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8 **United States District Court**
Central District of California
9 **Eastern Division - Riverside**

10 Khoanh A. Lam,

11
12 Petitioner,

13 v.

14 Kristi Noem, et al.

15 Respondents.
16
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Case No.: 5:25-cv-03344-CV-RAO

**Reply in Further Support of Temporary
Restraining Order and Preliminary
Injunction**

18 Petitioner Khoanh Lam submits this reply in further support of his application for
19 a temporary injunction and preliminary injunction. (Dkt. #3.)

20 **I. ARGUMENT**

21 **A. Respondent does not demonstrate a reasonable likelihood that Mr. Lam**
22 **will be removed in the foreseeable future.**

23 Respondent asserts that it demonstrates that Mr. Lam is reasonably likely to be
24 removed. But their evidence shows only: (1) a request was submitted almost two
25 months ago on September 18, 2025; and (2) that Jorge Preciado understands that “ICE
26 has recently been able to timely obtain travel documents and effectuate removal to
27 Vietnam.” This showing is inadequate in light of the record.
28

1 Respondent claims Petitioner relies on “an outdated Vietnamese policy.” (Dkt.
2 #7.) But the most recent formal policy is the 2020 Memorandum of Understanding,
3 which Mr. Lam cites in his Petition. (Dkt. #1 at 6.) As one court explained:

4 On November 21, 2020, the United States and Vietnam entered
5 into a Memorandum of Understanding (“MOU”) regarding
6 pre-1995 immigrants. The purpose of the MOU is to “establish
7 a process of review and issuance of travel documents for
8 Vietnamese citizens ordered removed from the United States
9 and to facilitate the acceptance of all such Vietnamese
10 citizens[.] ... The scope of this MOU is intended to apply to
11 individuals who arrived in the United States before July 12,
12 1995.” Section 4 of the MOU is titled “Eligibility for
13 Acceptance of Return.” Section 4 states that Vietnam intends
14 to accept the removal of individuals who meet four conditions.
15 The individual must (1) have Vietnamese citizenship and not
16 the citizenship of any other country; (2) have been ordered
17 removed by the United States and finished serving any U.S.
18 prison sentence; and (3) have resided in Vietnam before
19 arriving in the United States and not have the right to reside in
20 any other country. The fourth mandatory condition is redacted
21 in the publicly disclosed version of the MOU[.]

22 *Nguyen v. Scott*, 796 F. Supp. 3d 703, 714 (W.D. Wash. 2025) (cleaned up).¹

23 While Respondent claims that “the government is arranging for [Mr. Lam’s]
24 removal,” the fact remains that discretion about issuance of travel documents is entirely
25 Vietnam’s. And the process created by the 2020 MOU has thus far not succeeded in
26 producing travel documents for Mr. Lam. Significantly, Mr. Lam was previously
27 detained by ICE in 2022, *after that process was already in effect*. With those
28 procedures in place, ICE released Mr. Lam, apparently because it concluded it was
unable to remove him to Vietnam. This fact alone suggests that it is still unlikely that
Mr. Lam can be removed under the process set forth in the MOU. This timing also
distinguishes Mr. Lam’s case from some that Respondent relies upon. *See, e.g., Hung*

¹ Respondent cites *Trinh v. Homan* as relevant to the change in circumstances. However, that case does not address the Memorandum of Understanding at all because it predates it. Moreover, that case, which addresses the appropriateness of declarative relief in a class action, merely recognizes that “Vietnam does not maintain a blanket policy of refusing to repatriate pre-1995 immigrants.” *Trinh v. Homan*, 466 F. Supp. 3d 1077, 1090 (C.D. Cal. 2020). Mr. Lam has never asserted that it does.

