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8
9 **United States District Court**
Central District of California

10
11 Khoanh A. Lam

12 Petitioner,

13 v.

14 Kristi Noem, Secretary of
15 Homeland
Security;

16
17 Pamela J. Bondi, Attorney General
of the United States;

18
19 Thomas Giles, Los Angeles Field
20 Office Director, Bureau of
Immigration and Customs
21 Enforcement;

22 James Pilkington, Assistant Field
23 Office Director, Adelanto Detention
24 Facility,

25 Warden, Geo Group Inc, Adelanto
26 Detention Facility

27 Respondents.
28

No. 25-11747

DHS No. 

**Petition For a Writ of Habeas
Corpus By a Person in Federal
Custody Under 28 U.S.C. § 2241**

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I. INTRODUCTION

Khoanh Lam came to the United States as a child and remained here as a refugee. He received a final order of removal in 2021. Despite Mr. Lam repeatedly signing the appropriate paperwork to obtain travel documents from Vietnam, they have not issued. He cannot be removed to Vietnam without them. Because there is good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, Mr. Lam must be released.

II. HABEAS ALLEGATIONS

Petitioner provides the following information related to his habeas petition:

- **Place of detention:** At the time of this filing, Petitioner is detained by Immigration and Customs and Enforcement (ICE) at the Adelanto Detention Facility in Adelanto, California.
- **Name and location of court which imposed removal order:** Adelanto Immigration Court, Adelanto, CA
- **The immigration case number:** Department of Homeland Security, A# 
- **The date upon which removal order was imposed:** Mr. Lam was ordered removed by an Immigration Judge on October 21, 2021.
- **Did you appeal from the removal order?** No.
- **If you did appeal, provide information related to that appeal:** Not applicable
- **Previous petitions:** Not applicable
- **Do you have any petition, appeal or parole matter pending in any court, either state or federal, as to the removal order under attack?** No.

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III. FACTUAL BACKGROUND

Khoanh Lam was born in Vietnam. (Ex. A, Lam Decl., ¶3.) He fled to the United States as a refugee in 1979 when he was 11 years old. (*Id.*) In 2005 he was convicted of conspiracy and attempted murder. Upon his release from prison in 2021, he was detained by ICE. On October 21, 2021 he was ordered removed from the United States. (*Id.* ¶¶4-5.) While he was detained, he signed the self-declaration form required to apply for a passport from Vietnam. He never received the passport. He was released on supervision on January 18, 2022. (*Id.* ¶¶6-7.) While on supervision, Mr. Lam attempted to obtain a passport through a travel agency. Months later, no passport has issued. (*Id.* ¶¶9.) After missing one supervision check-in, he was re-arrested on August 24, 2025. Again on September 15, he signed the self-declaration form required to apply for a Vietnamese passport. Over three months later, he has not received one. (*Id.* ¶¶10-11.)

IV. CLAIMS & ARGUMENTS

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A. Khoanh Lam must be released because there is no good reason to believe he will be deported to Vietnam in the reasonably foreseeable future.

The Due Process Clause limits a “[noncitizen’s] post-removal-period detention to a period reasonably necessary to bring about that [noncitizen’s] removal from the United States.” *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). Because of this constitutional limitation, the immigration detention statute “does not permit indefinite detention.” *Id.*; see 8 U.S.C. § 1231.

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Immigration detention is presumptively limited to six months. “After this 6-month period, once the [noncitizen] provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing.” *Zadvydas*, 533 U.S. at 701.

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Mr. Lam was previously held in ICE custody for approximately 89 days after his order of removal from October 21, 2021 until January 18, 2022. He was again detained

1 by ICE on August 24, 2025 remains detained—a period of about 108 days. Release and
2 rearrest do not restart the six-month grace period. *See Sied v. Nielson*, 2018 WL
3 1876907, at *6 (N.D. Cal. Apr. 19, 2018) (“Several courts have held that the six-month
4 period does not reset when the government detains an alien . . . , releases him from
5 detention, and then re-detains him again.”); *see also S.F. v. Bostock*, 2025 WL
6 2841022, at *4 (D. Or. Oct. 7, 2025) (collecting cases where presumption of
7 reasonableness did not apply when cumulative detention exceeded sixth months);
8 *Nguyen v. Scott*, 2025 WL 2419288, at *13 (W.D. Wash. Aug. 21, 2025) (same); *Diaz-*
9 *Ortega v. Lund*, 2019 WL 6003485, at *7 n.6 (W.D. La. Oct. 15, 2019), *report and*
10 *recommendation adopted*, 2019 WL 6037220 (W.D. La. Nov. 13, 2019). Indeed, to
11 hold otherwise would create an obvious end run around *Zadvydas*, because ICE could
12 detain an immigrant indefinitely by releasing and quickly rearresting them every six
13 months. Accordingly, Mr. Lam has been held in excess of the six-month grace period.

