

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

VATSANA NOUANSISOUHAK,

PETITIONER,

v.

U.S. DEPT. OF HOMELAND SECURITY,
KRISTI NOEM, in her capacity as Secretary
of Department of Homeland Security;
TODD LYONS in his capacity as the Acting
Director of ICE; JOSH JOHNSON in his
capacity as U.S. Immigration and Customs
Enforcement, Dallas Field Office Director;
THOMAS BERGAMI in his capacity as
Warden of the Prairieland Detention Center,

RESPONDENTS.

Civil Case No.

3-25CV2222-K

PETITION FOR A WRIT OF HABEAS
CORPUS PURSUANT TO 28 U.S.C. § 2241,
BY A PERSON SUBJECT TO INDEFINITE
IMMIGRATION DETENTION

EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS

1. Petitioner Vatsana Nouansisouhak Thai files this motion seeking the Court's urgent intervention. On July 23, 2025, Respondents abruptly and without justification detained Mr. Nouansisouhak when he went to the ICE Field Office located at 8101 N. Stemmons Fwy. in Dallas, Texas. His purpose for being there was the same as it has been for over two decades: annually report as required under the order of supervision ("OSUP") he was placed on in 1998. Despite attending his annual check-in, and no OSUP violations, ICE took Mr. Nouansisouhak into custody when he dutifully appeared for it without explanation, other than generally claiming it was to remove him.

2. But before he can be removed, Laos must issue Mr. Nouansisouhak a travel document. Laos, however, has failed to issue Mr. Nouansisouhak a travel document for the

past 27+ years. Indeed, this is why ICE determined in 1998 that his removal was not reasonably foreseeable.

3. To be clear, Mr. Nouansisouhak has never attempted to stop his removal to Laos. And he is not attempting to stop his removal to Laos now. Despite leaving when he was a young child, Mr. Nouansisouhak is not afraid of removal to Laos. He is, however, afraid of being unnecessarily detained in overcrowded ICE detention facility.

4. As of the filing of this petition, ICE has not (to the best of Mr. Nouansisouhak's knowledge) even submitted a travel document request for Mr. Nouansisouhak to Laos—much less received any indication that one will be issued by Laos anytime in the near future. Said differently, ICE put the proverbial cart before the horse when it detained Mr. Nouansisouhak, who is neither a flight nor safety risk, at an annual check-in before an actual—rather than hopeful—change in the sole circumstance that matters: Laos issuing a travel to Mr. Nouansisouhak. And it did so without informing of the reason (beyond “for removal”), much less an opportunity to meaningfully respond to the sudden re-detention. Simply put, ICE failed to follow the mandatory procedures and make the required findings as set forth at 8 C.F.R. § 241.13. If ICE had followed the § 241.13's required procedures and made the findings required under the regulations, the only conclusion that could have been reached is that there was not and is not a legal basis for this new re-detention now.

5. Given the lack of any legitimate basis for Mr. Nouansisouhak's continued detention, where there is neither a risk of flight nor any threat to public safety, it is difficult to discern a rationale for ICE's actions. The most plausible explanation is that ICE is maintaining his detention solely

to inflate its statistical enforcement figures in service of meeting the Agency's arbitrarily elevated deportation targets. A basis that is as illegal as it is immoral.

6. Recently, there have been several U.S. District Court cases granting the exact relief sought by Mr. Nouansisouhak to individuals who have been detained circumstances similar to those in this habeas petition and the accompanying TRO. Specifically, each of those cases involved individuals had been placed on an order of supervision (OSUP) when they could not be removed to their native country because it refused to issue travel documents, but they were nonetheless suddenly re-detained after years of compliance with their OSUPs and no evidence of changed circumstances specific to them as required by 8 C.F.R. § 241.13. Among those cases were *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *4–6 (E.D. Cal. July 16, 2025), *Hoac v. Beccerra, et al.*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *3 (E.D. Cal. July 16, 2025), and *Nguyen v. Hyde*, No. 25-CV-11470-MJJ, 2025 WL 1725791, at *3 (D. Mass. June 20, 2025). Mr. Nouansisouhak respectfully asks this Court to follow the reasoning of these decisions and order ICE to immediately release him.

