

1 ERIC GRANT
United States Attorney
2 ROBERT ABENDROTH
Assistant United States Attorney
3 501 I Street, Suite 10-100
Sacramento, CA 95814
4 Telephone: (916) 554-2700
Facsimile: (916) 554-2900
5

6 Attorneys for Respondents

7 United States of America

8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
10

11 KAO SENG SAETURN,

12 Petitioner,

13 v.

14 MARCO CHARLES,
PAMELA BONDI,
15 KRISTI NOEM, AND
TODD M. LYONS,
16

17 Respondents.

CASE NO. 1:25-CV-01712-KES-CDB

ANSWER AND RESPONSE IN OPPOSITION TO
PETITION FOR WRIT OF HABEAS CORPUS

18 Kao Seng Saeturn ("the Petitioner"), a convicted aggravated felon, seeks a writ of habeas corpus
19 claiming that his mandatory detention pending removal to Laos violates the Constitution. The Petitioner
20 has been ordered removed, was released on bond, was re-detained, and has remained in immigration
21 custody for approximately five months. Recently, Laos issued a travel document, and immigration
22 officials can arrange his transportation to Laos. His removal is imminent. Therefore, the Petitioner's
23 detention does not violate the Constitution.

24 I. FACTS AND PROCEDURAL HISTORY

25 The Petitioner is a native and citizen of Laos, and he lawfully entered the United States on March
26 7, 1984. *See* Dec. at 2. On November 2, 2010, the State of California convicted the Petitioner of two
27 counts of lewd acts on a child under 14 in violation of Section 288(a) of the California Penal Code, one
28

1 count of lewd acts on a child between 14 and 15 in violation of Section 288(c)(1) of the California Penal
 2 Code, and two counts lewd acts on a child between 14 and 15 in violation of Section 288(c) of the
 3 California Penal Code. *See* Dec. Exh. 1. On or about March 29, 2024, immigration authorities
 4 instituted removal proceedings pursuant to 8 U.S.C. § 1227(a)(2)(A)(iii) because his conviction was an
 5 aggravated felony.¹ *See* Dec. at 2.

6 On May 15, 2024, an Immigration Court ordered the Petitioner removed to Laos, and the
 7 Petitioner waived his right to appeal the removal order. *See* Dec. Exh. 2. Following the entry of the
 8 removal order, on or about August 13, 2024, the Petitioner was released from immigration detention on
 9 an Order of Supervision. *See* Dec. at 2. Almost one year later, on July 26, 2025, ERO re-detained the
 10 Petitioner pending his deportation to Laos. On or about December 8, 2025, ERO received a travel
 11 document from Laos authorizing his travel. This travel document is valid until March 8, 2026. *See* Dec.
 12 Exh. 3. At this time, ERO is arranging transportation for the Petitioner to remove him to Laos. *See* Dec.
 13 at 3.

14 Now, the Petitioner requests that the Court to issue a writ of habeas corpus and order his
 15 immediate release because, he claims, that his detention violates the Due Process Clause of the Fifth
 16 Amendment and the Code of Federal Regulations governing the re-detention of persons pending
 17 removal. The Petitioner's detention is mandatory under the statute, and the length of his detention—
 18 five-months with removal imminent due to the issuance of travel documents—is not unreasonable.
 19 Therefore, the Petitioner's request should be denied, and this case should be dismissed.

20 II. LAW AND ARGUMENT

21 The Petitioner's detention is mandatory under the pertinent portion of the statute reading: "The
 22 Attorney General *shall* take into custody any alien who- [...] is deportable by reason of having
 23 committed any offense covered in section 1227(a)(2)(A)(iii)." 8 U.S.C. § 1226(c) (emphasis added). 8
 24 U.S.C. § 1227(a)(2)(A)(iii) provides: "Any alien who is convicted of an aggravated felony at any time
 25 after admission is deportable." Aggravated felons, like the Petitioner cannot be release on bond unless
 26 the Attorney General decides that their release is "necessary to provide protection to a witness, a

27 ¹ 8 U.S.C. § 1101(a)(43) defines the term "aggravated felony" to include offenses under state
 28 law involving "sexual abuse of a minor."

