UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 26-cv-0714 (NEB-EMB)

PHAKDY TOUN KEUNGSAVATH,

Petitioner,

v.

KRISTI NOEM, *et al.*,

Respondents.

FEDERAL RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Phakdy Toun Keungsavath filed this habeas petition to seek release from detention by the U.S. Immigration and Customs Enforcement ("ICE"). The Respondents (collectively the "United States") submit this response to the petition. The Court should deny Petitioner's request for habeas relief and/or transfer the matter to the Western District of Texas where Petitioner is in custody. Petitioner was not detained in Minnesota at the time the Petition was filed.

Petitioner is not entitled to release from detention. 8 U.S.C. § 1231 applies to these circumstances, and provides that when an alien is ordered removed," the Secretary of Homeland Security "shall detain the alien" "[d]uring the removal period.".

Petitioner filed this habeas petition on January 27, 2026. Dkt. 1. The Court entered a briefing schedule, and Respondents now submit their response.

BACKGROUND

Respondents do not dispute the salient facts alleged in the Petition. It is undisputed that, Petitioner is a citizen of Laos who entered the United States in 1984. ECF 1 ¶ 1. On April 23, 2002, Petitioner has a removal order. *Id*. Department of Homeland Security records show

that on January 19, 2026, ICE encountered Petitioner in Minnesota, MN during Operation Metro Surge. On January 20, 2026, Petitioner was transferred to El Paso Camp East Montana in El Paso, TX, before the habeas petition was filed, where he remains. The Respondents, therefore, respectfully request that the Petition be denied or transferred. To the extent this Court orders relief in any format, the Respondents respectfully request a reasonable time to implement any portion of that order.

ARGUMENT

I. This Court lacks jurisdiction over the habeas petition as Petitioner was not detained in this district at the time the petition was filed.

The Court should take judicial notice of the fact that the Petition in this case was filed on January 27, 2026. Petitioner was booked into custody in El Paso, Texas on or about January 20, 2026. This Court therefore lacks jurisdiction to enter relief in habeas, and the Court should transfer the Petition to the Western District of Texas.

Under 28 U.S.C. § 1406(a), the Court should dismiss this case or transfer it to the Western District of Texas (the district in which the El Paso Camp East Montana is located). It is a basic rule of habeas litigation "that for core habeas petitions challenging present physical confinement, jurisdiction lies in only one district: the district of confinement." *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004). That rule does not go away just because this is an immigration-related case—regardless of the type of detention at issue, petitions brought under § 2241 must be brought in the district of confinement. *See, e.g., Fisenko K. v. Ray*, No. 25-cv-4654-PJS-DLM, ECF No. 17 (D. Minn. order filed Dec. 17, 2025) (transferring immigration detention petition filed in wrong district); *Garcia v. London*,

2025 U.S. Dist. LEXIS 261751, at *3 (D. Neb. Dec. 10, 2025) (transferring immigration detention petition filed in wrong district). Because this is a jurisdictional defect, *see Padilla*, 542 U.S. at 442, the Court cannot proceed to the merits of the petition until the issue is resolved.

II. Detention of Refugees Under 8 U.S.C. § 1231

The Court should deny this petition on the merits. Petitioner is not entitled to release from detention. 8 U.S.C. § 1231 applies to these circumstances, and provides that when an alien is ordered removed," the Secretary of Homeland Security "shall detain the alien" "[d]uring the removal period.".

III. Legal and Statutory Authority for Detention Pending Removal

ICE has the authority to detain Petitioner pending his removal from the United States. For more than two centuries, immigration officials have had the authority to charge noncitizens as removable from the country, arrest noncitizens subject to removal, and detain noncitizens during removal proceedings. *See Abel v. United States*, 362 U.S. 217, 233 (1960). Through the Immigration and Nationality Act ("INA"), Congress enacted a multi-layered statutory scheme for the civil detention of noncitizens pending a decision on removal, during the administrative and judicial review of removal orders, and in preparation for removal. *See* 8 U.S.C. §§ 1225, 1226, and 1231. Once a noncitizen is subject to a final removal order—as Petitioner is here—his detention is governed by 8 U.S.C. § 1231 and its implementing regulations at 8 C.F.R. part 241.

A noncitizen who has been ordered removed lacks a legal right to remain in the United States, and his liberty interest in remaining in the country is reduced. Accordingly,

federal law provides that "when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days" and "shall detain the alien" during the removal period. 8 U.S.C. § 1231(a)(1)(A) and (a)(2)(A).[1] The "removal period" is the period during which the Department of Homeland Security begins to take steps to execute the noncitizen's final removal order. *See id.* § 1231(a)(1)(A)-(B). That period begins on the latest of: (1) the "date the order of removal becomes administratively final"; (2) "[i]f 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"; or (3) "[i]f the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement." *Id.* § 1231(a)(1)(B)(i)-(iii).

Detention during the 90-day removal period can be extended in some circumstances. For example, noncitizens who are removable after being convicted of an aggravated felony may be detained beyond 90 days. *Id.* § 1231(a)(6); *see also id.* § 1231(a)(1)(C) (suspension of removal period when noncitizen fails to make timely application for travel documents or acts to prevent removal). The Department of Homeland Security also conducts periodic post-order custody reviews to determine whether a noncitizen subject to a final removal order should continue to be detained beyond the removal period. *See* 8 C.F.R. § 241.4 (addressing continued detention for inadmissible, criminal, and other noncitizens).

[1] The Homeland Security Act of 2002 transferred many immigration enforcement and administrative functions from the Attorney General to the Secretary of Homeland Security. *See* Pub. L. No. 107-296, 116 Stat. 2135 (2002).

After the removal period expires, a noncitizen may be released under an order of supervision. *See* 8 C.F.R. § 241.13. Specifically, a noncitizen held beyond the removal period can seek release from custody by showing that "there is no significant likelihood of removal to the country to which he or she was ordered removed, or to a third country, in the reasonably foreseeable future." *Id.* § 241.13(a). However, the Department of Homeland Security can revoke release "if, on account of changed circumstances, the Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future." *Id.* § 241.13(i)(2). The procedures for revocation are set out in a federal regulation, which requires that the noncitizen:

> 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 . . . . 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.

Id. § 241.13(i)(3). After a noncitizen is re-detained using these procedures, § 241.4 governs his continued detention pending removal. *Id.* § 241.13(i)(2).

CONCLUSION

The habeas petition in this case alleges that venue is proper because petitioner was "apprehended" in Minnesota and because "Respondents are operating in this district." ECF No. 1 ¶¶ 8-10. Because that fails to reflect the law for the reasons explained above, the Court should dismiss the petition or, in the interests of justice, transfer it to the Western District of Texas. In alternative, the Federal Respondents respectfully request that the

Court deny Petitioner's habeas petition in its entirety. No evidentiary hearing is necessary in this matter because the submissions filed with this response provide a sufficient record upon which the Court can adjudicate the petition.

Dated: January 31, 2026

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