7. The legal reasons and principals articulated in *Zadvydas v. Davis*, 533 U.S. 678 (2001) guide the analysis in this case. This habeas petition and the Application for a TRO accompanying it, however, are not being brought under *Zadvydas* which governs continued detention from the start of the statutory 90-day removal period through its expiration and beyond. *Zadvydas* is what required ICE to release Mr. Nouansisouhak at some point after the statutory removal period expired over two decades ago on July 27, 1998. Because Mr. Nouansisouhak was in full compliance with his OSUP and the statutory removal period had expired, ICE could only subject Mr. Nouansisouhak to “re-detention” in accordance

with 8 C.F.R. § 241.13. Among other things (ICE failed to do), ICE failed to make the required finding of changed circumstances specific to Mr. Nouansisouhak which made his removal to Laos reasonably likely in the immediate future. Mr. Nouansisouhak has been on OSUP for over two decades because the government has failed to achieve its goal of obtaining travel documents for Mr. Nouansisouhak. It still does not have travel documents for him.

8. This re-detention is a flagrant and ongoing violation of the Due Process Clause of the Fifth Amendment, the Immigration and Nationality Act, 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and the required regulatory procedure for re-detention set forth in 8 C.F.R. § 241.13(f),(i). The government's claim that it's making a renewed attempt to remove Mr. Nouansisouhak is not merely unlikely; it is a legal fiction contradicted by the government's own prior failure. His confinement, therefore, is not administrative but punitive, indefinite, and unconstitutional. Every additional day of this lawless detention inflicts new and irreparable injury through the profound loss of liberty and the forced separation from his U.S. citizen family. For these reasons, good cause exists for this Court to grant this Petition for a Writ of Habeas Corpus and immediately enjoin ICE from continuing to detain Mr. Nouansisouhak in violation of the constitution and laws of the United States.

CUSTODY

9. Petitioner is currently being detained by and in the physical custody of the U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement

(hereinafter “ICE”) at the Prairieland Detention Center in Alvarado, Texas.¹ ICE has contracted with LaSalle Corrections to house detainees such as Petitioner. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

10. This action arises under the Constitution of the United States, 28 U.S.C. §2241(c)(1), and the Immigration and Nationality Act (“INA”), 8 U.S.C. §1101 *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. §2241, Art. I §9, cl. 2 of the United States Constitution (“Suspension Clause”); and 28 U.S.C. §1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States.²

VENUE

11. Pursuant to 28 U.S.C. § 1391, venue is proper in the Northern District of Texas, Dallas Division, because Petitioner is currently detained in the territorial jurisdiction of this Court, at the Prairieland Detention Center in Alvarado, Texas.

PARTIES

12. Petitioner, Mr. Nouansisouhak, is a native and citizen of Laos where he was born

 1973. Pursuant to 8 U.S.C. § 1231(a)(1), the statutory 90-day removal period

¹ (Pet’r’s App. Ex. 7.)

² See *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) (“We conclude that §2241 habeas corpus proceedings remain available as a forum for statutory and constitutional challenges to post-removal-period detention.”); *INS v. St. Cyr*, 533 U.S. 289, 301 (2001) (“at its historical core, the writ of habeas corpus has served as a means of reviewing the legality of executive detention, and it is in that context that its protections have been strongest.”); *Clark v. Martinez*, 543 U.S. 371 (2005) (holding that *Zadvydas* applies to aliens found inadmissible as well as removable).

ended on July 28, 1998 when the BIA dismissed his appeal. Because there has never been a reasonable likelihood of ICE being able to remove him, he was released sometime after the 180-day reasonable presumption period expired. Following his release, Mr. Nouansisouhak spent the last two decades on an OSUP order. On July 23, 2025, Mr. Nouansisouhak was suddenly detained by ICE at a check in with no explanation, no violations of the OSUP, no changed circumstances, and no chance of removal to Laos. As of the time this petition is being filed, Mr. Nouansisouhak remains re-detained in ICE custody at the Prairieland Detention Center.³

13. Respondent Kristi Noem is the Secretary of Department of Homeland Security. She is responsible for the administration of ICE and the implementation and enforcement of the INA. As such Ms. Noem is the legal custodian of Petitioner.

