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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

LINH KHANH NGUYEN, ([redacted]5),
Petitioner,

v.

JEREMY CASEY, Warden, Imperial Regional Detention Facility; **GREGORY J. ARCHAMBEAULT**, Field Office Director, San Diego Field Office, U.S. Immigration and Customs Enforcement; **DAVID J. VENTURELLA**, Acting Director, U.S. Immigration and Customs Enforcement; **MARKWAYNE MULLIN**, Secretary, U.S. Department of Homeland Security; and **TODD BLANCHE**, Acting Attorney General of the United States, in their official capacities,

Respondents.

Case No. '26CV4380 BJC GC

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

INTRODUCTION

1. Petitioner, Linh Khanh Nguyen ([redacted]5), by and through undersigned counsel, Matthew Henry Springmeyer, respectfully petitions this Honorable Court for a writ

of *habeas corpus* pursuant to 28 U.S.C. § 2241 to challenge his ongoing and unlawful detention by the United States Department of Homeland Security ("DHS") and its agents. Respondents currently detain Petitioner at the Imperial Regional Detention Facility, located at 1572 Gateway Road, Calexico, CA 92231.

2. On April 23, 2026, the Imperial Immigration Court ordered Petitioner removed to Vietnam and granted him withholding of removal under the Convention Against Torture ("CAT"). The grant of CAT protection legally prohibits Respondents from removing Petitioner to Vietnam, the only country designated in his removal order. Neither party appealed, and ICE's own records identify April 23, 2026, as the date the order became final.

3. Respondents cannot remove Petitioner to Vietnam as a matter of law, and they have identified no other country willing to accept him. In its Decision to Continue Detention served on July 15, 2026, ICE conceded: "ICE is currently seeking a 3rd World Country for your removal, pending approval." ICE identified no proposed country, no request made to any country, and no response from any country. Detention that cannot culminate in removal serves no statutory purpose.

4. Petitioner presented Respondents with a concrete, verified release plan, including a sworn affidavit from a lawful permanent resident family sponsor; yet, ICE's custody decision made no individualized findings regarding flight risk or danger and did not address that evidence at all. Indeed, it did not meet its regulatory baseline for determinations.

5. Accordingly, to vindicate Petitioner's constitutional, statutory, and regulatory rights, this Court should grant the instant petition for a writ of habeas corpus and order

Petitioner released under reasonable conditions of supervision or, in the alternative, order Respondents to provide a constitutionally adequate, individualized custody determination and prohibit any third-country removal without notice and an opportunity to be heard.

JURISDICTION

6. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*

7. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

8. This Court may grant relief under the habeas corpus statutes for those in custody in violation of the Constitution or laws of the United States. 28 U.S.C. § 2241 *et seq.*; the All Writs Act, 28 U.S.C. § 1651; *see also Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004). The writ extends to noncitizens in immigration custody. *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001); *Magana-Pizano v. I.N.S.*, 200 F.3d 603, 609 (9th Cir. 1999).

9. Section 1252(g) of Title 8 does not bar this action because Petitioner challenges the fact and duration of his detention, not the decision or action to commence proceedings, adjudicate his case, or execute his removal order. *See, e.g., Pacheco v. LaRose*, No. 3:25-cv-02421-JO-AHG, 2026 WL 242300, at *2-3 (S.D. Cal. Jan. 29, 2026); *Phakeokoth v. Noem*, No. 3:25-cv-02817-RBM-SBC, 2025 WL 3124341, at *3 (S.D. Cal. Nov. 7, 2025); *Esmaeili v. Noem*, No. 26-cv-0203-GPC-JLB, 2026 WL 240661 (S.D. Cal. Jan. 29, 2026).

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VENUE

10. Venue is proper because Respondents detain Petitioner at the Imperial Regional Detention Facility, located at 1572 Gateway Road, Calexico, CA 92231, which is within the jurisdiction of this District.

11. Venue is further proper in this District because Respondents are officers, employees, or agencies of the United States, a substantial part of the events or omissions giving rise to the claims occurred in this District, Petitioner resides in this District by virtue of his detention, and no real property is involved in this action. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court can require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

13. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

14. Petitioner is a native and citizen of Vietnam. He was granted withholding of removal under the CAT on April 23, 2026, yet he remains detained at the Imperial Regional

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Detention Facility. He is in the custody and under the direct control of Respondents and their agents.

15. Respondent Jeremy Casey is the Warden of the Imperial Regional Detention Facility. He has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement ("ICE") to detain noncitizens. Respondent Casey is a legal custodian of Petitioner.

16. Respondent Gregory J. Archambeault is sued in his official capacity as the Field Office Director of the San Diego Field Office of ICE. Respondent Archambeault is a legal custodian of Petitioner and has authority to release him.