1 potential witness, a person cooperating with an investigation into major criminal activity..." 8 U.S.C.
2 1226(c)(4).

3 Although he is an aggravated felon and travel documents mean that his removal imminent, the
4 Petitioner asks the Court for immediate release under the holding of *Zavydas v. Davis*, 533 U.S. 678
5 (2001). *Zavydas* held that an unreasonably long mandatory detention without a bond hearing would
6 violate the Fifth Amendment's due process clause, and the Court also concluded that a detention of less
7 than six months was presumptively reasonable. *Id.* at 701. The Petitioner, having been in immigration
8 custody for five months, claims that his continued detention, although presumptively reasonable, is
9 nonetheless unconstitutional. The Petitioner speculated that his detention will be for an unreasonably
10 indeterminate period of time because, he believes that Laos will not accept him. The travel documents
11 show that he is incorrect.

12 The *Zavydas* Court held that the length of a mandatory detention pending removal was subject to
13 an implicit reasonable time limitation. *Id.* While recognizing the mandatory nature of the detention
14 provision, and "to avoid a serious constitutional threat," the Court held that "once removal is no longer
15 reasonably foreseeable, continued detention is no longer authorized by statute." *Id.* at 699. The Court
16 also stated that a detention of less than six months was presumptively reasonable. *Id.* at 701.

17 In addressing similar issues, the Ninth Circuit found a mandatory detention, without a bond
18 hearing, constitutionally "doubtful," and the Court remanded a case for such a hearing. *Tijani v. Willis*,
19 430 F.3d 1241, 1242 (9th Cir. 2005). Later, the Ninth Circuit found a detention of nearly seven years
20 without a bond hearing to be prolonged and constitutionally impermissible. *See Casas-Castrillon v.*
21 *DHS*, 535 F.3d 942 (9th Cir.2008). Also, the Ninth Circuit in *Diouf v. Napolitano*, 634 F.3d 1081 (9th
22 Cir.2011), defined what the meaning of a "prolonged" detention as one that had "lasted six months and
23 is expected to continue more than minimally beyond six months." *Id.* at 1092 n. 13. In each case, the
24 Ninth Circuit remanded the matter to the immigration court for bond hearings to determine whether the
25 detainee posed a risk of flight or danger to the community.

26 While there are various approaches for whether a detention is unreasonably prolonged, *Lopez v.*
27 *Garland* summarized the approaches and applied the following three factors: "the total length of
28 detention to date, the likely duration of future detention, and the delays in the removal proceedings

1 caused by the petitioner and the government.” *Lopez*, 631 F. Supp. 3d at 879. Even where a person is
2 subjected to a “prolonged” detention, “the appropriate remedy is a bond hearing before an immigration
3 judge rather than immediate release.” *Id.*

4 In applying these factors to the Petitioner, the total length of detention is approximately five
5 months. This is detention is presumptively reasonable pursuant to *Zavydas*. The likely duration of
6 future detention is minimal given that Laos has issued a travel document authorizing his removal
7 through March 8, 2026. Thus, the Petitioner’s removal is imminent, and any continued detention will be
8 minimal. The government is not aware of other delays caused by the Petitioner or the government. At
9 bottom, a presumptively reasonable detention period, travel documents issued by Laos, and an imminent
10 removal all make the Petitioner’s mandatory detention constitutional.

11 The Petitioner also claims that his county of citizenship is unlikely to accept him, and requests
12 release so that the government will not remove him to a third-party country. The travel documents
13 issued by Laos demonstrate that this claim lacks merit.

14 III. CONCLUSION

15 For the foregoing reasons, the Petitioner’s claims should be dismissed. His mandatory detention
16 is not prolonged or unreasonable, and his removal is imminent given the issuance of travel documents.
17 The Respondents respectfully request that this case be dismissed.

18
19 Dated: December 29, 2025

ERIC GRANT
United States Attorney

20
21 By: /s/ ROBERT ABENDROTH
22 ROBERT ABENDROTH
Assistant United States Attorney
23
24
25
26
27
28