14. Respondent Todd Lyons is the Acting ICE Director in this position he is responsible for the administration of ICE and the implementation and enforcement of the Immigration & Naturalization Act (INA). As such, Mr. Lyons has ultimate custodial authority over Petitioner in his capacity as Acting Director of ICE.

15. Josh Johnson is the ICE Field Office Director of the Dallas Field Office of ICE and is Petitioner's immediate custodian.⁴

³ (Pet'r's App. Ex. 7.)

⁴ See *Vásquez v. Reno*, 233 F.3d 688, 690 (1st Cir. 2000), *cert. denied*, 122 S. Ct. 43 (2001).

16. Respondent Thomas Bergami in his capacity as Warden of the Prairieland Detention Center where Petitioner is currently detained under the authority of ICE, alternatively may be considered as Petitioner's immediate custodian.

EXHAUSTION OF REMEDIES

17. Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action. Furthermore, no statutory exhaustion requirements apply to Petitioner's claim of unlawful detention.

STATEMENT OF THE FACTS

18. Mr. Nouansisouhak is a 51-year-old father of two U.S. citizen children, ages 10 and 12, who spends every weekend with. He is a hardworking and valued machine operator who has spent about three decades making significant contributions to his community. Mr. Nouansisouhak's life in the United States began when he was very young when Mr. Nouansisouhak and his family fled Laos and were granted refuge in this country.

19. In 1997, Mr. Nouansisouhak was taken into the ICE custody and placed in removal proceedings after receiving a conviction that rendered him removable. On May 22, 1997, an Immigration Judge (IJ) ordered Mr. Nouansisouhak removed.⁵ Because Mr. Nouansisouhak filed an appeal of that decision, the IJ's removal order became final on January 29, 1998 when the Board of Immigration Appeals (BIA) dismissed his appeal.⁶ Accordingly, pursuant to 8 U.S.C. § 1231(a)(1), the statutory 90-day removal period ended

⁵ (Pet'r's App. Ex. 8)

⁶ (Pet'r's App. Ex. 8.)

on April 29, 1998. Because there has never been a reasonable likelihood of ICE being able to remove him, he was released sometime after the 180-day reasonable presumption period expired on July 28, 1998. Following his release, Mr. Nouansisouhak spent the last twenty-six years on an OSUP order.

20. Mr. Nouansisouhak was detained for more than 90 days after his removal order. Mr. Nouansisouhak's prolonged detention and his release after such detention were a direct result of the fact that Laos did not have any "repatriation" agreement with the United States and routinely refused to issue travel documents for its citizens who fled after the Vietnam war.⁷ Because Mr. Nouansisouhak's removal was not, has not, and is not, a practical possibility, ICE released Mr. Nouansisouhak in late 1998 on an OSUP.

21. For the subsequent twenty-six years, Mr. Nouansisouhak has diligently complied with the requirements of his OSUP. He has reported to ICE as directed, maintained gainful employment, and established himself as a valued member of his community.

22. On July 23, 2025, Mr. Nouansisouhak presented himself at the ICE office for his scheduled annual check-in. Without warning or explanation from ICE, ICE detained him. ICE did so without any process whatsoever, much less the process required by its own regulations found at 8 C.F.R. § 241.13.

23. To be clear, though ICE provided no notice to Mr. Nouansisouhak of its intentions to take him into custody prior to when he reported on July 23, 2025. Mr. Nouansisouhak was fully cognizant of the fact that there was nearly zero chance that he was going to leave

⁷ (Pet'r's App. Exs. 1 – 4.)

after checking in. Indeed, Mr. Nouansisouhak has known for at least a month that ICE was indiscriminately detaining many, if not all, immigrants from Laos, Vietnam, and Cambodia who reported to ICE as required and scheduled for their annual OSUP check-ins in recent months. These check-ins were, for the most part, scheduled a year earlier when they last checked in. Said differently, Mr. Nouansisouhak reported to the DFO knowing full well that ICE was likely to detain him without explanation or change in circumstances. He had not violated any provisions of the OSUP; again, he was detained when reporting as required. Likewise, ICE did not identify any changed circumstances which would make Mr. Nouansisouhak's removal more likely on July 23, 2025, than it was every other day over the past twenty-two years.

