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

KEM TRAN,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary of
the Department of Homeland Security,
TODD BLANCHE, Acting Attorney
General, TODD M. LYONS, Acting
Director, Immigration and Customs
Enforcement, JESUS ROCHA, Acting
Field Office Director, San Diego Field
Office, CHRISTOPHER LAROSE,
Warden at Otay Mesa Detention Center,

Respondents.

CIVIL CASE NO.: **'26CV3385 LL DEB**

**Petition for Writ
of
Habeas Corpus**

[28 U.S.C. § 2241]

INTRODUCTION

On February 4, 2026, Kem Tran was ordered removed to Vietnam. Yet ICE has proved unable to remove him for nearly four months. This is no surprise. “Vietnam has had a longstanding policy of not accepting back Vietnamese immigrants, like Petitioner[], who left the country before 1995.” *Lieu v. Bowen*, No. 26-CV-429-DOC-RAO, 2026 WL 790880, at *1 (C.D. Cal. Mar. 16, 2026). Though Vietnam is technically considering some pre-1995 immigrants for removal, “in actuality, very few people have been accepted back by Vietnam that left the country before 1995.” *Id.*

Thus, because “there is no significant likelihood of removal in the reasonably foreseeable future,” Kem Tran’s detention is no longer statutorily authorized, and this Court must order his immediate release. *Zadvydas v. Davis*, 533 U.S. 678 (2001).

STATEMENT OF FACTS

I. ICE has made no apparent progress in removing Mr. Tran to Vietnam.

Mr. Tran was born in Vietnam  Declaration of Kem Tran, Exhibit A at ¶ 2. He fled to the United States, entering as a refugee in 1981. *Id.* He then received his legal permanent residence in 1982. *Id.* Following convictions, he was ordered removed on February 4, 2026. *Id.* at ¶ 3. Mr. Tran waived his appeal of this decision. *Id.*

Since then, ICE has met with him only a few times to discuss his removal to Vietnam. *Id.* at ¶ 4. On each of those occasions, ICE has told him they are working on his removal and that the removal is “in progress.” *Id.* Officers have complained that Vietnam is selective and makes it difficult to remove people there. *Id.* They have also said he would be detained for as long as it takes. *Id.* at ¶ 6. Mr. Tran has been cooperating with ICE completely throughout this time. *Id.* at ¶ 5. He has seen

1 no indication since then that Vietnam has accepted him for removal, and ICE has
2 given no indication of how long it could take. *Id.* at ¶ 6.

3 The general experience of other Vietnamese immigrants also bears this out.
4 Even after Vietnam signed the 2020 MOU, ICE had to admit that there was no
5 reasonable likelihood of removing such immigrants in the reasonably foreseeable
6 future, Order on Joint Motion for Entry of Stipulated Dismissal, *Trihn*, 18-CV-316-
7 CJC-GJS, Dkt. 161 at 3 (C.D. Cal. Oct. 7, 2021)—an admission backed up by two
8 years’ experience under the MOU. Asian Law Caucus, *Resources on Deportation*
9 *of Vietnamese Immigrants Who Entered the U.S. Before 1995* (Jul. 15, 2025)
10 (providing links to all quarterly reports). Though the Trump administration
11 rescinded this admission, several courts have explained that barriers continue to
12 obstruct removal for people like Mr. Tran. *See Nguyen v. Scott*, 796 F.Supp.3d 703
13 (W.D. Wash. Aug. 21, 2025); *Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP, 2025
14 WL 1993771, at *4 (E.D. Cal. July 16, 2025); *Nguyen v. Hyde*, No. 25-CV-11470-
15 MJJ, 2025 WL 1725791, at *5 (D. Mass. June 20, 2025); *see also Than Nguyen v.*
16 *Noem*, No. 25-CV-2760-TWR at ECF No. 12 (S.D. Cal. Oct. 23, 2025) (minute
17 order noting grant of *Zadvydas* petition as to pre-1995 Vietnamese immigrant); *Ho*
18 *v. Noem*, No. 25-CV-2453-BAS at ECF No. 11 (S.D. Cal. Oct. 20, 2025) (granting
19 preliminary injunction ordering release as to pre-1995 Vietnamese immigrant);
20 *Lieu*, 2026 WL 790880 at *1.

