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

QUOC ANH TRAN,¹

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.:

'26CV2773 DMS VET

**Petition for Writ
of
Habeas Corpus**

**[Civil Immigration Habeas,
28 U.S.C. § 2241]**

¹ Federal Defenders of San Diego, Inc., is filing the instant petition with provisional appointment under Chief Judge Order No. 134.

Table of Contents

I.	Introduction	1
II.	Statement of Facts	1
III.	Legal Analysis.....	2
A.	Claim One: ICE failed to comply with its own regulations when it re-detained Mr. Tran, violating his rights under applicable regulations and due process.	2
B.	Claim Two: Mr. Tran's detention violates <i>Zadvydas</i> and 8 U.S.C. § 1231.....	5
IV.	This Court must hold an evidentiary hearing on any disputed facts.	9
V.	Prayer for relief	10

1 **I. Introduction**

2 Mr. Tran was born in Vietnam and came to the United States through the
3 Humanitarian Operation Program in 2000. In 2008, Mr. Tran was ordered
4 removed. But Vietnam wouldn't accept him, and Mr. Tran was then released on
5 an order of supervision.

6 Mr. Tran remained on supervision for the next 18 years. But on January 5,
7 2026, ICE agents arrested Mr. Tran when he came for his annual check in.
8 Contrary to regulation, ICE did not notify Mr. Tran of any changed circumstances
9 that made his removal more likely, like receiving a travel document from Vietnam
10 confirming that it would now accept Mr. Tran despite not accepting him 18 years
11 ago. Nor did it give Mr. Tran an informal interview or a meaningful opportunity
12 to contest his re-detention. Mr. Tran's detention thus violates his statutory and
13 regulatory rights, *Zadvydas v. Davis*, 533 U.S. 678 (2001), and the Fifth
14 Amendment.

15 **II. Statement of Facts**

16 Mr. Tran was born in Vietnam and came to the United States on a
17 Humanitarian Operation Program in 2000. Exhibit A, Declaration of Quoc Anh
18 Tran, at ¶ 1. On December 29, 2008, an immigration judge ordered him removed.
19 *Id.* at ¶ 2.

20 After the immigration judge ordered Mr. Tran removed, ICE continued to
21 detain him. *Id.* at ¶ 3. But because they were not able to deport him to Vietnam,
22 they eventually released him on an order of supervision. *Id.* at ¶ 3.

23 On January 5, 2026, ICE redetained Mr. Tran when he came for his check
24 in appointment. *Id.* at ¶ 4. They didn't tell him a reason for revoking his
25 supervision, or if they did tell him, he didn't understand because Mr. Tran doesn't
26 speak English very well and they didn't use an interpreter. *Id.* at ¶ 4. All he
27 understood is that ICE told me that "we're going to keep you and not let you go."
28 *Id.* at ¶ 4.

1 **III. Legal Analysis.**

2 This Court should grant this petition and order Mr. Tran's immediate
3 release. ICE failed to follow its own regulations requiring changed circumstances
4 before re-detention, as well as a chance to promptly contest a re-detention
5 decision. And *Zadvydas v. Davis* holds that immigration statutes do not authorize
6 the government to detain immigrants like Mr. Tran, for whom there is "no
7 significant likelihood of removal in the reasonably foreseeable future." 533 U.S.
8 678, 701 (2001).

9 **A. Claim One: ICE failed to comply with its own regulations when**
10 **it re-detained Mr. Tran, violating his rights under applicable**
11 **regulations and due process.**

12 Two regulations establish the process due to someone who is re-detained in
13 immigration custody following a period of release. 8 C.F.R. § 241.4(l) applies to
14 all re-detentions, generally. 8 C.F.R. § 241.13(i) applies as an added, overlapping
15 framework to persons released upon good reason to believe that they will not be
16 removed in the reasonably foreseeable future, as Mr. Tran was. *See Phan v.*
17 *Noem*, 2025 WL 2898977, No. 25-CV-2422-RBM-MSB, *3-*5 (S.D. Cal. Oct.
18 10, 2025) (explaining this regulatory framework and granting a habeas petition for
19 ICE's failure to follow these regulations for a refugee of Vietnam who entered the
20 United States before 1995); *Rokhfirooz*, No. 25-CV-2053-RSH-VET, 2025 WL
21 2646165 at *2 (same as to an Iranian national).

22 These regulations permit an official to "return [the person] to custody" only
23 when the person "violate[d] any of the conditions of release," 8 C.F.R.
24 §§ 241.13(i)(1), 241.4(l)(1), or, in the alternative, if an appropriate official
25 "determines that there is a significant likelihood that the alien may be removed in
26 the reasonably foreseeable future," and makes that finding "on account of
27 changed circumstances," 8 C.F.R. § 241.13(i)(2).