14 But regardless of the precise number of days that he has been held, this petition
15 is not premature. Mr. Lam cannot be returned to his country of origin, because Vietnam
16 does not recognize him as a citizen. Upon information and belief, the Vietnamese
17 Embassy will continue to refuse to issue him a passport or other travel documents. His
18 continued detention in immigration custody thus violates the Due Process Clause of the
19 Fifth Amendment.

20 Moreover, there is good reason to believe that there is no significant likelihood
21 of removal to Vietnam in the foreseeable future.

22 Although Mr. Lam was ordered removed over four years ago in 2021, the
23 government has not affected his removal. Instead, he was released from ICE custody on
24 supervision.

25 Removal to Vietnam is unlikely given the historical record. “Until 2008,
26 Vietnam refused to repatriate Vietnamese immigrants whom the United States had
27 ordered removed.” *Tran v. Scott*, ___ F. Supp. 3d ___, No. 2:25-CV-01886-TMC-BAT,
28 2025 WL 2898638, at *2 (W.D. Wash. Oct. 12, 2025) (citing *Hoang Trinh, supra*).

1 Though Vietnam agreed in 2008 to consider certain repatriation requests, the agreement
2 excluded Vietnamese immigrants who, like Mr. Lam, had arrived in the United State
3 before 1995. *Id.*

4 All the while, save for a brief period of renegotiations during 2017, during which
5 Vietnam “verbally committed” to considering to consider travel document requests for
6 pre-1995 immigrants, ICE continued to “concede[] that ... in general, the removal of
7 these individuals was still not significantly likely.” *Id.*

8 It’s true that in 2020, there was a substantial change in stated policy, when the
9 United States and Vietnam signed a Memorandum of Understanding (“MOU”) to
10 create a process for deporting pre-1995 Vietnamese immigrants. *Id.* Vietnam affirmed
11 in the MOU that it “intends to issue travel documents where needed, and otherwise to
12 accept the removal of an individual subject to a final order of removal from the United
13 States” if the person met certain conditions. *Id.*

14 But that nominal change has made little practical difference. Though Petitioner
15 does not have access to statistical evidence of deportations under the MOU, the October
16 2025 *Tran* order granting habeas relief notes that the petitioner there alleged that from
17 September 2021 to September 2023, the total number of repatriations of pre-1995
18 immigrants was four. *Id.* Also noted there was a declaration from a paralegal working
19 with detained Vietnamese nationals at NWIPC who averred that of 30 Vietnamese
20 detainees she is aware of who’d been detained since March 2025, the number removed
21 to Vietnam was zero. *Id.* at *2. The government’s only evidence in response was a
22 contested declaration that it had secured a travel document for a different immigrant, *id.*
23 at *3—an allegation the court declined to credit. *Id.* at *4. The *Tran* decision is in
24 accord with various other courts that have found that removal to Vietnam for a
25 Petitioner, like Mr. Lam, who emigrated before 1995 was not reasonably foreseeable.
26 *See, e.g., Nguyen Tai Tran v. Kristi Noem et al.*, 5:25-cv-02881 (C.D. Cal. Nov. 7,
27 2025) (granting TRO in part because “the absence of any travel documents suggests
28 that Petitioner is not going to be imminently removed.”); *see also Phu Van Ta v. Kristi*

1 *Noem et al.*, 5:25-cv-2902 (Nov. 10, 2025) (granting TRO in part based on lack of
2 showing of imminent removal to Vietnam); *Hoac v. Becerra*, No. 2:25-cv-1740 (C.D.
3 Cal. July 16, 2025); *Nguyen v. Hyde*, 788 F.Supp.3d 144 (D. Mass. June 20, 2025).

4 Finally, Mr. Lam has been given no notice of any facts that suggest his removal
5 is imminent. For instance, before a Vietnamese immigrant without a passport or other
6 travel document can be repatriated, Vietnam must issue a passport or other travel
7 document in response to a request from ICE. *See Hoang Trinh v. Homan*, 466 F. Supp.
8 3d 1077, 1083 (C.D. Cal. 2020). Even for individuals eligible to obtain travel
9 documents, there is no guarantee. “Vietnam has total discretion whether to issue a
10 travel document to any individual.” *Nguyen v. Hyde*, 788 F. Supp. 3d 144, 151 (D.
11 Mass. 2025).