21 Vietnam has accepted few pre-1995 immigrants under any circumstances.
22 And Respondents have concealed the precise factors the Vietnamese government
23 considers in making these determinations, as “this information has been redacted
24 from the publicly available version of the 2020 MOU, and [the government] has
25 not offered it.” *Nguyen*, 796 F. Supp.3d at 722. There is no information about
26 whether Mr. Tran has a Vietnamese passport or necessary travel documents to
27 effectuate his removal to Vietnam. *See* Exh. A at ¶¶ 4–6. As long as Vietnam does
28 not recognize Mr. Tran as a citizen, he cannot be removed to Vietnam.

1 **II. The government is carrying out deportations to third countries without**
2 **providing sufficient notice and opportunity to be heard.**

3 If ICE cannot successfully remove Mr. Tran to Vietnam, ICE may attempt to
4 remove him to a third country. If so, he is in grave danger of removal without due
5 process.

6 The Trump administration reportedly has negotiated with at least 58
7 countries to accept deportees from other nations. Edward Wong et al, *Inside the*
8 *Global Deal-Making Behind Trump's Mass Deportations*, N.Y. Times, June 25,
9 2025. On June 25, 2025, the New York Times reported that seven countries—Costa
10 Rica, El Salvador, Guatemala, Kosovo, Mexico, Panama, and Rwanda—had agreed
11 to accept deportees who are not their own citizens. *Id.* Since then, ICE has carried
12 out highly publicized third country deportations to South Sudan and Eswatini.

13 The Administration has reportedly negotiated with countries to have many
14 of these deportees imprisoned in prisons, camps, or other facilities. The government
15 paid El Salvador about \$5 million to imprison more than 200 deported Venezuelans
16 in a maximum-security prison notorious for gross human rights abuses, known as
17 CECOT. *See id.* In February, Panama and Costa Rica took in hundreds of deportees
18 from countries in Africa and Central Asia and imprisoned them in hotels, a jungle
19 camp, and a detention center. *Id.*; Vanessa Buschschluter, *Costa Rican court orders*
20 *release of migrants deported from U.S.*, BBC (Jun. 25, 2025). On July 4, 2025, ICE
21 deported eight men, including one pre-1995 Vietnamese refugee, to South Sudan.
22 *See Wong, supra.* On July 15, ICE deported five men to the tiny African nation of
23 Eswatini, including one man from Vietnam, where they are reportedly being held
24 in solitary confinement. Gerald Imray, *3 Deported by US held in African Prison*
25 *Despite Completing Sentences, Lawyers Say*, PBS (Sept. 2, 2025). Many of these
26 countries are known for human rights abuses or instability. For instance, conditions
27 in South Sudan are so extreme that the U.S. State Department website warns
28

1 Americans not to travel there, and if they do, to prepare their will, make funeral
2 arrangements, and appoint a hostage-taker negotiator first. *See Wong, supra*.

3 On June 23 and July 3, 2025, the Supreme Court issued a stay of a national
4 class-wide preliminary injunction issued in *D.V.D. v. U.S. Department of*
5 *Homeland Security*, No. CV 25-10676-BEM, 2025 WL 1142968, at *1, 3 (D. Mass.
6 Apr. 18, 2025), which required ICE to follow statutory and constitutional
7 requirements before removing an individual to a third country. *U.S. Dep't of*
8 *Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153 (2025) (mem.); *id.*, No. 24A1153, 2025
9 WL 1832186 (U.S. July 3, 2025).¹ On July 9, 2025, ICE rescinded previous
10 guidance meant to give immigrants a “‘meaningful opportunity’ to assert claims for
11 protection under the Convention Against Torture (CAT) before initiating removal
12 to a third country” like the ones just described. Third Country Removals Following
13 the Supreme Court’s Order in *Department of Homeland Security v. D.V.D.*, Exhibit
14 B.

15 Under the new guidance, ICE may remove any immigrant to a third country
16 “without the need for further procedures,” as long as—in the view of the State
17 Department—the United States has received “credible” “assurances” from that
18 country that deportees will not be persecuted or tortured. *Id.* at 1. If a country fails
19 to credibly promise not to persecute or torture releasees, ICE may still remove
20 immigrants there with minimal notice. *Id.* Ordinarily, ICE must provide 24 hours’
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23 ¹ Though the Supreme Court’s order was unreasoned, the dissent noted that the
24 government had sought a stay based on procedural arguments applicable only to
25 class actions. *Dep’t of Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153, 2160 (2025)
26 (Sotomayor, J., dissenting). Thus, “even if the Government [was] correct that
27 classwide relief was impermissible” in *D.V.D.*, Respondents still “remain[]
28 obligated to comply with orders enjoining [their] conduct with respect to individual
plaintiffs” like Mr. Tran. *Id.* Thus, the Supreme Court’s decision does not override
courts’ authority to grant individual injunctive relief. *See Nguyen v. Scott*, No. 2:25-
CV-01398, 2025 WL 2419288, at *20–23 (W.D. Wash. Aug. 21, 2025).