1 *Huu Anh Hoang v. Kristi Noem et al.*, 5:25-cv-03177-JLS-RAO, Dkt. #10 (Petitioner
2 initially detained and released in 2004 and re-arrested in 2025); *Nghia Giang Nguyen v.*
3 *Mark Bowen et al.*, 5:25-cv-03109-MCD-ADS, Dkt. no. 12 (Petitioner initially detained
4 and released in 2011 and re-arrested in 2025).²

5 The fact that the government submitted a request for travel documents over two
6 months ago and none have issued further undermines the suggestion that documents are
7 likely to issue in the foreseeable future. Moreover, an official from the Vietnamese
8 consulate was present at Adelanto on December 1, apparently interviewing detainees
9 relating to the possibility of removal. *Dung Duc Luu v. Kristi Noam et al.*, 5:25-cv-
10 03145, Dkt. #11 (Dec. 11, 2025) (Respondent's opposition to TRO asserting that
11 another petitioner had been interviewed at Adelanto by a Vietnamese consular
12 representative on December 1, 2025). But Mr. Lam was not interviewed.

13 Respondent asserts that Mr. Lam's case is similar to *Nguyen v. Scott*. (Dkt. #7 at
14 8.) A few points on that case should be considered. First, certain factual distinctions
15 make Mr. Lam's removal even less foreseeable than the petitioner in that case.
16 Petitioner Nguyen had not been repeatedly detained after the 2020 MOU. Rather he had
17 been detained in 2001 and 2004. *Nguyen*, 796 F. Supp. 3d at 710. As noted above, the
18 fact that Mr. Lam has been detained and released since the advent of the current process
19 for obtaining travel documents suggests that it is unlikely such documents can be
20 obtained for him. Also, Petitioner Nguyen's request for travel documents had been
21 pending for only 17 days, while Mr. Lam's has been pending for almost two months.

22 Second, contrary to Respondent's explanation, the TRO in that matter was
23 partially granted and the court ordered that Mr. Nguyen not be removed to a third
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26
27 ² Because substantive documents in these cases are often sealed, counsel in
28 unable to review the underlying facts in many of the cases that Respondent cites in
order to assess whether the petitioners entered the United States prior to 1995 or
whether they had been detained by ICE after the 2020 MOU.

1 country. *Phong Thanh Nguyen v. Bruce Scott*, 2025 WL 2165995 (W.D. Wash. July 30,
2 2025).

3 Third and significantly, less than a month after the TRO was partially denied, the
4 court in that case granted a preliminary injunction requiring the petitioner's release. In
5 *Nguyen v. Scott*, Respondent provided some numbers regarding travel documents
6 obtained from and individuals removed to Vietnam. *Nguyen*, 796 F. Supp. 3d at 712.
7 Still, the district court found that showing (more than made here) inadequate,
8 concluding, "[t]he Court agrees that these developments show there is at least some
9 possibility that Vietnam will accept Petitioner at some point. But that is not the same as
10 a significant likelihood that he will be accepted in the reasonably foreseeable future."
11 *Id.* at 725. Accepting Respondent's invitation to compare this case to *Nguyen*, there is
12 even less reason to believe here that Mr. Lam will be removed in the foreseeable future.
13 Accordingly, he shows a strong likelihood of success on his *Zadvydas* claim.