24. Since his abrupt and unjustified detention, Mr. Nouansisouhak has been detained by ICE. Currently, is detained by ICE at the Prairieland Detention Center in Alvarado, Texas. ICE had made no effort to communicate with him regarding the reason for his detention now. While ICE has generally indicated they are "detaining him for removal," it has also made statements and taken actions which indicate they still have not obtained travel documents for him from Laos. Said differently, ICE still does not even know if it will be able to remove Mr. Nouansisouhak. But it does know that it cannot remove him at the time of this filing. Nor has it been able to at any point since it arbitrarily detained him at an annual check in on July 23, 2025.

25. As of the date of this filing, Mr. Nouansisouhak remains unlawfully detained without any indication that his removal is reasonably foreseeable. His current detention is

therefore in direct violation of the principles set forth by the Supreme Court in *Zadvydas v. Davis*, constituting an unlawful restraint on his liberty.

26. This abrupt and unforeseen detention occurred despite there being no material change in Mr. Nouansisouhak's circumstances or in the long-standing policy and practice of Laos regarding the repatriation of its citizens.⁸ There is no indication that his removal in the reasonably foreseeable future is any more likely now than it has been at any point in the last two years.⁹

27. The Government's inability to effectuate Petitioner's removal is not the result of a temporary bureaucratic impasse but is instead rooted in the long-standing policy of Laos.¹⁰ Laos has maintained a consistent and well-documented policy of refusing to issue travel documents for the repatriation of individuals who fled its country in the aftermath of the Vietnam war.¹¹

28. The Government's inability to effectuate Mr. Nouansisouhak's removal is further evidenced by the fact that in the years leading up to his re-detention, ICE never requested that he complete or sign any documentation to facilitate a request for travel documents

⁸ (Pet'r's App. Ex. 1-2, and 4.)

⁹ *Cf. Nguyen v. Hyde*, No. 25-CV-11470-MJJ, 2025 WL 1725791, at *3 (D. Mass. June 20, 2025) (when pressed on evidence specific to changed circumstances of the pre-95 immigrant petitioner in that case, the government only came up with a declaration which the government itself acknowledged was not specific to the petitioner, stating "No doubt the declaration is general and it just says the United States has been successful in removing individuals to Laos.").

¹⁰ (Pet'r's App. Ex. 1-2, and 4.)

¹¹ (*Id.*)

from Laos. Since his current detention began, ICE has made no effort to secure the necessary travel documents.

29. There has only ever been one single impediment to ICE executing the removal order against Mr. Nouansisouhak: Laos's longstanding consistent policy of refusing to repatriate individuals who fled Laos in the aftermath of the Vietnam War. This, of course, is not a minor impediment. Rather, it has been and continues to be an impossibly insurmountable impediment for nearly every single one of the 4,000 estimated individuals from Laos who currently have final orders of removal that ICE has never been able to execute.

30. Mr. Nouansisouhak's detention, initiated on July 23, 2025—more than twenty-two years after ICE released him after detaining him for removal in 1998—is in direct violation of the principles set forth by the Supreme Court in *Zadvydas*. More importantly, for the purposes of this action, ICE failed to adhere to its own mandatory regulations when it re-detained Mr. Nouansisouhak without the process required by the regulations or the existence of changed circumstances specific to Mr. Nouansisouhak of such significance that his removal has suddenly become reasonably foreseeable. This re-detention has been unconstitutional and unlawful since the moment it began on July 23, 2025, when he reported as directed.

