

1 HANNAH BASALONE
2 Cal. Bar No. 368332
3 Federal Defenders of San Diego, Inc.
4 225 Broadway, Suite 900
5 San Diego, California 92101-5030
6 Telephone: (619) 234-8467
7 Facsimile: (619) 687-2666
8 hannah_basalone@fd.org

9 Attorneys for Mr. Tran

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

12 KEM TRAN,

13 Petitioner,

14 v.

15 MARKWAYNE MULLIN, Secretary of
16 the Department of Homeland Security,
17 PAMELA JO BONDI, Attorney General,
18 TODD M. LYONS, Acting Director,
19 Immigration and Customs Enforcement,
20 JESUS ROCHA, Acting Field Office
21 Director, San Diego Field Office,
22 JEREMY CASEY, Warden at Imperial
23 Regional Detention Center,

24 Respondents.

CASE NO.: 26-cv-3385-LL-DEB

**Traverse in Support of
Petition for Writ
of Habeas Corpus**

25 Mr. Tran's removal order became final on February 4, 2026. *See* IJ Order,
26 ECF No. 4-1 at Exh. 5. This means the 90 days that Mr. Tran must be detained
27 following the final removal order have already run, and he is four months into the
28 six-month *Zadvydas* period. And because "there is no significant likelihood of
removal in the reasonably foreseeable future," Mr. Tran must be released. *Zadvydas*
v. Davis, 533 U.S. 678 (2001).

Respondents point to a recent charter flight that removed Vietnamese
noncitizens as evidence that there is significant likelihood of Mr. Tran's removal in

1 the reasonably foreseeable future. But they provide no details about the
2 circumstances surrounding those removals. There is no information about how long
3 these noncitizens were waiting for travel documents before being removed—or
4 how long they were waiting for the flight to be scheduled after receiving those
5 documents.

6 Respondents emphasize Mr. Tran’s conviction history as part of its
7 argument, but this is only relevant insofar as it could *prevent* travel documents from
8 being issued; the convictions (or details related to the convictions) are not related
9 to Mr. Tran’s argument under *Zadvydas*. Mr. Tran has served his sentence for these
10 convictions, and the convictions are not a reason to continue to detain Mr. Tran.
11 Respondents attempt to compare Mr. Tran’s circumstances to a different
12 Vietnamese noncitizen who was convicted of an “aggravated felony,” but that
13 individual still has not been removed from the United States. *See* ECF 4 at 5. There
14 is no information provided by the government to show that because this noncitizen
15 received travel documents, Mr. Tran will too.

16 Finally, good faith efforts to secure a travel document do not themselves
17 satisfy *Zadvydas*. The petitioner in *Zadvydas* appealed a “Fifth Circuit h[olding]
18 [that] [the petitioner’s] continued detention [was] lawful as long as good faith
19 efforts to effectuate deportation continue and [the petitioner] failed to show that
20 deportation will prove impossible.” 533 U.S. at 702 (cleaned up). The Supreme
21 Court reversed, finding that the Fifth Circuit’s good-faith-efforts standard
22 “demand[ed] more than our reading of the statute can bear.” *Id.* Thus, “under
23 *Zadvydas*, the reasonableness of Petitioner’s detention does not turn on the degree
24 of the government’s good faith efforts. Indeed, the *Zadvydas* court explicitly
25 rejected such a standard. Rather, the reasonableness of Petitioner’s detention turns
26 on whether and to what extent the government’s efforts are likely to bear fruit.”
27 *Hassoun v. Sessions*, No. 18-CV-586-FPG, 2019 WL 78984, at *5 (W.D.N.Y. Jan.
28 2, 2019). Here, then, “[w]hile the respondent asserts that [Mr. Tran’s] travel

1 document request[] with [the Vietnamese] Consulate[] remain[s] pending . . . , this
2 is insufficient. It is merely an assertion of good-faith efforts to secure removal; it
3 does not make removal likely in the reasonably foreseeable future.” *Gilali v.*
4 *Warden of McHenry Cnty. Jail*, No. 19-CV-837, 2019 WL 5191251, at *5 (E.D.
5 Wis. Oct. 15, 2019).

6 As of the date of this filing, the government has not shown they have secured
7 travel documents for Mr. Tran, nor have they provided any indication that there is
8 an upcoming date scheduled for the charter flight necessary to remove him. The
9 request for travel documents wasn’t even initiated until two months after Mr. Tran’s
10 final order of removal. *See* ECF 4 at 3. All information provided by the government
11 is speculative and does not indicate there is any significant likelihood of removal
12 in the reasonably foreseeable future.

13 Thus, because “there is no significant likelihood of removal in the reasonably
14 foreseeable future,” Mr. Tran’s detention is no longer statutorily authorized, and
15 this Court must order his immediate release. *Zadvydas v. Davis*, 533 U.S. 678
16 (2001). That holds true even though Mr. Tran has been detained for less than six
17 months following his final removal order. Many courts, including this Court, have
18 held that *Zadvydas*’s six-month presumptively reasonable removal period is “just
19 that—a presumption,” which can be rebutted with sufficiently compelling
20 evidence.¹

21
22 ¹ *Tumasov v. Doe 1*, No. 26-CV-590-LL-DEB, 2026 WL 458146, at *2–3 (S.D.
23 Cal. Feb. 18, 2026); *Hoang Trinh v. Homan*, 333 F. Supp. 3d 984, 994 (C.D. Cal.
24 2018); *see also Cruz Medina v. Noem*, No. 25-CV-1768-ABA, 2025 WL 2306274,
25 at *7 n.5 (D. Md. Aug. 11, 2025); *Munoz-Saucedo v. Pittman*, 789 F. Supp. 3d 387,
26 397 (D.N.J. 2025); *Zavvar v. Scott*, No. CV 25-2104-TDC, 2025 WL 2592543, at
27 *5 (D. Md. Sept. 8, 2025); *Sweid v. Cantu*, No. CV-25-03590-PHX-DWL (CDB),
28 2025 WL 3033655, at *3 (D. Ariz. Oct. 30, 2025); *Puertas Mendoza v. Bondi*, No.
SA-25-CA-00890-XR, 2025 WL 3142089, at *2 (W.D. Tex. Oct. 22, 2025);
Jimenez v. Cronen, 317 F. Supp. 3d 626, 641 n.6 (D. Mass. 2018); *Ali v. Dep’t of*
Homeland Sec., 451 F. Supp. 3d 703, 707 (S.D. Tex. 2020); *Villanueva v. Tate*, No.
CV H-25-3364, 2025 WL 2774610, at *9 (S.D. Tex. Sept. 26, 2025); *Douglas v.*
Baker, No. 25-CV-2243-ABA, 2025 WL 2687354, at *3 (D. Md. Sept. 19, 2025);

1 For the above reasons and the reasons laid out in the amended petition,
2 Mr. Tran respectfully requests that this Court order Respondents to immediately
3 release Petitioner from custody. If this Court is inclined to deny this petition at this
4 time, Mr. Tran would respectfully request this Court delay ruling and set a status
5 date on or around August 4, 2026, to rule at that time.

6
7 Respectfully submitted,

8 Dated: June 18, 2026

/s/ Hannah Basalone

9 Hannah Basalone
10 Federal Defenders of San Diego, Inc.
11 Attorneys for Mr. Tran
12 Email: hannah_basalone@fd.org
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

28 *Jamal v. Sessions*, No. 5:18-06015-CV-RK, 2018 WL 1440609, at *2 (W.D. Mo.
Mar. 22, 2018); *Cesar v. Achim*, 542 F. Supp. 2d 897, 902 (E.D. Wis. 2008).