv-01898

## Notes

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