31. The reward for years of reporting as required: ICE detained him at a routine check-in he scheduled a year earlier. His continued confinement is punitive, not administrative, and is therefore unconstitutional.

Irreparable Harm of Continued ICE Detention

32. Everyday Mr. Nouansisouhak is detained in ICE custody in direct contravention of the statute and U.S. constitution he suffers irreparable harm. From the physical, emotional, and mental toll the complete sudden loss of one's freedom and liberty takes on anyone in the same circumstances, to the loss of income every day he remains in custody.

33. Irreparable harm (alarmingly) is also found in the very real possibility of Mr. Nouansisouhak, a 51-year old former refugee, dying in ICE custody.¹² In late June, Mr. Phan, a 55-year old man from Laos, died in ICE custody.¹³ According to reports on it, Mr. Phan was ordered removed more than 13-years ago and, it appears, was re-detained seven weeks prior to his death.¹⁴ While Mr. Nouansisouhak does not have access to the facts or circumstances of the re-detention in that case, it has all the same hallmarks of ICE's recent policy of detaining pre-95 Laos immigrants at their annual check-ins—despite removal not being anywhere close to reasonably likely in the near future.

34. On May 14, 2025, in an oversight hearing before the House Appropriations Committee, Todd Lyons, acting director of Immigration and Customs Enforcement, testified that nine people have died in ICE custody since January 20, 2025.¹⁵ A month after

¹² (See Pet'r's App. Ex. 5 & 6.)

¹³ (Pet'r's App. Ex. 5.)

¹⁴ (*Id.*)

¹⁵ This testimony can be found at the following link: <https://www.youtube.com/watch?v=QvoURiaxBmA>.

this testimony, on June 23, 2025, a 49-year old Canadian citizen died in ICE custody.¹⁶ Reports of overcrowding, individuals being detained at facilities that are meant for processing and not set up for detention beyond a few hours are increasing, and other inhumane detention practices continue to rise. Moreover, if ever there was an agency who had demonstrated it could not be trusted to abide by the law and treat individuals humanely, it has been ICE over the past few months.¹⁷

35. Mr. Nouansisouhak is at risk of physical harm, emotional trauma, and lasting negative consequences if he remains in custody. Meanwhile, there will be ZERO harm to Respondents if Mr. Nouansisouhak is immediately released from ICE custody. There is no reason to consider Mr. Nouansisouhak a danger. He has been faithfully following the rules over the past two decades with a history of being an upstanding citizen. Meanwhile, he showed up to ICE fully expecting to be taken into custody (from the stories of others, not anything ICE conveyed) so there's no basis to claim he is a flight risk. Moreover, the Supreme Court already dismissed the notion that immigrants whose removal has been difficult in the past can constitute a flight risk, stating: "[B]y definition the first justification [for detention] preventing flight—is weak or nonexistent where removal seems a remote possibility."¹⁸

¹⁶ The ICE press release on this death can be found at the following link: <https://www.ice.gov/news/releases/canadian-national-ice-custody-passes-away>

¹⁷ (See Pet'r's App. Ex. 6 (documenting in detail the many stories of deplorable deteriorating conditions in ICE detention facilities as well as facilities not meant to detain individuals overnight being used to detain noncitizens for days at a time)).

¹⁸ *Zadvydas*, 533 U.S. at

LEGAL BASIS FOR RELIEF SOUGHT

36. The Immigration & Nationality Act provides that a noncitizen who is “ordered removed” “shall” be removed “from the United States within a period of 90-days.”¹⁹ The same subparagraph goes on to state that this 90-day period is “referred to as the ‘removal period’” in § 1231.²⁰

- a. The 90-day “removal period begins on the latest of the following: **(i)** The date the order of removal becomes administratively final; **(ii)** If the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court’s final order; **(iii)** If the alien is detained or confined (except under an immigration process); the date the alien is released from detention or confinement.”²¹
- b. As interpreted by *Zadvydas*, § 1231 allows for detention beyond the 90-day removal period in limited circumstances, the government should—and previously has—released those non-citizens for whom there is “no reasonable likelihood of . . . removal in the foreseeable future.”²² That being said, when the statute is “read in light of the Constitution’s demands, [it]

¹⁹ 8 U.S.C. § 1231(a)(1)(A).