17. Respondent David J. Venturella is sued in his official capacity as the Acting Director of ICE. In that capacity, he directs ICE's enforcement and removal operations nationwide, including decisions regarding the detention and release of noncitizens subject to final orders of removal. Respondent Venturella is a legal custodian of Petitioner.

18. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security. In this capacity, Respondent Mullin is responsible for the implementation and enforcement of the INA and oversees ICE, the component agency responsible for Petitioner's detention. Respondent Mullin is a legal custodian of Petitioner.

19. Respondent Todd Blanche is sued in his official capacity as the Acting Attorney General of the United States and the senior official of the U.S. Department of Justice. In that capacity, he has authority over the adjudication of removal cases and oversees the Executive Office for Immigration Review, which administers the immigration

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courts and the Board of Immigration Appeals. Respondent Blanche is a legal custodian of Petitioner.

STATEMENT OF FACTS

20. Petitioner is a native and citizen of Vietnam who sought protection from persecution and torture in Vietnam. DHS placed him into removal proceedings under section 240 of the INA before the Imperial Immigration Court, and he remained detained throughout those proceedings. She entered the United States on December 21, 2025, as an asylum seeker and immigration detained her through pendency of her proceedings.

21. On April 23, 2026, after a hearing on the merits, Immigration Judge Ferdinand Ortiz found Petitioner inadmissible under INA § 212(a)(7)(A)(i)(I), a documentary ground of inadmissibility, ordered him removed to Vietnam, and granted withholding of removal under the Convention Against Torture. The court denied asylum.

22. The court denied asylum based on the Circumvention of Lawful Pathways rule. 8 C.F.R. § 1208.33. A federal district court has since vacated that rule nationwide. *E. Bay Sanctuary Covenant v. Trump*, No. 4:18-cv-06810-JST, 2026 WL 1256873 (N.D. Cal. May 7, 2026). Petitioner intends to move to reopen his proceedings to seek a full grant of asylum on that basis.

23. Both parties reserved appeal, the appeal deadline passed on May 26, 2026, and neither party appealed. ICE's own records, including the Form I-229(a) Warning for Failure to Depart served on Petitioner, identify April 23, 2026, as the date the order became final. The removal order is administratively final, the 90-day removal period measured from that date expired on July 22, 2026, and Petitioner remains detained.

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24. On May 29, 2026, ICE served Petitioner at the Imperial Regional Detention Facility with a Form I-229(a) Warning for Failure to Depart, an Instruction Sheet to Detainee Regarding Requirement to Assist in Removal, and a Notice to Alien of File Custody Review stating that his custody status would be reviewed on or about July 7, 2026.

25. On July 2, 2026, undersigned counsel timely submitted a written request for a Post-Order Custody Review ("POCR") and release under 8 C.F.R. §§ 241.4 and 241.13. The submission documented a concrete and verifiable release plan: Tram Thi Tran, a lawful permanent resident and Petitioner's first cousin, executed a sworn affidavit of support committing to house Petitioner at her residence at [redacted], and to ensure his compliance with all DHS directives. The submission included copies of Ms. Tran's permanent resident card, Michigan driver's license, 2025 federal income tax return, and utility records corroborating her residence and financial stability.

26. On July 15, 2026, ICE served Petitioner with a Decision to Continue Detention following its 90-day review. The decision's sole stated basis for continued detention reads in full: "You were granted withholding of removal to Vietnam (withheld under CAT) by the Immigration Judge on April 23, 2026. ICE is currently seeking a 3rd World Country for your removal, pending approval."

27. The decision made no finding that Petitioner poses a danger to the community. It made no individualized finding that Petitioner presents a flight risk. It did not mention, much less weigh, the sponsorship evidence counsel submitted on July 2, 2026. It identified no proposed country of removal, no request made to any country, and no response from any country. The operative text of the decision consists of an incomplete boilerplate

template, and it states that custody jurisdiction will transfer to the ICE Headquarters ERO Removal Division if Petitioner is not released or removed within three months of the review.

28. The government has never alleged that Petitioner poses a danger to the community. Petitioner was ordered removed under INA § 212(a)(7)(A)(i)(I), a documentary ground of inadmissibility, and the record reflects detention based on immigration status rather than criminal conduct. Indeed, the Petitioner has no criminal history or arrests aside from [redacted] and upon entry to the US when she sought protection.

29. To date, Respondents have not provided Petitioner with any written notice identifying a proposed third country of removal, have not initiated any fear screening or protection procedures with respect to any third country, and have given no indication that any country has agreed, or has even been asked, to accept him.

LEGAL FRAMEWORK

30. Petitioner is detained pursuant to 8 U.S.C. § 1231. The government must detain a noncitizen subject to an administratively final removal order during the 90-day removal period. 8 U.S.C. § 1231(a)(1)(A), (a)(2); *Zadvydas*, 533 U.S. at 683. After the removal period expires, § 1231(a)(6) permits continued detention only for a period reasonably necessary to secure removal. *Id.* at 699-701.

