FILED
U.S. District Court
District of Kansas
05/04/2026
Clerk, U.S. District Court
By: SND Deputy Clerk

In The United States District Court
For The District Of Kansas

Sophea Phol
Pro Se, Petitioner

V.

Case No. 26-3116-JWL

Misty Mackey, Mark Wayne Mullins,
Todd Blanche, and Todd Lyons
Respondents

PETITIONER FOR WRIT OF HABEAS CORPUS (28 U.S.C § 2241) AND MEMORANDUM IN SUPPORT.

I. INTRODUCTION

1. Petitioner Sophea Phol is detained by immigration and Customs Enforcement (ICE) for the second time for the purpose of removal to native country of Cambodia. ICE has previously tried to removal the petitioner to Cambodia in 2011, and failed in doing so.
2. Petitioner continued detention has become unreasonably indefinite because removal is not significantly likely in the reasonable future under Zadvydas V. Davis.
3. Petitioner was previously released under a yearly supervision, with requirements to check in once a year, ICE shouldn't re-detain petitioner without complying with 8 C.F.R.§ 241.13(i) including an individualized determination based on changed circumstances that removal has become significantly likely, and with required notice/interview procedure.
4. Petitioner is seeking immediate release under appropriate supervision, or other appropriate relief.

II. JURISDICTION AND VENUE

5. This Court has jurisdiction under 28 U.S.C. § 2241 because petitioner is "in custody in violation of the constitution or laws or treaties of the United States." Federal Courts have jurisdiction to review Habeas challenges by noncitizens to the lawfulness of their immigration detention, including Post-removal-order detention under 8 U.S.C. §1231(1). This Court also has jurisdiction under 28 U.S.C.§ 1331 and Declaratory Judgment Act, and Nationality Act (INA) the Administrative Procedure Act (APA), and the Fifth Amendment.
6. Venue is proper because petitioner is confined at Core Civic (CCA) in Leavenworth Kansas within this district and his immediate custodian Misty Mackey is within the Courts jurisdiction.

III. PARTIES

7. Petitioner, Sophea Phol (A #[redacted]
8. Misty Mackey, CCA Warden
9. Mark Wayne Mullins, Secretary department of Homeland Security.
10. Todd Blanche, Acting Attorney General of the United States.
11. Todd Lyons, Acting Director, ICE
12. All Government Respondents are sued in their official capacity.

IV. FACTUAL BACKGROUND

13. Petitioner Sophea Phol entered the United States with inspection, accompanied by his parents, grandparents and uncles as refugees, fleeing War in Cambodia, through Thailand in 1985 with an entry port of California.
14. Upon migration to the United States two younger sisters who are U.S. Citizens were added to their family.
15. Petitioner Sophea Phol has a common law wife, who is a born U.S. Citizen and they have 4 children born to them; daughters ages 17,12,7, and a son who is 8 years of age who are U.S citizens all born in Wichita Kansas. They also have raised his niece who is now 24 years old and finishing college.
16. Petitioner Sophea Phol is 41 years of age at the time of this filing and has been gainfully employed as a Machinist at [redacted], and is also a owner of [redacted] in the Wichita Kansas area with 2 locations.
17. Sophea Phol is also an active member at the Movement Church in Wichita Kansas and with the guidance of Pastor Jared is a constant participant in church functions that involves help with the youth and local community.
18. On or about 2006, petitioner Sophea Phol was charged and convicted of Aggravated Assault and served roughly 4 years in the department of corrections.
19. Upon release in 2011, petitioner was then picked up by ICE, an immigration judge ordered petitioner to be deported at that time and the administrative order became final.
20. Petitioner was detained for roughly 6 months by ICE and then released on an Order of Supervision with a yearly reporting scheduled.
21. On January 29th 2026, Petitioner Sophea Phol reported to the ICE office for his scheduled yearly check-in and was then told that he would be detained again for removal.
22. Petitioner has no current court proceedings, and has been detained now for over 4 months.

V. LEGAL STANDARD

23. Under Zadvydas, Post-Order detention under 8 U.S.C § 1231 (a)(6) is limited to the period "Unreasonably necessary" to achieve removal, six months is presumptively reasonable, and after that the noncitizen may obtain relief by showing no significant likelihood of removal in the reasonably foreseeable future, shifting burden to the Government to rebut.
24. Individuals previously released under supervised release procedures, ICE regulation allows re-detention only if "On account of changed circumstances," ICE determines there is a significant likelihood of removal in the reasonably foreseeable future, and ICE must provide required notice and a prompt formal interview. 8 C.F.R § 241.13(i)

VI. CLAIMS FOR RELIEF

First Claim for Relief: Statutory Claims Under 8 U.S.C. § 1231(a) as Interpreted by Zadvydas V. Davis

25. Petitioner re-alleges and incorporates by referencing paragraphs 1-24.
26. Petitioner has been detained beyond six months after the entry of removal order became

final.