²⁰ *Id.*

²¹ § 1231(a)(1)(B).

²² *Zadvydas v. Davis*, 533 U.S. 678, 690, (2001)

limits an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal from the United States."

37. This is not a *Zadvydas* case. This case is not about the initial authority to detain a noncitizen following a final order of removal. Rather, it concerns the authority of Immigration and Customs Enforcement (ICE) to re-arrest and indefinitely²³ detain a man who, after a prior period of detention, was released on an Order of Supervision (OSUP) for years precisely because his removal was not significantly likely in the reasonably foreseeable future.

38. Respondents' authority to detain Mr. Nouansisouhak is not boundless. The controlling authority for this scenario is not *Zadvydas*, but the specific federal regulation governing the revocation of release: 8 C.F.R. § 241.13(i).²⁴

39. While 8 U.S.C. § 1231(a) provides the general statutory framework for post-removal-order detention and supervised release, "[t]he revocation of that release is governed by 8 C.F.R. § 241.13(i), which authorizes ICE to revoke a noncitizen's release for purposes of removal. Specifically, a noncitizen's release may be revoked 'if, on account of changed circumstances,' it is determined that 'there is a significant likelihood that the [noncitizen] may be removed in the

²³ The words "indefinite" or "indefinitely" when used in this brief to refer to Mr. Nguyen's detention, are meant to describe the length of his detention as "unknown" or an "unspecified period of time." When given their ordinary meaning Respondents cannot truly claim that Mr. Nguyen's detention is anything but indefinite as they have provided no time frame whatsoever for even making the request for travel documents, much less when it believes it will get them.

²⁴ *Nguyen v. Hyde*, No. 25-CV-11470-MJJ, 2025 WL 1725791, at *3 (D. Mass. June 20, 2025) ("This case is not about ICE's authority to detain in the first place... This case is about ICE's authority to re-detain Mr. Nguyen after he was issued a final order of removal, detained, and subsequently released on an OSUP. The DHS regulation, 8 C.F.R. § 241.13(i), applies to non-citizens in Petitioner's situation."); *See also Escalante, v. Noem, et. al.*, No. 9:25-CV-00182-MJT, 2025 WL 2206113, at *3 (E.D. Tex. Aug. 2, 2025) ("[T]his is not your typical first round detainment of an alien awaiting removal. Petitioner was previously detained, then released on supervised release for several years, and his 90-day removal period expired. *Zadvydas*, relied upon by Respondents, dealt with the initial detainment of an alien awaiting removal.").

reasonably foreseeable future.”²⁵ Furthermore, the regulations go on to proscribe the process for revocation based on a determination of changed circumstances as follows:

[T]he alien will be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification. The alien may submit any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision. The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.²⁶

40. These regulations, not *Zadvydas* or 8 U.S.C. § 1231, govern ICE’s re-detention of individuals who have been released after a determination was made that they could not be removed. The first step in this process is necessarily a determination of changed circumstances. Then, once that determination is made, ICE is required to follow the interview and notice requirements of § 241.13(i)(3).

41. ICE’s failure to do either of these things properly provide two independent bases for granting this Petition and request for an injunction. Assuming *arguendo* (but not in no way conceding) that the regulations allow ICE to re-detain noncitizens for whom there has previously been a determination that removal is not reasonably foreseeable, ICE must follow its own regulations setting forth the process to be followed before re-detention.²⁷

²⁵ *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *3 (E.D. Cal. July 16, 2025) (quoting 8 C.F.R. § 241.13(i)(2)).

²⁶ 8 C.F.R. § 241.13(i)(3).

²⁷ See *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *4–6 (E.D. Cal. July 16, 2025) (discussing the regulatory requirements for re-detention in the context of a habeas petition and request for a TRO seeking the immediate release of a “re-detained” immigrant); see also *Hoac v. Beccerra, et al.*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *3 (E.D. Cal. July 16, 2025) (same); *Nguyen v. Hyde*, No. 25-CV-11470-MJJ, 2025 WL 1725791, at *3 (D. Mass. June 20, 2025) (same).