28 No matter the reason for re-detention, the re-detained person is entitled to
certain procedural protections. For one, "[u]pon revocation," the noncitizen "will

1 be notified of the reasons for revocation of his or her release or parole.” *Phan*,
2 2025 WL 2898977 at *3, *4 (quoting §§ 241.4(l)(1), 241.13(i)(3)). Further, the
3 person “‘will be afforded an initial informal interview promptly after his or her
4 return’ to be given ‘an opportunity to respond to the reasons for revocation stated
5 in the notification.’” *Id.*

6 In the case of someone released under § 241.13(i), the regulations also
7 explicitly require the interviewer to allow the re-detained person to “submit any
8 evidence or information that he or she believes shows there is no significant
9 likelihood he or she be removed in the reasonably foreseeable future, or that he or
10 she has not violated the order of supervision.” § 241.13(i)(3).

11 ICE is required to follow its own regulations. *United States ex rel. Accardi*
12 *v. Shaughnessy*, 347 U.S. 260, 268 (1954); *see Alcaraz v. INS*, 384 F.3d 1150,
13 1162 (9th Cir. 2004) (“The legal proposition that agencies may be required to
14 abide by certain internal policies is well-established.”). A court may review a re-
15 detention decision for compliance with the regulations, and “where ICE fails to
16 follow its own regulations in revoking release, the detention is unlawful and the
17 petitioner’s release must be ordered.” *Rokhfirooz*, 2025 WL 2646165 at *4
18 (collecting cases); *accord Phan*, 2025 WL 2898977 at *5.

19 ICE followed none of its regulatory prerequisites to re-detention here.

20 First, ICE did not identify a proper reason under the regulations to re-detain
21 Mr. Tran. Mr. Tran was not given a reason for revoking his supervision, or if he
22 was, he didn’t understand because he doesn’t speak English and ICE didn’t use an
23 interpreter. *Id.* at ¶ 4.

24 Second, Mr. Tran does not believe he received an informal interview where
25 an officer explained the purported “changed circumstances” underlying his
26 revocation. “Simply to say that circumstances had changed or there was a
27 significant likelihood of removal in the foreseeable future is not enough.” *Sarail*
28 *A. v. Bondi*, No. 25-CV-2144, 2025 WL 2533673, at *3 (D. Minn. Sept. 3, 2025).

1 Rather, “Petitioner must be told *what* circumstances had changed or *why* there
 2 was now a significant likelihood of removal in order to meaningfully respond to
 3 the reasons and submit evidence in opposition, as allowed under § 241.13(i)(3).”
 4 *Id.* By “identif[ying] the category—‘changed circumstances’—but fail[ing] to
 5 notify [Petitioner] of the reason—the circumstances that changed and created a
 6 significant likelihood of removal in the reasonably foreseeable future—[ICE]
 7 failed to follow the relevant regulation.” *Id.* This failure to identify any changed
 8 circumstances also means he has he been afforded a meaningful opportunity to
 9 respond to the reasons for revocation or submit evidence rebutting his re-
 10 detention. Exh. A at ¶ 4.

11 Numerous courts have released re-detained immigrants after finding that
 12 ICE failed to comply with applicable regulations this summer and fall. These have
 13 included courts in this district,² as well as courts outside this district.³

15 ² *Constantinovici v. Bondi*, ___ F. Supp. 3d ___, 2025 WL 2898985, No. 25-cv-
 16 2405-RBM (S.D. Cal. Oct. 10, 2025); *Rokhfirooz v. Larose*, No. 25-cv-2053-
 17 RSH, 2025 WL 2646165 (S.D. Cal. Sept. 15, 2025); *Nguyen v. Noem*, 2025 WL
 18 2898977, No. 25-cv-2422-RBM-MSB, *3–*5 (S.D. Cal. Oct. 10, 2025); *Sun v.*
 19 *Noem*, 2025 WL 2800037, No. 25-cv-2433-CAB (S.D. Cal. Sept. 30, 2025); *Van*
 20 *Tran v. Noem*, 2025 WL 2770623, No. 25-cv-2334-JES, *3 (S.D. Cal. Sept. 29,
 21 2025); *Truong v. Noem*, No. 25-cv-02597-JES, ECF No. 10 (S.D. Cal. Oct. 10,
 22 2025); *Khambounheuang v. Noem*, No. 25-cv-02575-JO-SBC, ECF No. 12 (S.D.
 23 Cal. Oct. 9, 2025); *Truong v. Noem*, No. 25-cv-02597-JES, ECF No. 10 (S.D. Cal.
 24 Oct. 10, 2025); *Sphabmixay v. Noem*, 25-cv-2648-LL-VET (S.D. Cal. Oct. 30,
 25 2025); *Sayvongsa v. Noem*, 25-cv-2867-AGS-DEB (S.D. Cal. Oct. 31, 2025);
 26 *Thammavongsa v. Noem*, 25-cv-2836-JO-AHG (S.D. Cal. Nov. 3, 2025) (same);
 27 *Phakeokoth v. Noem*, 25-cv-2817-RBM-SBC (S.D. Cal. Nov. 7, 2025);
 28 *Soryadvongsa v. Noem*, 25-cv-2663-AGS-DDL (S.D. Cal. Nov. 8, 2025).