1 notice. But “[i]n exigent circumstances,” a removal may take place in as little as six
 2 hours, “as long as the alien is provided reasonably means and opportunity to speak
 3 with an attorney prior to the removal.” *Id.*

4 Upon serving notice, ICE “will not affirmatively ask whether the alien is
 5 afraid of being removed to the country of removal.” *Id.* (emphasis original). If the
 6 noncitizen “does not affirmatively state a fear of persecution or torture if removed
 7 to the country of removal listed on the Notice of Removal within 24 hours, [ICE]
 8 may proceed with removal to the country identified on the notice.” *Id.* at 2. If the
 9 noncitizen “does affirmatively state a fear if removed to the country of removal”
 10 then ICE will refer the case to U.S. Citizenship and Immigration Services
 11 (“USCIS”) for a screening for eligibility for withholding of removal and protection
 12 under the Convention Against Torture (“CAT”). *Id.* at 2. “USCIS will generally
 13 screen within 24 hours.” *Id.* If USCIS determines that the noncitizen does not meet
 14 the standard, the individual will be removed. *Id.* If USCIS determines that the
 15 noncitizen has met the standard, then the policy directs ICE to either move to reopen
 16 removal proceedings “for the sole purpose of determining eligibility for
 17 [withholding of removal protection] and CAT” or designate another country for
 18 removal. *Id.*

19 CLAIMS FOR RELIEF

20 This Court should grant this petition and order Mr. Tran’s immediate release,
 21 because there is “no significant likelihood of removal in the reasonably foreseeable
 22 future.” *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). The Court should also enjoin
 23 his removal without due process.
 24

25 I. Count 1: Mr. Tran’s detention violates *Zadvydas* and 8 U.S.C. § 1231.

26 A. Legal background

27 Mr. Tran’s indefinite detention violates the statute authorizing detention, 8
 28 U.S.C. § 1231(a)(6). In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court

1 considered a problem affecting people like Mr. Tran. Federal law requires ICE to
2 detain an immigrant during the “removal period,” which typically spans the first 90
3 days after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-(2). After that
4 90-day removal period expires, detention becomes discretionary—ICE may detain
5 the migrant while continuing to try to remove them. *Id.* § 1231(a)(6). Ordinarily,
6 this scheme would not lead to excessive detention, as removal happens within days
7 or weeks. But some detainees cannot be removed quickly. Perhaps their removal
8 “simply require[s] more time for processing,” or they are “ordered removed to
9 countries with whom the United States does not have a repatriation agreement,” or
10 their countries “refuse to take them,” or they are “effectively ‘stateless’ because of
11 their race and/or place of birth.” *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1104 (9th
12 Cir. 2001). In these and other circumstances, detained immigrants can find
13 themselves trapped in detention for months, years, decades, or even the rest of their
14 lives.

15 If federal law were understood to allow for “indefinite, perhaps permanent,
16 detention,” it would pose “a serious constitutional threat.” *Zadvydas*, 533 U.S. at
17 699. In *Zadvydas*, the Supreme Court avoided the constitutional concern by
18 interpreting § 1231(a)(6) to incorporate implicit limits. *Id.* at 689.

19 As an initial matter, *Zadvydas* held that detention is “presumptively
20 reasonable” for at least six months. *Id.* at 701. This acts as a kind of grace period
21 for effectuating removals.

