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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

11 TAN TRUNG VAY,
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13 Petitioner,
14 v.
CHRISTOPHER CHESNUT, et al.,
15 Respondents.
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17

CASE NO. 1:25-CV-01810-SKO

**RESPONDENTS' OPPOSITION TO PETITION
FOR WRIT OF HABEAS CORPUS**

I. INTRODUCTION

18
19 Petitioner Tan Trung Vay is subject to a final order of removal and detained pursuant to
20 discretionary detention authority under 8 U.S.C. §1231(a)(6). He seeks release from the United States
21 Department of Homeland Security ("DHS") Immigration and Customs Enforcement ("ICE") custody
22 pending efforts to effectuate his removal. The Court should deny the petition. Petitioner's detention has
23 not exceeded the presumptively reasonable six-month period. Petitioner also fails to show that there is
24 "no significant likelihood of removal in the reasonably foreseeable future." *Zadvydas v. Davis*, 533 U.S.
25 678, 690 and 701 (2001). The petition incorrectly assumes he will be deported to a third country. As
26 demonstrated in the accompanying Declaration of Deportation Officer Patrick J. Cruz, dated January 12,
27 2026, ICE has been actively pursuing Petitioner's removal to Vietnam, Petitioner's country of
28 citizenship.

Petitioner likewise cites no binding authority requiring automatic release upon any pre-arrest regulatory violation. Absent a showing of prejudice to the Petitioner, the appropriate remedy is not release, but to remedy the regulatory defect. For these reasons, the Court should deny the Petition.

II. BACKGROUND

Petitioner, a native and citizen of Vietnam, admitted to the United States on or about March 20, 1980. Cruz Decl. ¶ 6; Exh. 1. Petitioner was thereafter convicted of the following crimes:

1. On or about June 19, 1997, the 230th District Court of Harris County, Texas convicted Petitioner for the offense of Burglary of a Habitation with Intent to Commit Theft, and sentenced him to five years of imprisonment;
2. On or about June 20, 1997, the 230th District Court of Harris County, Texas convicted Petitioner for the offense of Burglary of a Habitation with Intent to Commit Theft, and sentenced him to six months of imprisonment;
3. On or about March 1, 2000, the 177th District Court of Harris County, Texas convicted Petitioner for the offense of Burglary of a Habitation with Intent to Commit Theft, and sentenced him to thirty-five years of imprisonment;
4. On March 28, 2014, the County Criminal Court at Law No. 12, in Harris County, Texas convicted Petitioner for the offense of Interference with Emergency Telephone Call, and sentenced him to two hundred days of imprisonment;

Id. at ¶¶ 7-8, 12-13.

On or about August 28, 1997, Petitioner was served with a Notice to Appear and was subsequently placed into removal proceeding and charged with removability under Sections 237(a)(2)(A)(iii) and 237(a)(2)(A)(ii) of the Immigration and Nationality Act ("INA"). *Id.* at ¶ 9. In September 1997, Petitioner was ordered removed from the United States by an immigration judge. *Id.* at ¶ 10. Petitioner waived appeal of this decision. *Id.* at ¶ 10. On or about June 25, 1999, Petitioner was released on an Order of Supervision. *Id.* at ¶ 11. In November 2020, the United States and Vietnam signed a Memorandum of Understanding (MOU) that created a process for deporting immigrants who entered the U.S. before 1995. *Id.* at ¶ 14. On September 25, 2025, Petitioner was taken into ICE

1 custody and is currently being held under INA § 241(a)(6). *Id.* at ¶¶ 15,18.

2 On October 22, 2025, ERO submitted the completed travel packet to ERO-Removal and
 3 International Operations (“ERO-RIO”) so that the request for a travel document could be sent to
 4 Vietnam. *Id.* at ¶ 16. On or about January 9, 2026, ERO was informed that Vietnam will be issuing a
 5 travel document for Petitioner. *Id.* at ¶ 17. Upon receipt of the travel document and coordinating
 6 removal plans, Petitioner will be scheduled for imminent removal from the United States to Vietnam.
 7 *Id.* at ¶ 17.