³ *Grigorian*, 2025 WL 2604573; *Delkash v. Noem*, 2025 WL 2683988; *Ceesay v.*
Kurzdorfer, 781 F. Supp. 3d 137, 166 (W.D.N.Y. 2025); *You v. Nielsen*, 321 F.
 Supp. 3d 451, 463 (S.D.N.Y. 2018); *Rombot v. Souza*, 296 F. Supp. 3d 383, 387
 (D. Mass. 2017); *Zhu v. Genalo*, No. 1:25-CV-06523 (JLR), 2025 WL 2452352,
 at *7–9 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, No. 6:25-CV-01204-AA,
 2025 WL 2430267, at *10–12 (D. Or. Aug. 21, 2025); *Escalante v. Noem*, No.
 9:25-CV-00182-MJT, 2025 WL 2491782, at *2–3 (E.D. Tex. July 18, 2025);
Hoac v. Becerra, No. 2:25-cv-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D.
 Cal. July 16, 2025); *Liu*, 2025 WL 1696526, at *2; *M.Q. v. United States*, 2025

1 “[B]ecause officials did not properly revoke petitioner’s release pursuant to
 2 the applicable regulations, that revocation has no effect, and [Mr. Tran] is entitled
 3 to his release (subject to the same Order of Supervision that governed his most
 4 recent release).” *Liu*, 2025 WL 1696526, at *3.

5 **B. Claim Two: Mr. Tran’s detention violates *Zadvydas* and 8 U.S.C.**
 6 **§ 1231.**

7 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered
 8 a problem affecting people like Mr. Tran: Federal law requires ICE to detain an
 9 immigrant during the “removal period,” which typically spans the first 90 days
 10 after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-(2). After that 90-
 11 day removal period expires, detention becomes discretionary—ICE may detain
 12 the migrant while continuing to try to remove them. *Id.* § 1231(a)(6). Ordinarily,
 13 this scheme would not lead to excessive detention, as removal happens within
 14 days or weeks. But some detainees cannot be removed quickly. Perhaps their
 15 removal “simply require[s] more time for processing,” or they are “ordered
 16 removed to countries with whom the United States does not have a repatriation
 17 agreement,” or their countries “refuse to take them,” or they are “effectively
 18 ‘stateless’ because of their race and/or place of birth.” *Kim Ho Ma v. Ashcroft*,
 19 257 F.3d 1095, 1104 (9th Cir. 2001). In these and other circumstances, detained
 20 immigrants can find themselves trapped in detention for months, years, decades,
 21 or even the rest of their lives. If federal law were understood to allow for
 22 “indefinite, perhaps permanent, detention,” it would pose “a serious constitutional
 23 threat.” *Zadvydas*, 533 U.S. at 699. In *Zadvydas*, the Supreme Court avoided the
 24 constitutional concern by interpreting § 1231(a)(6) to incorporate implicit limits.
 25 *Id.* at 689.

26
 27
 28 _____
 WL 965810, at *3, *5 n.1 (S.D.N.Y. Mar. 31, 2025).

1 *Zadvydas* held that § 1231(a)(6) presumptively permits the government to
2 detain an immigrant for 180 days after his or her removal order becomes final.
3 After those 180 days have passed, the immigrant must be released unless his or
4 her removal is reasonably foreseeable. *Zadvydas*, 533 U.S. at 701. After six
5 months have passed, the petitioner must only make a prima facie case for relief—
6 there is “good reason to believe that there is no significant likelihood of removal
7 in the reasonably foreseeable future.” *Id.* Then the burden shifts to “the
8 Government [to] respond with evidence sufficient to rebut that showing.” *Id.*

9 Further, even before the 180 days have passed, the immigrant must still be
10 released if he *rebutts* the presumption that his detention is reasonable. *See, e.g.,*
11 *Trinh v. Homan*, 466 F. Supp. 3d 1077, 1092 (C.D. Cal. 2020) (collecting cases
12 on rebutting the *Zadvydas* presumption before six months have passed); *Zavvar v.*
13 *Scott*, Civil No. 25-2104-TDC, 2025 WL 2592543, *6 (D. Md. Sept. 8, 2025)
14 (finding the presumption rebutted for a person who was immediately released
15 after being ordered removed and, years later, re-detained for less than six months).