22 Following the six-month grace period, courts must use a burden-shifting
23 framework to decide whether detention remains authorized. First, the petitioner
24 must make a prima facie case for relief: He must prove that there is “good reason
25 to believe that there is no significant likelihood of removal in the reasonably
26 foreseeable future.” *Id.*

27 If he does so, the burden shifts to “the Government [to] respond with
28 evidence sufficient to rebut that showing.” *Id.* Ultimately, then, the burden of proof

1 rests with the government: The government must prove that there is a “significant
2 likelihood of removal in the reasonably foreseeable future,” or the immigrant must
3 be released. *Id.*

4 **B. The six-month grace period will expire before the court decides**
5 **this petition.**

6 As an initial matter, the six-month grace period will be done by the time this
7 petition is decided. *See* Exh. A at ¶ 2. The *Zadvydas* grace period lasts for “*six*
8 *months* after a final order of removal—that is, *three months* after the statutory
9 removal period has ended.” *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th
10 Cir. 2001). Here, Mr. Tran was ordered removed on February 4, 2026. Exh. A at
11 ¶ 2. Accordingly, his 90-day removal period began then. 8 U.S.C. § 1231(a)(1)(B).
12 The *Zadvydas* grace period will thus expire on August 4, 2026, six months after the
13 removal order became final. Exh. A at ¶ 2. The threshold requirement will therefore
14 be met at least by the time this Court decides the case.²

15 **C. There is good reason to believe that there is no significant**
16 **likelihood of Mr. Tran’s removal in the reasonably foreseeable**
17 **future.**

18 Because the six-month grace period will have passed, this Court must
19 evaluate Mr. Tran’s *Zadvydas* claim using the burden-shifting framework. At the
20 first stage of the framework, there must be “good reason to believe that there is no
21 significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*,
22 533 U.S. at 701. This standard can be broken down into three parts.

23 **“Good reason to believe.”** The “good reason to believe” standard is a
24 relatively forgiving one. “A petitioner need not establish that there exists no
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26 ² Mr. Tran asks this Court to reach the merits of his case. If this Court declines to
27 grant this petition before the expiration of the six-month grace period, Mr. Tran
28 asks that his case be held in abeyance until August 4, 2026. This would be in the
interests of judicial economy by preventing Mr. Tran from having to file multiple
petitions.

possibility of removal.” *Freeman v. Watkins*, No. CV B:09-160, 2009 WL 10714999, at *3 (S.D. Tex. Dec. 22, 2009). Nor does “[g]ood reason to believe” . . . place a burden upon the detainee to demonstrate no reasonably foreseeable, significant likelihood of removal or show that his detention is indefinite; it is something less than that.” *Rual v. Barr*, No. 6:20-CV-06215 EAW, 2020 WL 3972319, at *3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401 F. Supp. 3d 420, 430 (W.D.N.Y. 2019)). In short, the standard means what it says: Petitioners need only give a “good reason”—not prove anything to a certainty.

“**No significant likelihood of removal.**” This component focuses on whether Mr. Tran will likely be removed: Continued detention is permissible only if it is “significant[ly] like[ly]” that ICE will be able to remove him. *Zadvydas*, 533 U.S. at 701. This inquiry targets “not only the *existence* of untapped possibilities, but also [the] probability of *success* in such possibilities.” *Elashi v. Sabol*, 714 F. Supp. 2d 502, 506 (M.D. Pa. 2010) (second emphasis added). In other words, even if “there remains *some* possibility of removal,” a petitioner can still meet its burden if there is good reason to believe that successful removal is not significantly likely. *Kacanic v. Elwood*, No. CIV.A. 02-8019, 2002 WL 31520362, at *4 (E.D. Pa. Nov. 8, 2002) (emphasis added).

“**In the reasonably foreseeable future.**” This component of the test focuses on when Mr. Tran will likely be removed: Continued detention is permissible only if removal is likely to happen “in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. This inquiry places a time limit on ICE’s removal efforts. If the Court has “no idea of when it might reasonably expect [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal is likely to occur—or even that it might occur—in the reasonably foreseeable future.” *Palma v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at *3 (S.D. Miss. July 7, 2020), *report and recommendation adopted*, 2020 WL 4876859 (S.D. Miss. Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d 93, 102 (W.D.N.Y. 2019)). Thus, even if this

1 Court concludes that Mr. Tran “would *eventually* receive” a travel document, he
2 can still meet his burden by giving good reason to anticipate sufficiently lengthy
3 delays. *Younes v. Lynch*, 2016 WL 6679830, at *2 (E.D. Mich. Nov. 14, 2016).

4 Mr. Tran has good reason to doubt his likelihood of removal in the
5 reasonably foreseeable future. ICE appears to have made no progress in removing
6 him in nearly six months. Exh. A at ¶¶ 4–6. And there is a good explanation for the
7 hold up: As explained *supra*, Vietnam historically does not accept immigrants who
8 left before 1995, and the United States has consistently had trouble deporting
9 people to Vietnam. Even with the current MOU stating Vietnam *will* consider some
10 pre-1995 immigrants for removal, the reality in practice is that this is incredibly
11 unlikely.