27. Petitioner has presented good reason to believe that there is no significant likelihood of removal in the reasonable foreseeable future, due to lack of response or refusal from the Cambodian Government to issue petitioner a travel document , Laissez-passer or a passport.
28. Respondents have not provided evidence sufficient to rebut petitioner showing that removal is not significantly likely in the reasonably foreseeable future, nor have they explained the cause of such prolonged silence from Cambodia's Government regarding their requests.
29. Under Zadvydas continued detention under these circumstances exceeds the authority granted by 8 U.S.C§ 1231 (a)(6) and is unlawful.
30. Accordingly, petitioners continued detention violates the INA and must cease.

Second Claim for Relief: The Fifth Amendment Violation.

31. Petitioner re-alleges and incorporates by referencing paragraphs 1-30.
32. The fifth amendment prohibits arbitrary and indefinite civil detention that is not reasonably related to a legitimate governmental purpose.
33. Any legitimate purpose that might initially justified petitioners detention such as facilitating removal have dissipated because removal is not significantly likely in the foreseeable future.
34. Continued detention is excessive and disproportionate in relation to any legitimate governmental interest and therefore violates substantive due process.

Third Claim for Relief: The Purpose of Detention Effecting Removal No Longer Exists.

35. Petitioner re-alleges and incorporates by referencing paragraphs 1-34.
36. The Statutory scheme contemplates detention only as long as necessary to effect removal. 8 U.S.C. § 1231 (a)(i)(A) gives a 90 day removal period; then § 1231(a)(6) gives discretionary further detention only if removal is reasonably foreseeable.
37. Once it becomes apparent that removal is no longer "reasonably foreseeable", continued detention becomes punitive in nature, which raises due process concern. Zadvydas, 533 U.S. At 690.

Fourth Claim for Relief: Constitutional and Human Rights Concerns.

38. Petitioner re-alleges and incorporates by referencing paragraphs 1-37.
39. Indefinite detention without release or bond hearing raises serious due process and liberty interest issues. See e.g., Congress Research Service note: "indefinite detention raises 'serious constitutional concern'"
40. The burden on the government must increase when liberty is at stake.

Fifth Claim for Relief: No Meaningful Prospect of Removal.

41. Petitioner re-alleges and incorporates by referencing paragraphs 1-40.
42. Cambodia has a well documented history of refusing acceptance to its own nationals, particularly those returning involuntarily.
43. U.S. Courts have repeatedly recognized that removal is not foreseeable when the receiving country is unwilling or unpredictable.

44. "The absence of a repatriation agreement and a foreign government's consistent refusal to issue travel document weighs heavily against a finding of foreseeable removal." Abdi V. Nielsen, 287 F. Supp. 3D 327, 334 (W.D.N.Y. 2018).
45. Cambodia's strained diplomatic relationship with the United States further undermines ICE claim that removal is imminent.
46. Petitioner has been detained now for the second time.
47. The Burden has therefore shifted to the government to show that removal to Cambodia is significantly likely in the reasonably foreseeable future.

Sixth Claim for Relief: Public Interest.

48. Petitioner has close ties in the United States, including Children, ,Wife, Sister, Uncles, Aunts, Friends and a Church Community.
49. Petitioner is the sole provider for this family through his employment and revenue accrued through his business, and without him, his family is facing losing their financial stability and his business.
50. Wife feels overworked with trying to assist even with running the business and attending to the needs of the family.
51. The family as a whole is going through a rough time without petitioner, the structuring of the family is affected and it has also caused mental, emotional and physical stress on them, wife and kids feel as though they are jailed with the petitioner, since he is the one that holds the family together.
52. Petitioner's church community missing him as well, he has been very instrumental in the church activities helping Pastor Jared with youth and community fucnctions.

VII REQUEST FOR RELIEF

Petitioner respectfully asks the Court to :

A. Grant the Petition and Order Petitioner's immediate release from ICE custody, subject to appropriate conditions of supervision; and /or

B. Order Respondents to provide an immediate custody review that complies with 8 C.F.R.§ 241.13 (i) and Zadvydas, and to release Petitioner absent a demonstrated significant likelihood of removal in the reasonably foreseeable future; and

C. Grant any further relief the Court deems just and proper.

VIII VERIFICATION

I Sophea Phol, declare under penalty of perjury under the laws of the United States that I am Petitioner in the above entitled action; that I have read the foregoing petition for Writ Of Habeas Corpus and knowingly contend, therefore that the same is true and correct to the best of my knowledge, information, and belief.

Midwest Regional Reception Center
(MRRC)
Agency # [redacted]
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