16 Mr. Tran can make all the threshold showings needed to prove his
17 *Zadvydas* claim and shift the burden to the government because the six-month
18 grace period has long since ended. The *Zadvydas* grace period is linked to the date
19 the final order of removal is issued. It lasts for “*six months* after a final order of
20 removal—that is, *three months* after the statutory removal period has ended.” *Kim*
21 *Ho Ma v. Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th Cir. 2001); *see also* 8 U.S.C. §
22 1231(a)(1)(B) (linking the statutory removal period to issuance of the final order
23 and other proceedings associated with the original removal order).

24 Here, Mr. Tran’s order of removal was entered on December 29, 2008.
25 Exh. A at ¶ 2. Accordingly, his 90-day removal period began then. 8 U.S.C.
26 § 1231(a)(1)(B). The *Zadvydas* grace period thus expired in June 2009, three
27
28

1 months after the removal period ended. *See, e.g., Tadros v. Noem*, 2025 WL
2 1678501, No. 25-cv-4108(EP), *2–*3.⁴

3 This Court uses a burden-shifting framework to evaluate Mr. Tran’s
4 *Zadvydas* claim. At the first stage of the framework, Mr. Tran must “provide[]
5 good reason to believe that there is no significant likelihood of removal in the
6 reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. This standard can be
7 broken down into three parts.

8 “**Good reason to believe.**” The “good reason to believe” standard is a
9 relatively forgiving one. “A petitioner need not establish that there exists no
10 possibility of removal.” *Freeman v. Watkins*, No. CV B:09-160, 2009 WL
11 10714999, at *3 (S.D. Tex. Dec. 22, 2009). Nor does “[g]ood reason to
12 believe’ . . . place a burden upon the detainee to demonstrate no reasonably
13 foreseeable, significant likelihood of removal or show that his detention is
14 indefinite; it is something less than that.” *Rual v. Barr*, No. 6:20-CV-06215 EAW,
15 2020 WL 3972319, at *3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401
16

17 ⁴ The government has sometimes argued that release and rearrest resets the six-
18 month grace period completely, taking the clock back to zero. “Courts . . . broadly
19 agree” that this is not correct. *Diaz-Ortega v. Lund*, 2019 WL 6003485, at *7 n.6
20 (W.D. La. Oct. 15, 2019), *report and recommendation adopted*, 2019 WL
21 6037220 (W.D. La. Nov. 13, 2019); *see also Sied v. Nielsen*, No. 17-CV-06785-
22 LB, 2018 WL 1876907, at *6 (N.D. Cal. Apr. 19, 2018) (collecting cases).

23 It has also sometimes argued that rearrest creates a new three-month grace
24 period. As a court explained in *Bailey v. Lynch*, that view cannot be squared with
25 the statutory definition of the removal period in 8 U.S.C. § 1231(a)(1)(B). No. CV
26 16-2600 (JLL), 2016 WL 5791407, at *2 (D.N.J. Oct. 3, 2016). “Pursuant to the
27 statute, the removal period, and in turn the [six-month] presumptively reasonable
28 period, begins from the latest of ‘the date the order of removal becomes
administratively final,’ the date of a reviewing court’s final order where the
removal order is judicially removed and that court orders a stay of removal, or the
alien’s release from detention or confinement where he was detained for reasons
other than immigration purposes at the time of his final order of removal.” *Id.*
None of these statutory starting points have anything to do with whether or when
an immigrant is detained. *See id.* Because the statutorily-defined removal period
has nothing to do with release and rearrest, releasing and rearresting the
immigrant cannot reset the removal period.

1 F. Supp. 3d 420, 430 (W.D.N.Y. 2019)). In short, the standard means what it says:
2 Petitioners need only give a “good reason”—not prove anything to a certainty.