12 Thus, Mr. Tran has met his initial burden. Unless the government can prove
13 a “significant likelihood of removal in the reasonably foreseeable future,” Mr. Tran
14 must be released. *Zadvydas*, 533 U.S. at 701.

15 **II. Count 2: ICE may not remove Mr. Tran to a third country without**
16 **adequate notice and an opportunity to be heard.**

17 If ICE does not succeed in removing Mr. Tran to Vietnam, ICE may attempt
18 to remove him to a third country. It would do so under a policy that violates the
19 Fifth Amendment, the Convention Against Torture, and implementing regulations.

20 **A. Legal background**

21 U.S. law enshrines protections against dangerous and life-threatening
22 removal decisions. By statute, the government is prohibited from removing an
23 immigrant to any third country where they may be persecuted or tortured, a form
24 of protection known as withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A). The
25 government “may not remove [a noncitizen] to a country if the Attorney General
26 decides that the [noncitizen’s] life or freedom would be threatened in that country
27 because of the [noncitizen’s] race, religion, nationality, membership in a particular
28

1 social group, or political opinion.” *Id.*; *see also* 8 C.F.R. §§ 208.16, 1208.16.
2 Withholding of removal is a mandatory protection.

3 Similarly, Congress codified protections enshrined in the CAT prohibiting
4 the government from removing a person to a country where they would be tortured.
5 *See* FARRA 2681-822 (codified as 8 U.S.C. § 1231 note) (“It shall be the policy of
6 the United States not to expel, extradite, or otherwise effect the involuntary return
7 of any person to a country in which there are substantial grounds for believing the
8 person would be in danger of being subjected to torture, regardless of whether the
9 person is physically present in the United States.”); 28 C.F.R. § 200.1; *id.*
10 §§ 208.16-208.18, 1208.16-1208.18. CAT protection is also mandatory.

11 To comport with the requirements of due process, the government must
12 provide notice of the third country removal and an opportunity to respond. Due
13 process requires “written notice of the country being designated” and “the statutory
14 basis for the designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v.*
15 *Nielsen*, 409 F. Supp. 3d 998, 1019 (W.D. Wash. 2019); *accord D.V.D. v. U.S.*
16 *Dep’t of Homeland Sec.*, No. 25-cv-10676-BEM, 2025 WL 1453640, at *1 (D.
17 Mass. May 21, 2025); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999).

18 The government must also “ask the noncitizen whether he or she fears
19 persecution or harm upon removal to the designated country and memorialize in
20 writing the noncitizen’s response. This requirement ensures DHS will obtain the
21 necessary information from the noncitizen to comply with section 1231(b)(3) and
22 avoids [a dispute about what was said].” *Aden*, 409 F. Supp. 3d at 1019. “Failing to
23 notify individuals who are subject to deportation that they have the right to apply
24 for asylum in the United States and for withholding of deportation to the country to
25 which they will be deported violates both INS regulations and the constitutional
26 right to due process.” *Andriasian*, 180 F.3d at 1041.

27 If the noncitizen claims fear, measures must be taken to ensure that the
28 noncitizen can seek asylum, withholding, and relief under CAT before an

1 immigration judge in reopened removal proceedings. The amount and type of
2 notice must be “sufficient” to ensure that “given [a noncitizen’s] capacities and
3 circumstances, he would have a reasonable opportunity to raise and pursue his
4 claim for withholding of deportation.” *Aden*, 409 F. Supp. 3d at 1009
5 (citing *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976) and *Kossov v. I.N.S.*, 132
6 F.3d 405, 408 (7th Cir. 1998)); cf. *D.V.D.*, 2025 WL 1453640, at *1 (requiring the
7 government to move to reopen the noncitizen’s immigration proceedings if the
8 individual demonstrates “reasonable fear” and to provide “a meaningful
9 opportunity, and a minimum of fifteen days, for the non-citizen to seek reopening
10 of their immigration proceedings” if the noncitizen is found to not have
11 demonstrated “reasonable fear”); *Aden*, 409 F. Supp. 3d at 1019 (requiring notice
12 and time for a respondent to file a motion to reopen and seek relief).