31. "[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Zadvydas*, 533 U.S. at 699. Once the noncitizen provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the government must furnish evidence sufficient to rebut that showing.

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Id. at 701. As the period of post-removal confinement grows, what counts as the reasonably foreseeable future shrinks. *Id.*

32. The six-month period identified in *Zadvydas* is a presumption of reasonableness, not a prerequisite to relief. Where the record establishes at the outset that removal is not significantly likely in the reasonably foreseeable future, courts may grant relief before six months elapse. *See Ndandu v. Noem*, --- F. Supp. 3d ---, 2026 WL 25848, at *4-6 (S.D. Cal. Jan. 5, 2026) (petitioner detained less than six months overcame the presumption of reasonableness where he was granted deferral of removal to his home country, the government had unsuccessfully tried to remove him, and the government failed to identify any other country willing to accept him); *Ali v. Dep't of Homeland Sec.*, 451 F. Supp. 3d 703, 708-09 (S.D. Tex. 2020); *Hoang Trinh v. Homan*, 333 F. Supp. 3d 984, 994 (C.D. Cal. 2018) (*Zadvydas* provides a guide for approaching detention challenges, not a prohibition on claims challenging detention of less than six months).

33. Courts in this District and elsewhere have held that the government's failure to identify any third country willing to accept a noncitizen who cannot be removed to the designated country of removal establishes that removal is not significantly likely in the reasonably foreseeable future. *See Kenea v. Casey*, No. 3:26-cv-02675-JO-MSB, Dkt. 6 (S.D. Cal. May 12, 2026) (ordering the immediate release of a detainee at the Imperial Regional Detention Facility where ICE had requested assistance identifying a third country, followed up three times over five months, and identified no country); *Trejo v. Warden of ERO El Paso E. Montana*, 807 F. Supp. 3d 697, 705-06 (W.D. Tex. 2025); *Castellano v. U.S. Dep't of Homeland Sec.*, No. 26-cv-00080-PAB, 2026 WL 472732, at *3 (D. Colo. Feb. 19, 2026); *Momennia v. Bondi*, No. 25-cv-01067-J, 2025 WL 3011896, at *10 (W.D.

Okla. Oct. 15, 2025) ("[M]ere intent to find a third country is too speculative to permit indefinite detention."), *recommendation adopted*, 2025 WL 3006045 (W.D. Okla. Oct. 27, 2025).

34. The regulations further require an individualized custody determination. Under 8 C.F.R. § 241.4, the reviewing official may authorize release only after weighing the facts of the case, including criminal history, history of appearance for proceedings, ties and equities in the United States, and the likelihood of compliance with conditions of release, and must notify the noncitizen of the decision. *Id.* § 241.4(e), (f). Under 8 C.F.R. § 241.13, which applies once the removal period expires, a noncitizen who submits a written request providing good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future is entitled to a determination of that question, and, absent special circumstances justifying continued detention under § 241.14 with written notice to the noncitizen, ICE must promptly arrange release under conditions of supervision. *Id.* § 241.13(d)(1), (e)(6), (g)(1).

CLAIMS FOR RELIEF

COUNT ONE

Violation of 8 U.S.C. § 1231(a)(6) and the Fifth Amendment Right to Due Process: Detention Without Significant Likelihood of Removal

35. The allegations in the above paragraphs are realleged and incorporated herein.

36. Petitioner has provided good reason to believe there is no significant likelihood of his removal in the reasonably foreseeable future. Removal to Vietnam, the only country designated in his removal order, is legally prohibited by the grant of

withholding. This is not a case in which the passage of time, diplomatic effort, or travel-document processing might eventually permit removal to the designated country; removal to Vietnam is barred as a matter of law. The 90-day removal period has expired, and Petitioner's continued detention rests solely on 8 U.S.C. § 1231(a)(6).

37. Respondents' own custody decision concedes that removal depends entirely on locating an unidentified third country. ICE has identified no country, described no request to any country, and reported no response from any country. A bare intent to search for a third country is too speculative to justify continued detention. *See Momennia*, 2025 WL 3011896, at *10; *Kenea*, No. 3:26-cv-02675-JO-MSB, Dkt. 6.

38. Even if Respondents have made good faith efforts to identify a third country, good faith alone cannot sustain detention. *See Zadvydas*, 533 U.S. at 702 (rejecting the argument that continued detention is lawful "as long as good-faith efforts to effectuate . . . deportation continue").

39. Because removal is not significantly likely in the reasonably foreseeable future, Petitioner's continued detention exceeds the authority conferred by 8 U.S.C. § 1231(a)(6) and violates the Due Process Clause of the Fifth Amendment.