3 **“Significant likelihood of removal.”** This component focuses on whether
4 Mr. Tran will likely be removed: Continued detention is permissible only if it is
5 “significant[ly] like[ly]” that ICE will be able to remove him. *Zadvydas*, 533 U.S.
6 at 701. This inquiry targets “not only the *existence* of untapped possibilities, but
7 also [the] probability of *success* in such possibilities.” *Elashi v. Sabol*, 714 F.
8 Supp. 2d 502, 506 (M.D. Pa. 2010) (second emphasis added). In other words,
9 even if “there remains *some* possibility of removal,” a petitioner can still meet its
10 burden if there is good reason to believe that successful removal is not
11 significantly likely. *Kacanvic v. Elwood*, No. CIV.A. 02-8019, 2002 WL
12 31520362, at *4 (E.D. Pa. Nov. 8, 2002) (emphasis added).

13 **“In the reasonably foreseeable future.”** This component of the test
14 focuses on when Mr. Tran will likely be removed: Continued detention is
15 permissible only if removal is likely to happen “in the reasonably foreseeable
16 future.” *Zadvydas*, 533 U.S. at 701. This inquiry places a time limit on ICE’s
17 removal efforts. If the Court has “no idea of when it might reasonably expect
18 [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal
19 is likely to occur—or even that it might occur—in the reasonably foreseeable
20 future.” *Palma v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at *3
21 (S.D. Miss. July 7, 2020), *report and recommendation adopted*, 2020 WL
22 4876859 (S.D. Miss. Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d
23 93, 102 (W.D.N.Y. 2019)). Thus, even if this Court concludes that Mr. Tran
24 “would *eventually* receive” a travel document, he can still meet his burden by
25 giving good reason to anticipate sufficiently lengthy delays. *Younes v. Lynch*,
26 2016 WL 6679830, at *2 (E.D. Mich. Nov. 14, 2016).

27 Mr. Tran satisfies this standard for two reasons.
28

1 First, Mr. Tran's own experience bears this out. ICE has now had 18 years
2 to deport him, including five years under the MOU. He has cooperated with ICE's
3 removal efforts throughout that time. Yet ICE has proved unable to remove him.

4 Second, the general experience of other Vietnamese immigrants also bears
5 this out. Even after Vietnam signed the 2020 MOU, ICE had to admit that there
6 was no reasonable likelihood of removing such immigrants in the reasonably
7 foreseeable future, Order on Joint Motion for Entry of Stipulated Dismissal,
8 *Trihn*, 18-CV-316-CJC-GJS, Dkt. 161 at 3 (C.D. Cal. Oct. 7, 2021)—an
9 admission backed up by two years' experience under the MOU, Asian Law
10 Caucus, *Resources on Deportation of Vietnamese Immigrants Who Entered the*
11 *U.S. Before 1995* (Jul. 15, 2025) (providing links to all quarterly reports). Though
12 the Trump administration rescinded this admission, *Nguyen*, 2025 WL 2419288,
13 at *7, several courts have explained that barriers continue to obstruct removal for
14 people like Mr. Tran. *See Nguyen*, 2025 WL 2419288; *Hoac*, 2025 WL 1993771;
15 *Nguyen*, 2025 WL 1725791; *see also Than Nguyen*, No. 25-CV-2760-TWR at
16 ECF No. 12 (minute order noting grant of *Zadvydas* petition as to pre-1995
17 Vietnamese immigrant on October 23, 2025); *Ho*, No. 25-cv-2453-BAS at ECF
18 No. 11 (granting preliminary injunction ordering release as to pre-1995
19 Vietnamese immigrant on October 20, 2025).

20 Thus, Mr. Tran has met his initial burden, and the burden shifts to the
21 government. Unless the government can prove a "significant likelihood of
22 removal in the reasonably foreseeable future," Mr. Tran must be released.
23 *Zadvydas*, 533 U.S. at 701.

24 **IV. This Court must hold an evidentiary hearing on any disputed facts.**

25 Resolution of a prolonged-detention habeas petition may require an
26 evidentiary hearing. *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009).
27 Mr. Tran hereby requests such a hearing on any material, disputed facts.
28

V. Prayer for relief

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

1. Order and enjoin Respondents to immediately release Petitioner from custody;
2. Enjoin Respondents from re-detaining Petitioner under 8 U.S.C. § 1231(a)(6) unless and until Respondents obtain a travel document for his removal;
3. Enjoin Respondents from re-detaini ng Petitioner without first following all procedures set forth in 8 C.F.R. §§ 241.4(l), 241.13(i), and any other applicable statutory and regulatory procedures;
4. Order all other relief that the Court deems just and proper.

Respectfully submitted,

Dated: May 1, 2026

s/ Kara Hartzler

Federal Defenders of San Diego, Inc.
Attorneys for Mr. Tran
Email: kara_hartzler@fd.org

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.

Dated: May 1, 2026

/s/ Kara Hartzler
Kara L. Hartzler