12 Mr. Lam does not have such documents despite his efforts to obtain them. When
13 he was initially detained by ICE, he signed the self-declaration form required for
14 obtaining a Vietnamese passport. It is unclear whether ICE submitted a request for Mr.
15 Lam’s travel documents. Vietnam apparently did not issue any passport or travel
16 documents, because ICE released Mr. Lam rather than removing him. When he was
17 again arrested this year, he again signed the required form in mid-September of 2025.
18 Mr. Lam has not been informed that any Vietnamese travel documents have been
19 issued for him. Indeed, it is not even clear that ICE has requested his documents.
20 Regardless, because it is not clear that they will issue for someone in Mr. Lam’s
21 circumstances and because there is certainly no clear timeline for the process, there is
22 no significant likelihood that Mr. Lam will be removed to Vietnam in the reasonably
23 foreseeable future.

24 In this sense, Mr. Lam is similarly situated to the petitioner in *Nguyen v. Hyde*. In
25 that case, Petitioner signed a request for travel documents to Vietnam on May 22. By
26 June 20, the district court found that without additional information it could not find a
27 significant likelihood that the Petitioner would be remove to Vietnam in the reasonably
28 foreseeable future.

1 Khoanh Lam has already been held beyond the presumptively reasonable period
2 and there is cause to doubt that there is any significant likelihood of removal to
3 Vietnam in the foreseeable future. He should therefore be released.

4 **B. The Government violated both due process and INA regulations by**
5 **reimprisoning Petitioner without advance notice and an opportunity to**
6 **be heard.**

7 Due process rights extend to noncitizens present in the United States, including
8 those subject to final removal orders. *Zadvydas*, 533 U.S. at 693-94, 121 S. Ct. 2491;
9 *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025). The fundamental requirements of
10 procedural due process are that a person be afforded notice and opportunity to be heard
11 “at a meaningful time and in a meaningful manner.” *Mathews v. Eldridge*, 424 U.S.
12 319, 333, (1976).

13 If a noncitizen has been previously released, before reimprisonment, the
14 regulations require the noncitizen “will be notified of the reasons for revocation of his
15 or her release,” and will be given “an initial informal interview promptly after his or her
16 return to Service custody to afford the alien an opportunity to respond to the reasons for
17 revocation stated in the notification.” 8 C.F.R. § 241.4(l)(1); § 241.13(i)(3).

18 Courts have consistently interpreted these provisions to require findings *prior to*
19 re-detention, as well as an opportunity to contest re-detention. *See, e.g., Constantinovici*
20 *v. Bondi*, __ F. Supp. 3d __, 2025 WL 2898985, No. 25-cv-2405-RBM (S.D. Cal. Oct.
21 10, 2025); *Phan v. Noem*, 2025 WL 2898977, No. 25-cv-2422-RBM-MSB, *3-*5
22 (S.D. Cal. Oct. 10, 2025); *Truong v. Noem*, No. 25-cv-02597-JES, ECF No. 10 (S.D.
23 Cal. Oct. 10, 2025); *Khambounheuang v. Noem*, No. 25-cv-02575-JO-SBC, ECF No.
24 12 (S.D. Cal. Oct. 9, 2025); *Sun v. Noem*, 2025 WL 2800037, No. 25-cv-2433-CAB
25 (S.D. Cal. Sept. 30, 2025); *Van Tran v. Noem*, 2025 WL 2770623, No. 25-cv-2334-
26 JES, *3 (S.D. Cal. Sept. 29, 2025); *Rokhfirooz v. Larose*, No. 25-cv-2053-RSH, 2025
27 WL 2646165 (S.D. Cal. Sept. 15, 2025).

1 Here, although Petitioner received some kind of document near the time of his
2 arrest, that notice was inadequate. The Government did not provide Petitioner with
3 advance notice that his Order of Supervision was revoked or adequately explain the
4 basis for revocation; conduct an informal interview or afford Petitioner a meaningful
5 opportunity to be heard prior to his re-arrest; or sufficiently demonstrate the changed
6 circumstances that render his removal significantly likely in the reasonably foreseeable
7 future.

8 **C. To the extent Mr. Lam’s detention in immigration custody is to**
9 **effectuate removal to a third country, that violates the Due Process**
10 **Clause. Because ICE has not given him sufficient notice of the proposed**
11 **third country and an opportunity to request deferral or withholding of**
12 **removal to that country under either statute or the Convention Against**
13 **Torture.**

14 “It is well established that the Fifth Amendment entitles [noncitizens] to due
15 process of law in the context of removal proceedings.” *Trump v. J.G.G.*, 145 S. Ct.
16 1003, 1006 (2025) (per curiam) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)).
17 Noncitizens are thus entitled to “notice and an opportunity to be heard appropriate to
18 the nature of the case.” *Id.* (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339
19 U.S. 306,313 (1950)). As relevant here, this means that purported non-citizens are
20 entitled to notice that they are to be removed to a third country “within a reasonable
21 time and in such a manner as will allow them to actually seek habeas relief in the
22 proper venue before such removal occurs.” *Id.*

23 Khoanh Lam has not been formally ordered removed to any country other than
24 Vietnam. Thus, he has never had an opportunity to contest removal to any third country
25 on the grounds that he may face persecution or torture if he is removed to that country.