Specifically, “ICE’s decision to re-detain a noncitizen like [Mr. Nouansisouhak] who has been granted supervised release is governed by ICE’s own regulation requiring (1) an individualized determination (2) by ICE that, (3) based on changed circumstances, (4) removal has become significantly likely in the reasonably foreseeable future.”²⁸

42. There is no evidence ICE followed its own regulations in this case. Mr. Nouansisouhak was not interviewed by ICE before being detained. There is no evidence ICE has even started the process for requesting travel documents for Mr. Nouansisouhak from Laos—much less that it has obtained such documents.

43. Simply put, ICE did not follow its own regulations for re-detention set forth in § 241.13(f),(i) and, even if it claims it did, there is no evidence of changed circumstances specific to Mr. Nouansisouhak that would make his removal reasonably foreseeable—which is necessary for re-detention under § 241.13(i)(2).²⁹ Accordingly, the instant petition is being filed seeking the Court to Order Mr. Nouansisouhak’s immediate release from ICE custody.

44. While *Zadvydas* does not control, its core reasoning illuminates the central question here: what constitutes a *reasonable* period of detention? The answer to that question, and the constitutional permissibility of the detention itself, depends entirely on the circumstances. Common sense dictates a profound difference between the six-month period immediately following a removal order and the re-detention of an individual decades later, after years of perfect

²⁸ *Id.*; see also *Kong v. United States*, 62 F.4th 608, 619–20 (1st Cir. 2023) (citing 8 C.F.R. § 241.13(i)(2)).

²⁹ See *Phan*, 2025 WL 1993735, at *4–6; *Hoac*, 2025 WL 1993771, at *3; *Nguyen*, 2025 WL 1725791, at *3.

compliance with supervision, who voluntarily appears for a check-in knowing full well he is almost certain to be taken into custody. In other words, the analysis for individuals like Mr. Nguyen who report to ICE expecting to be detained after years of compliance on OSUP is much different than for noncitizens who have just been ordered removed are still within the statutory removal period.

45. The “historic purpose of the writ,” as *Zadvydas* reminds us, is “to relieve detention by executive authorities without judicial trial.”³⁰ To that end, this Court must ask whether Mr. Nouansisouhak’s detention “exceeds a period reasonably necessary to secure removal,” measuring reasonableness “primarily in terms of the statute’s basic purpose, namely, *assuring the alien’s presence at the moment of removal.*”³¹

46. To achieve its sole legitimate purpose—assuring his presence at the moment of removal—ICE should not need to have Mr. Nouansisouhak’s detained for any more than 72 hours before a scheduled departure. He does not need to be detained for months on end while ICE may or may not begin the process of seeking travel document.

PETITIONER’S FIRST CLAIM FOR RELIEF: ICE’S VIOLATION OF ITS OWN REGULATIONS & STATUTORY VIOLATION

47. Petitioner re-alleges and incorporates by reference all the foregoing paragraphs above.

48. Petitioner’s continued re-detention by Respondents without following the process set forth by its own regulations at 8 C.F.R. § 241.13(f),(i) is unlawful as ICE failed to adhere to the revocation procedures set forth at 8 C.F.R. § 241.13(i).³² As here, “where an

³⁰ 533 U.S. at 699.

³¹ *Id.* (emphasis added).