COUNT TWO

Violation of 8 C.F.R. §§ 241.4 and 241.13 and the Fifth Amendment:

Failure to Provide an Individualized Custody Determination

40. The allegations in the above paragraphs are realleged and incorporated herein.

41. The July 15, 2026 Decision to Continue Detention does not comply with the governing regulations. It contains no individualized analysis of the factors enumerated in 8

C.F.R. § 241.4(e) and (f). It makes no finding of danger. It makes no reasoned finding of flight risk. It does not acknowledge, much less weigh, the sworn sponsorship affidavit, residence documentation, and financial records that counsel submitted on July 2, 2026. Its operative text consists of an incomplete boilerplate template rather than a reasoned, individualized determination.

42. Respondents likewise fail to comply with 8 C.F.R. § 241.13. Petitioner's July 2, 2026 submission constitutes a written request and showing under § 241.13(d)(1), and ICE's own decision concedes the facts that establish good reason to believe removal is not significantly likely in the reasonably foreseeable future. The removal period having expired on July 22, 2026, ICE must now determine that question and, absent special circumstances documented in written notice under § 241.13(e)(6) and adjudicated under § 241.14, must promptly arrange Petitioner's release under conditions of supervision. *Id.* § 241.13(g)(1). ICE has neither made that determination nor identified any special circumstances.

43. For these reasons, Petitioner's detention violates 8 U.S.C. § 1231, 8 C.F.R. §§ 241.4 and 241.13, and the Due Process Clause of the Fifth Amendment.

COUNT THREE

Violation of Fifth Amendment Right to Due Process:

Third-Country Removal Without Notice or Opportunity to Be Heard

44. The allegations in the above paragraphs are realleged and incorporate herein.

45. On July 9, 2025, following the Supreme Court's stay order in *DHS v. D.V.D.*, No. 24A1153 (U.S. June 23, 2025), ICE issued internal guidance entitled *Guidance*

Regarding Third Country Removals, addressing procedures for removing noncitizens to countries other than the country designated in their removal orders.

46. That memorandum recognizes that, prior to effectuating removal to a third country, ICE must provide written notice identifying the proposed country of removal and must afford the noncitizen an opportunity to assert fear of removal to that country. The memorandum further contemplates screening procedures for protection-based claims, including withholding of removal and protection under the CAT, before removal to a third country may lawfully occur.

47. On February 25, 2026, the United States District Court for the District of Massachusetts set aside DHS's third-country removal policy as unlawful, holding that it violates noncitizens' rights to seek fear-based protection. *D.V.D. v. U.S. Dep't of Homeland Sec.*, No. 1:25-cv-10676-BEM, 2026 WL 521557 (D. Mass. Feb. 25, 2026). On March 16, 2026, the First Circuit stayed that judgment pending an expedited appeal, and the appeal remains pending. Whatever the outcome of that litigation, due process independently requires notice and a meaningful opportunity to be heard before removal to a third country.

48. To date, Respondents have not provided Petitioner with any written notice identifying a proposed third country of removal and have not initiated any fear screening or protection procedures with respect to any third country.

49. Because no third country has been identified and no procedures have been initiated, removal is not significantly likely in the reasonably foreseeable future within the meaning of *Zadvydas*, and any attempt to remove Petitioner to a third country without prior written notice and a meaningful opportunity to assert protection claims would violate the Due Process Clause of the Fifth Amendment. The required process itself, including notice,

an opportunity to assert fear, and screening of any protection claims, further extends the timeline for any lawful removal and confirms that removal is not imminent.

50. Petitioner will supplement this filing with a sworn declaration setting forth the facts based on his personal knowledge.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted;

(3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1231, and 8 C.F.R. §§ 241.4 and 241.13;

(4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately under reasonable conditions of supervision or, in the alternative, to conduct a constitutionally adequate custody review and provide a written decision with individualized, cogent reasons that form the basis for that decision;

(5) Enjoin Respondents from removing Petitioner to any third country without first providing: (a) written notice identifying the specific proposed country of removal; (b) a meaningful opportunity to assert fear of persecution or torture in that country; and (c) access to appropriate protection screening procedures consistent with the Constitution and governing regulations;

(6) Order Respondents to release Petitioner under reasonable conditions of supervision unless they demonstrate that removal is significantly likely in the reasonably foreseeable future; and

(7) Grant any further relief this Court deems just and proper.

Respectfully submitted,

Dated: July 31, 2026

/s/ Matthew Henry Springmeyer
Matthew Henry Springmeyer, Esq.
Attorney for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Linh Khanh Nguyen, and submit this verification on his behalf. Petitioner remains in the custody of Respondents and is unable to verify this petition personally. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: July 31, 2026

/s/ Matthew Henry Springmeyer
Matthew Henry Springmeyer, Esq.
Attorney for Petitioner