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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

LINH KHANH NGUYEN, (A[redacted] 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 **TRAVERSE AND REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Linh Khanh Nguyen, submits this Traverse in reply to Respondents' Return to Petition for Writ of Habeas Corpus. ECF No. 4. The Return resolves

this case in Ms. Nguyen's favor. Respondents' sole evidence, the declaration of Deportation Officer Adrian Gonzalez, establishes that removal to Vietnam, the only country designated in the removal order, is legally barred by the grant of withholding of removal, protection the record establishes was granted under the Convention Against Torture, and that after two months and three emails to ICE headquarters, the government has identified no country willing to accept her. ECF No. 4-1 ¶¶ 11, 13, 15-16, 18; ECF No. 1. That is the showing *Zadvydas* requires of Ms. Nguyen, supplied by Respondents themselves.

2. The Return also concedes, through silence, Counts Two and Three of the Petition. It offers no defense of the July 15, 2026 custody decision that ignored Ms. Nguyen's sponsorship evidence, and no response to the due process claim arising from any removal to an unidentified third country without notice or fear screening. The Court should grant the Petition and order Ms. Nguyen's release under reasonable conditions of supervision.

ARGUMENT

I. RESPONDENTS' OWN EVIDENCE ESTABLISHES THAT REMOVAL IS NOT SIGNIFICANTLY LIKELY IN THE REASONABLY FORESEEABLE FUTURE

3. Under *Zadvydas v. Davis*, once a petitioner provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, "the Government must respond with evidence sufficient to rebut that showing." 533 U.S. 678, 701 (2001). Ms. Nguyen made that showing in the Petition: removal to Vietnam is prohibited as a matter of law, and no other country has been identified. ECF No. 1. Respondents' rebuttal evidence consists of the following timeline: on June 8, 2026, ERO

sent a request to ICE headquarters (HQ RIO) "to initiate removal to a third country"; on July 7, 2026, ERO "followed up," and on July 8, 2026, HQ RIO advised the request "remains pending"; on August 4, 2026, ERO sent "another follow up email," and HQ RIO again advised the request "remains pending." ECF No. 4-1 ¶¶ 13, 15-16, 18.

4. Two months of internal emails, no country identified, no request made to any government, and no response from any government described. That record does not rebut Ms. Nguyen's showing; it confirms it. A "mere intent to find a third country is too speculative to permit indefinite detention." *Momennia v. Bondi*, No. 25-cv-01067-J, 2025 WL 3011896, at *10 (W.D. Okla. Oct. 15, 2025), *recommendation adopted*, 2025 WL 3006045 (W.D. Okla. Oct. 27, 2025). This Court ordered immediate release on a materially identical record, where ICE had requested assistance identifying a third country and followed up repeatedly without result. *Kenea v. Casey*, No. 3:26-cv-02675-JO-MSB, Dkt. 6 (S.D. Cal. May 12, 2026); *see also Ndandu v. Noem*, --- F. Supp. 3d ---, 2026 WL 25848, at *4-6 (S.D. Cal. Jan. 5, 2026); *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).

5. Respondents' discussion of 8 U.S.C. § 1231(b)(2)(E) deepens the concession. Respondents acknowledge that, apart from Vietnam, "there appears to be no other country" satisfying subsections (i) through (vi). ECF No. 4 at 4. Removal therefore depends entirely on subsection (vii), a country "whose government will accept" Ms. Nguyen, which is precisely what Respondents admit they do not have. Any subsection (vii) removal would additionally require written notice of the destination country and an opportunity to assert fear, further extending the timeline for any lawful removal. ECF No. 1 (Count Three).

6. The Return's remaining support is a citation to a different petitioner's pleading, quoting a news report that the administration "reportedly" has negotiated with 58 countries. ECF No. 4 at 4-5. A newspaper account quoted in another case's petition is not evidence, and Respondents make no showing that any of those countries has been asked to accept Ms. Nguyen, much less agreed. *Zadvydas* forecloses detention sustained by good-faith effort alone. 533 U.S. at 702.

II. THE SIX-MONTH PRESUMPTION IS NOT A SAFE HARBOR, AND RESPONDENTS' AUTHORITIES ADDRESS A DIFFERENT PROBLEM

7. Respondents argue that Ms. Nguyen's detention remains within the presumptively reasonable six-month period. The presumption is rebuttable at any point; it is not a waiting period. *See Ndandu*, 2026 WL 25848, at *4-6 (granting relief before six months where removal to the home country was barred by a grant of protection and no other country was identified); *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). This Court's release order in *Kenea* issued less than four months after that petitioner's order became final.

8. Respondents' cases involved a categorically different problem: delay in effectuating removal to the *designated* country, where documented progress in negotiations made removal foreseeable. *Kim* involved ongoing repatriation negotiations with the petitioner's own country; *Marquez* turned on "evidence that demonstrates progress and the reasons for the delay." ECF No. 4 at 5. Here, no passage of time and no diplomacy can make removal to Vietnam lawful; the CAT grant bars it permanently. The only question is whether some unidentified country will someday agree to accept Ms. Nguyen, and

Respondents' own evidence shows no progress toward answering it. Detention in these circumstances is not "reasonably necessary to bring about" removal. *Zadvydas*, 533 U.S. at 689.

III. SECTION 1252(g) DOES NOT BAR THIS ACTION

9. Respondents' jurisdictional argument fails under the consistent authority of this District. Section 1252(g) reaches only challenges to the decision or action to commence proceedings, adjudicate cases, or execute removal orders; it does not bar challenges to the fact and duration of detention. *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). *Zadvydas* itself adjudicated exactly this kind of § 2241 challenge to post-order detention. 533 U.S. at 687-88. *Limpin*, an unpublished decision addressing claims arising from the decision to arrest and detain at the commencement of proceedings, says nothing about the duration of post-order detention. Ms. Nguyen does not ask this Court to enjoin the execution of her removal order to any lawful destination; she challenges her confinement while no lawful destination exists.

IV. THE RETURN DOES NOT ADDRESS COUNTS TWO AND THREE

10. The Return responds only to Count One. It offers no defense of the July 15, 2026 Decision to Continue Detention, which made no finding of danger or flight risk and did not acknowledge the sworn sponsorship affidavit, residence documentation, and financial records submitted on July 2, 2026, in violation of 8 C.F.R. §§ 241.4 and 241.13 and the Fifth Amendment. ECF No. 1 (Count Two). It likewise offers no response to Count

Three, which seeks notice and an opportunity to assert fear before any third-country removal. The Court should treat those claims as unrebutted.

V. THE GONZALEZ DECLARATION CONTAINS MATERIAL INACCURACIES, AND ITS ACCURATE CONTENT FAVORS RELEASE

11. What the declaration accurately establishes favors release. Within a day of her attempted entry, the government paroled her into the United States to serve as a material witness in a federal alien smuggling prosecution, in aid of its own case. *Id.* ¶ 7. The declaration recounts no criminal history; Ms. Nguyen was found removable on a documentary ground only, received a positive credible fear determination, and was granted protection. *Id.* ¶¶ 8-11. A nineteen-year-old protection grantee with a verified lawful permanent resident sponsor, whose presence the government itself sought as a witness in its own prosecution, does not require continued detention while ICE's third-country request sits "pending" in an inbox.

CONCLUSION

The Return supplies the evidence *Zadvydas* demands from Ms. Nguyen and none of the evidence it demands from Respondents. The Court should grant the Petition and order Ms. Nguyen's release under reasonable conditions of supervision. In the alternative, the Court should set the matter for a prompt evidentiary hearing.

Respectfully submitted,

Dated: August 23, 2026

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