³² *Id.*

immigration regulation is promulgated to protect a fundamental right derived from the Constitution or a federal statute . . . and [ICE] fails to adhere to it, the challenged [action] is invalid.”³³ Based on ICE's violations of its own regulations, Mr. Nouansisouhak's detention is unlawful and his immediate release is appropriate, particularly given that his removal is not reasonably foreseeable.³⁴

**PETITIONER'S SECOND CLAIM FOR RELIEF: SUBSTANTIVE DUE
PROCESS VIOLATION**

49. Petitioner re-alleges and incorporates by reference all the foregoing paragraphs above.

50. Petitioner's continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.³⁵

51. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. While Respondents would have an interest in detaining Petitioner in order to effectuate removal, that interest does not justify the indefinite re-detention of Petitioner, who is not significantly likely to be removed in the reasonably foreseeable future. The U.S. Supreme Court in *Zadvydas* thus interpreted 8 U.S.C. §1231(a) to allow continued detention only

³³ *Nguyen v. Hyde*, 2025 WL 1725791, at *5 (quoting *Rombot v. Souza*, 296 F. Supp. 3d 383, 388 (D. Mass. 2017)); see also *Zadvydas*, 533 U.S. at 690 (“The Fifth Amendment's Due Process Clause forbids the Government to ‘depriv[e]’ any ‘person ... of ... liberty ... without due process of law.’ Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.”).

³⁴ See *Rombot v. Souza*, 296 F. Supp. 3d 383, 389 (D. Mass. 2017) (allowing petitioner's motion for release upon a finding that ICE violated its regulations that implicated a fundamental constitutional right).

³⁵ See e.g., *Tam v. INS*, 14 F.Supp.2d 1184 (E.D. Cal 1998) (aliens retain substantive due process rights).

for a period reasonably necessary to secure the alien's removal, because any other reading would go beyond the government's articulated interest – to effect the alien's removal.³⁶ Re-detention under the regulations requires removal to be reasonably foreseeable under the same standard, and therefore, ICE's re-detention of Mr. Nouansisouhak over two decades after release because removal was not reasonably foreseeable is unlawful absent a changed circumstances specific to him significant enough to make his removal reasonably foreseeable in the immediate future.

[Nothing further on this page.]

³⁶ See *Kay v. Reno*, 94 F.Supp.2d. 546, 551 (M.D. Pa. 2000) (granting writ of habeas corpus, because petitioner's substantive due process rights were violated, and noting that "If deportation can never occur, the government's primary legitimate purpose in detention – executing removal – is nonsensical.").

REQUEST FOR RELIEF

WHEREFORE, Petitioner Mr. Nouansisouhak respectfully requests that this Court grant the following relief:

- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a writ of habeas corpus and direct the Respondents to immediately release Petitioner from custody under reasonable conditions of supervision;
- 3) Immediately Order Respondents not to transfer the Petitioner out of the jurisdiction of this Court while the Petitioner remains in Respondent's custody during the pendency of these proceedings;
- 4) Order Respondents not to remove Petitioner to any country other than Laos as it was the only country previously designated by the IJ during removal proceedings held under 8 U.S.C. § 1229a;
- 5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and
- 6) Grant any other and further relief that this Court deems just and proper.

RESPECTFULLY SUBMITTED,

/s/ Dan Gividen

Dan Gividen

Texas State Bar No. 24075434

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Dallas, TX 75252

972-256-8641

Dan@GividenLaw.com

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Vatsana Nouansisouhak

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Dan Gividen, Gividen Law, PLLC, 18208 Preston Rd.
D9-284, Dallas, TX 75252

DEFENDANTS

Kristi Noem, DHS Sec., Todd Lyons, ICE Director, Josh Johnson ICE Field Office Director Thomas Bernami

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

U.S. Attorney for the Northern District of Texas, 1100
Commerce Street, Third Floor, Dallas, TX 75242

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business in This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business in Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice PERSONAL INJURY ☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 835 Patent - Abbreviated New Drug Application ☐ 840 Trademark ☐ 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS - Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 376 Qui Tam (31 USC 3729a) et al ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit (15 USC 1681 or 1692) ☐ 485 Telephone Consumer Protection Act ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education PRISONER PETITIONS ☒ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 2241

Brief description of cause:

Habeas Petition seeking immediate release of noncitizen from Vietnam who entered prior to 1995 and whose removal period ended in 2007

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE Lindsay & Hendrix

DOCKET NUMBER 3:25-cv-1913/1943L 6:25-cv-055/6

DATE

8/18/2025

SIGNATURE OF ATTORNEY OF RECORD

s/Dan Gividen

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG JUDGE