14 In addition to *Nguyen v. Scott*, multiple other courts found pre-1995 detainees
15 should not be detained without a showing of likelihood of removal beyond what has
16 been shown here—namely that travel documents were requested approximately two
17 months ago and "ICE has recently been able to timely obtain travel documents and
18 effectuate removal to Vietnam" of some other individuals (*see* Dkt. #7, Preciado Decl.).
19 In *Hoac v. Becerra*, No. 2:25-cv-1740, 2025 WL 1993771, at *4 (C.D. Cal. July 16,
20 2025), the Court ordered release in a case analogous to this one, where "Petitioner was
21 unable to be removed in 2023" and "Respondents have not provided any details about
22 why a travel document could not be obtained in the past, nor have they attempted to
23 show why obtaining a travel document is more likely this time around." *See also Tran*
24 *v. Scott*, ___ F. Supp. 3d ___, No. 2:25-CV-01886-TMC-BAT, 2025 WL 2898638, at *
25 5 (W.D. Wash. Oct. 12, 2025) (finding evidence of other deportations of pre-1995
26 immigrants insufficient to establish "a significant likelihood Vietnam will accept
27 Petitioner in the reasonably foreseeable future"); *Nguyen v. Hyde*, 788 F.Supp.3d 144,
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1 151 (D. Mass. June 20, 2025) (finding that a declaration stating that 328 individuals
2 had been removed to Vietnam—without distinguishing pre-1995 refugees from other
3 deported individuals—failed to establish a likelihood of deportation to Vietnam for a
4 pre-1995 refugee); *Dung Duc Luu, Petitioner, v. Mark Bowen, et al.*, No. 5:25-CV-
5 03145-MEMF-SP, 2025 WL 3552298, at *7 (C.D. Cal. Dec. 11, 2025) (ordering
6 petitioner released where request for travel documents had been submitted two and half
7 months earlier and “[t]here is thus no current estimate as to when a travel document
8 will be issued, even though the 2020 Memorandum of Understanding between the U.S.
9 and Vietnam provides that within thirty days of a request for travel documents, the
10 travel document should be issued, or the individual should be notified that it is
11 insufficient”).

12 **B. Petitioner is likely to succeed on his claim that Respondents failed to**
13 **comply with applicable regulations.**

14 Respondent provides a letter was given to Mr. Lam upon his arrest. (Dkt. #7, Ex.
15 2.) But that boilerplate document fails to provide meaningful notice. It does not explain
16 the basis for the revocation of his supervision. Instead it says that the decision is made
17 based on a “review of your file...in light of your failure to abide by one or more
18 conditions” of supervision. (Dkt. #7, Ex 2.) It does not explain how Mr. Lam
19 purportedly violated the terms of supervision, so Mr. Lam would have no basis to
20 meaningfully respond. Nor does it state any change in circumstances demonstrating a
21 reasonable likelihood of removal to Vietnam. As the court held in *Quan v. Bowen*, and
22 as numerous courts have held “in this district, circuit, and across the country,” “such a
23 vague, generic statement is insufficient notice.” *See Quan v. Bowen*, No. 5:25-cv-
24 02546-HDV-PVC, Dkt. 14 at 10 (collecting cases).

25 What’s more, Respondents have offered no evidence or allegation that they
26 complied with regulations mandating that Petitioner be provided with an initial
27 informal interview promptly and that he be afforded a meaningful opportunity to
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1 contest the reasons for revocation. *See* 8 C.F.R. §§ 241.4(l)(1), 241.14(i)(3). Because
2 ICE failed to follow its own procedures and violated Petitioner’s due process rights in
3 re-detaining him without meaningful notice and an opportunity to be heard, Mr. Lam
4 has shown a likelihood of success on this claim as well.

5 **C. Petitioner’s claim about third country removals is not speculative.**

6 Respondent represents that “[t]his is not a third country removal case.” (Dkt. #7.)
7 But the sworn statement provided in support of Respondent’s brief does state that the
8 government will not seek to deport Mr. Lam to a third country if it continues to be
9 unable to obtain Vietnamese travel documents for him. (Dkt. #7, Preciado Decl.) Nor
10 does it support the claim in Respondent’s brief that there “do not appear to be any”
11 examples of pre-1995 Vietnamese immigrants removed to third countries. The district
12 court in *Nguyen v. Scott* noted evidence of pre-1995 Vietnamese nationals who had
13 been deported to Eswatini, South Sudan and El Salvador. *Nguyen*, 796 F.Supp.3d at
14 716-36. Petitioner’s claim is not speculative.

15 **II. CONCLUSION**

16 For the reasons stated in the petition and exhibits, as well as the application for
17 temporary restraining order and preliminary injunction, the Court should grant the
18 requested relief.

19 Respectfully submitted,
20 Cuauhtemoc Ortega
21 Federal Public Defender

22 Dated: December 15, 2025

23 By: /s/ Emily J.M. Groendyke
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