8 III. LEGAL FRAMEWORK

9 The detention and removal of aliens, like Petitioner, who are subject to a final order of removal
 10 issued after removal proceedings, is governed by 8 U.S.C. § 1231. Under this statute, there is a 90-day
 11 “removal period,” during which detention is mandatory. 8 U.S.C. § 1231(a)(1), (2); *Zadvydas v. Davis*,
 12 533 U.S. 678, 683 (2001). Once the mandatory removal period ends, ICE has discretion to continue
 13 detaining aliens pending their removal. 8 U.S.C. § 1231(a)(6).

14 In *Zadvydas*, the Supreme Court held that 8 U.S.C. § 1231(a)(6) did not authorize the
 15 government to detain a removable alien indefinitely beyond the 90-day statutory removal period; rather,
 16 the Court construed the statute to contain an implicit “reasonable time” limitation. 533 U.S. at 682. The
 17 Court concluded that six months was a presumptively reasonable period of detention which should be
 18 read into the statute. *Id.* at 701. After six months, an alien is entitled to habeas relief only if he can show
 19 “there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* The Ninth
 20 Circuit has explained that *Zadvydas* requires an alien to show he is “stuck in a ‘removable-but-
 21 unremovable limbo,’ as the petitioners in *Zadvydas* were.” *Prieto-Romero v. Clark*, 534 F.3d at 1063
 22 (internal citation omitted). That is, the alien must show he “is unremovable because the destination
 23 country will not accept him or his removal is barred by our own laws.” *Id.* (citing *Zadvydas*, 533 U.S. at
 24 697).

25 While an alien’s detention is no longer presumed to be reasonable after six months, “there is
 26 nothing in *Zadvydas* that suggests that the Court must or even should assume that any detention
 27 exceeding that length of time is unreasonable.” *Lema v. U.S. I.N.S.*, 214 F. Supp. 2d 1116, 1118 (W.D.
 28 Wash. 2002), *aff’d sub nom. Lema v. I.N.S.*, 341 F.3d 853 (9th Cir. 2003).

IV. ARGUMENT

A. Petitioner's three-and-a-half-month detention is reasonable given the significant likelihood of removal in the foreseeable future.

Petitioner's detention is lawful under 8 U.S.C. § 1231(a)(6). Petitioner was rearrested on September 25, 2025, and is being held pending his removal. *Id.* at ¶¶ 15,18. His detention has not exceeded the presumptively reasonable six months. Even if his post-removal-period detention had exceeded the presumptively reasonable six-month period, Petitioner has failed to meet his burden of showing there is no significant likelihood of removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701. He has not shown he is stuck in "removable-but-unremovable limbo." *Prieto-Romero v. Clark*, 534 F.3d at 1063.

Petitioner's arguments are based on the incorrect assumption that he will be removed to a third country. In fact, Vietnam has been accepting deportees, and ICE's Enforcement Removal Operations (ERO) is actively seeking to obtain travel documents for Petitioner's removal. *See Cruz Decl.* ¶ 16-17. His temporary detention is reasonable in light of ICE's actions to effectuate his removal to Vietnam.

B. Release is not the appropriate remedy where there has been no prejudice.

Petitioner alternatively argues that the Court should release him because ICE failed to follow applicable regulations in revoking his release. *See ECF 1*, at V.B; VI.D. Petitioner does not cite any binding authority for such remedy and does not address possible alternative remedies.

Here, Petitioner has failed to show any prejudice warranting release. *C.f. United States v. Rangel-Gonzales*, 617 F.2d 529, 530 (9th Cir. 1980) (violation of a deportation regulation invalidates the deportation only upon a showing that the "violation prejudiced interests of the alien which were protected by the regulation."). Indeed, given that circumstances have changed such that Petitioner will now be subject to "imminent removal from the United States to Vietnam," *Decl.* at ¶ 17, and that petition was filed well before the expiration of the presumptively reasonable six-month detention period, Petitioner can point to no actual prejudice warranting release at this time. Accordingly, any regulatory defect is more appropriately remedied by forthwith compliance, not release.

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V. CONCLUSION

Based on the foregoing, the Court should deny the Petition for Writ of Habeas Corpus.

Dated: January 12, 2026

ERIC GRANT
United States Attorney

By: /s/ Haddy Abouzeid
HADDY ABOUZEID
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ISTOPHER CHESNUT, et al.,