13 “[L]ast minute” notice of the country of removal will not suffice, *Andriasian*,
14 180 F.3d at 1041; accord *Najjar v. Lunch*, 630 Fed. App’x 724 (9th Cir. 2016), and
15 for good reason: To have a meaningful opportunity to apply for fear-based
16 protection from removal, immigrants must have time to prepare and present
17 relevant arguments and evidence. Merely telling a person where they may be sent,
18 without giving them a chance to investigate country conditions, does not give them
19 a meaningful chance to determine whether and why they have a credible fear.

20 **B. The July 9, 2025 memo’s removal policies violate the Fifth**
21 **Amendment, 8 U.S.C. § 1231, the Conviction Against Torture, and**
22 **Implementing Regulations.**

23 The policies in the July 9, 2025 memo do not adhere to these requirements.
24 First, under the policy, ICE need not give immigrants *any* notice or hearing before
25 removing them to a country that—in the State Department’s estimation—has
26 provided “credible” “assurances” against persecution and torture. Exh. B. By
27 depriving immigrants of any chance to challenge the State Department’s view, this
28 policy violates “[t]he essence of due process,” “the requirement that a person in

1 jeopardy of serious loss be given notice of the case against him and opportunity to
2 meet it.” *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976) (cleaned up).

3 Second, even when the government has obtained no credible assurances
4 against persecution and torture, the government can still remove the person with
5 between 6 and 24 hours’ notice, depending on the circumstances. Exh. B.
6 Practically speaking, there is not nearly enough time for a detained person to assess
7 their risk in the third country and marshal evidence to support any credible fear—let
8 alone a chance to file a motion to reopen with an IJ. An immigrant may know
9 nothing about a third country, like Eswatini or South Sudan, when they are
10 scheduled for removal there. Yet if given the opportunity to investigate conditions,
11 immigrants would find credible reasons to fear persecution or torture—like patterns
12 of keeping deportees indefinitely and without charge in solitary confinement or
13 extreme instability raising a high likelihood of death—in many of the third
14 countries that have agreed to removal thus far. Due process requires an adequate
15 chance to identify and raise these threats to health and life. This Court must prohibit
16 the government from removing Mr. Tran without these due process safeguards.

17 **III. This Court must hold an evidentiary hearing on any disputed facts.**

18 Resolution of a prolonged-detention habeas petition may require an
19 evidentiary hearing. *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009). Mr.
20 Tran hereby requests such a hearing on any material, disputed facts.

21 **IV. Prayer for relief**

22 For the foregoing reasons, Petitioner respectfully requests that this Court:

- 23 1. Order Respondents to immediately release Petitioner from custody;
24 2. Enjoin Respondents from re-detaining Petitioner under 8 U.S.C.
25 § 1231(a)(6) unless and until Respondents obtain a travel document for
26 his removal;
27 3. Enjoin Respondents from removing Petitioner to any country other than
28 Vietnam unless they provide the following process, *see D.V.D. v. U.S.*

1 *Dep't of Homeland Sec.*, No. CV 25-10676-BEM, 2025 WL 1453640, at
2 *1 (D. Mass. May 21, 2025):

- 3 a. written notice to both Petitioner and Petitioner's counsel in a
4 language Petitioner can understand;
5 b. a meaningful opportunity, and a minimum of ten days, to raise a
6 fear-based claim for CAT protection prior to removal;
7 c. if Petitioner is found to have demonstrated "reasonable fear" of
8 removal to the country, Respondents must move to reopen
9 Petitioner's immigration proceedings;
10 d. if Petitioner is not found to have demonstrated a "reasonable fear"
11 of removal to the country, a meaningful opportunity, and a
12 minimum of fifteen days, for the Petitioner to seek reopening of his
13 immigration proceedings.
14 4. Order all other relief that the Court deems just and proper.
15 5. If the Court declines to grant this petition before the end of the six-month
16 *Zadvydas* grace period, Petitioner asks this Court to hold the case in
17 abeyance until August 4, 2026.
18

19 Respectfully submitted,
20

21 Dated: June 3, 2026

s/ Hannah Basalone

Hannah Basalone

Federal Defenders of San Diego, Inc.

Attorneys for Mr. Tran

Email: hannah_basalone@fd.org
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PROOF OF SERVICE

I, the undersigned, will cause the attached Petition for a Writ of Habeas Corpus to be emailed to the U.S. Attorney's Office for the Southern District of California at USACAS.Habeas2241@usdoj.gov when I receive the court-stamped copy.

Date: 6/3/2026

/s/ Hannah Basalone

Hannah Basalone