26 To the extent that Mr. Lam’s detention is meant to facilitate his removal to a
27 third country, *see generally Zadvydas*, 533 U.S. at 690 (suggesting that detention
28 following a removal order is intended to facilitate removal), if such a removal is

1 accomplished in violation of his due-process rights, then his detention is illegal. This
2 due-process claim “necessarily impl[ies] the invalidity of [his] confinement and
3 removal” to a third country not yet named in any removal order. *J.G.G.*, 145 S. Ct. at
4 1005. Thus, his due-process claim is properly brought in a habeas petition, and a court
5 order that he be released from detention is a proper remedy for such a violation.

6 **D. Removal to third countries where Mr. Lam might face imprisonment**
7 **violates the constitutional prohibition on “punitive” removal practices.**

8 The U.S. Supreme Court long ago held that the government may not inflict upon
9 individuals an “infamous punishment” atop deportation as a penalty for an immigration
10 violation, absent criminal charges, a judicial trial, and related constitutional protections.
11 *Wong Wing v. United States*, 163 U.S. 228, 236-38 (1896). More than a century later
12 the Court reaffirmed the point, holding that while it is within the constitutional power
13 of Congress to remove those unlawfully present in the United States, “punitive
14 measures c[annot] be imposed upon [noncitizens]” merely by dint of their removal, as
15 ‘all persons within the territory of the United States are entitled to the protection’ of the
16 Constitution.” *Zadvydas*, 533 U.S. at 694 (quoting *Wong Wing*, 163 U.S. at 238).

17 Yet the purposes of the government’s third-country removal program are
18 substantially punitive. As one district court recently held, government officials have
19 made public statements, judicially noticeable, that “offer evidence that third country
20 deportation is occurring as a punishment.” *Nguyen v. Scott*, 796 F. Supp. 3d 703, 2025
21 WL 2419288, at *24 (W.D. Wash. Aug. 21, 2025). These include an official video of
22 President Donald J. Trump stating, “if illegal aliens choose to remain in America,
23 they’re remaining illegally and they will face severe consequences,” with “punishments
24 ... including ... sudden deportation in a place and manner solely of our discretion.”
25 *Nguyen v. Scott*, 2025 WL 2419288, at *24 (W.D. Wash. Aug. 21, 2025). “Other courts
26 [too] across the country have recognized that the government is intentionally removing
27 individuals to countries where they will be imprisoned” in facilities where ““torture is
28 pervasive”” and “‘human rights violations’” “‘widespread,’” under “‘horrific prison

1 conditions [engineered] for the specific purpose of inflicting suffering.” *Id.* at *24
2 (quoting cases).

3 Removal to such countries under the Government’s current policy would thus
4 violate the constitutional prohibition on punitive removal practices as well.

5 **V. CONCLUSION**

6 For the foregoing reasons, this Court should:

- 7
- 8 • Order the government to answer this petition,
 - 9 • Expedite any briefing and relief, as Petitioner’s current custody is
10 illegal;
 - 11 • Allow him to conduct discovery in order to support his claim for relief;
 - 12 • Convene an evidentiary hearing, if needed to resolve disputed facts;
 - 13 • Order Respondents to release him from their custody; and
 - 14 • Grant any other relief that is just and practicable.

15 Respectfully submitted,
16 Cuauhtemoc Ortega
17 Federal Public Defender

18 Dated: December 11, 2025 By: /s/ Emily J.M. Groendyke
19 EMILY J.M. GROENDYKE
20 Deputy Federal Public Defender

21 Proposed Attorneys for Petitioner
22 KHOANH A. LAM
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VI. VERIFICATION

I, Emily Groendyke, declare as follows:

I am an attorney with the Office of the Federal Public Defender, and I am admitted to practice law in the State of California.

I am authorized to file this petition on behalf of petitioner, who is restrained in violation of his liberty.

Based on information and belief, I declare under penalty of perjury under the laws of the United States and the State of California that the contents of this petition are true and correct to the best of my knowledge and belief.

Executed December 11, 2025, at Los Angeles, California.

/s/ Emily J.M. Groendyke
Emily J.M. Groendyke