

ERIC GRANT
United States Attorney
ANTHONY ANDREWS
Assistant United States Attorney
2500 Tulare Street, Suite 4401
Fresno, CA 93721
Telephone: (559) 497-4084
Facsimile: (559) 497-4099

Attorneys for Respondent

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SOMCHAY NAKKOUN,

Petitioner,

v.

TONY ANDREWS et al,

Respondents.

CASE NO. 1:26-CV-05095-EJD

ANSWER TO HABEAS PETITION
AND OPPOSITION TO ALL RELIEF; REQUEST
TO LIFT NO REMOVAL ORDER (ECF 4)

I. INTRODUCTION

Respondent opposes the habeas petition and all requested relief. Petitioner has a final removal order which subjects him to mandatory detention in accordance with 8 U.S.C. 1231. He has not met his burden for relief, and all requested relief must be denied. Respondents do not request a hearing and do not intend to file any additional affirmative briefing. Respondents respectfully request the Court lift its do not remove order (ECF 4) so ICE can effectuate removal.

II. BACKGROUND

A. Petitioner issued a removal order.

Petitioner is a native and citizen of Laos. Declaration of Deportation Officer Daniel Castillo dated July 16, 2026 ("Decl"), ¶ 6; Exhibit 1.

On April 8, 2002, Petitioner was ordered removed from the United States to Laos. Decl, ¶ 7;

1 Exhibit 1.¹ As of the execution of this declaration, there is no indication that Petitioner has any pending
2 appeals of the order of removal, dated April 8, 2002. Decl, ¶ 8.

3 On September 13, 2002, ICE released Petitioner under an Order of Supervision (“OSUP”). Decl,
4 ¶ 9; Exhibit 2.

5 On May 6, 2026, ICE revoked Petitioner’s OSUP. Decl, ¶ 10; Exhibit 2. The same day, ICE
6 attempted to conduct an informal interview with Petitioner regarding the revocation of his OSUP,
7 however, Petitioner declined to provide a statement. Decl, ¶ 10; Exhibit 3.

8 On or about May 6, 2026, ICE took Petitioner into custody. Decl, ¶ 11.

9 ICE is in possession of a valid Travel Document for Petitioner that would enable his removal to
10 Laos. Decl, ¶ 12; Exhibit 4. ICE intends to remove Petitioner Laos. Decl, ¶ 12.

11 As of the execution of this declaration, ICE anticipates that Petitioner could be removed to Laos
12 on by the end of July, barring any unforeseen circumstances and if the Court were to lift the no transfer
13 order. Decl, ¶ 13.

14 The Court’s order prohibiting transfer and removal is the only impediment to Petitioner’s
15 removal. Decl, ¶ 14.

16 Petitioner is currently detained at Golden State Annex pursuant to INA § 241(a)(6) [8 USC
17 § 1231(a)(6)].

18 **Petitioner’s Claims Must be Denied**

19 ***Detention following a final order of removal***

20 When an alien becomes subject to a final removal order, 8 U.S.C. § 1231(a)(2) provides that the
21 government “shall” detain the alien during a 90-day removal period. 8 U.S.C. § 1231(a)(2). *Zadvydas v.*
22 *Davis*, 533 U.S. 678, 683 (2001). Once the mandatory removal period ends, ICE has discretion to
23 continue detaining aliens pending their removal. 8 U.S.C. § 1231(a)(6). After the expiration of the 90-
24 day period, the authority for Petitioner’s detention shifted to § 1231(a)(6). Petitioner has been in ICE
25 custody from on or about May 6, 2026.

26 8 USC § 1231(a)(6) provides that after a 90-day removal period, a noncitizen may be detained or
27

28 ¹ See also Exhibit 5

1 may be released under terms of supervision.” *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 575 (2022).
2 After the removal period ends, the government “may” detain four categories of aliens: (1) those who,
3 like Petitioner, are inadmissible to the United States pursuant to 8 U.S.C. § 1182; (2) those who are
4 removable on certain specified grounds, including 8 U.S.C. § 1227, including felony convictions; (3)
5 those who immigration authorities have determined “to be a risk to the community”; and (4) those
6 immigration authorities have determined to be “unlikely to comply with the order of removal.” *Johnson*
7 *v. Arteaga-Martinez*, 596 U.S. 573, 578–79 (2022) (quoting 8 U.S.C. § 1231(a)(6)).

8 In *Arteaga-Martinez*, the Supreme Court held that 8 U.S.C. § 1231(a)(6) does not require a bond
9 hearing in which the government bears the burden of proving by clear and convincing evidence that an
10 alien poses a flight risk or a danger to the community, before an Immigration Judge after six months of
11 detention. *Arteaga-Martinez*, 596 U.S. at 580–81 (stating that the text of § 1231(a)(6) does not address
12 or even hint at the requirement of a bond hearing after six months of detention). In *Zadvydas v. Davis*,
13 however, the Supreme Court held that § 1231(a)(6) “does not permit indefinite detention” and instead
14 “limits an alien’s post-removal-period detention to a period reasonably necessary to bring about that
15 alien’s removal from the United States. *Zadvydas*, 533 U.S. at 689. The Court stated that, after six
16 months of detention, once the alien provides good reason to believe that there is no significant likelihood
17 of removal in the reasonably foreseeable future, the government must respond with evidence sufficient
18 to rebut that showing. *Id.* at 701. The Court was careful to note, however, that: “This 6-month
19 presumption, of course, does not mean that every alien not removed must be released after six months.
20 To the contrary, an alien may be held in confinement until it has been determined that there is no
21 significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701.

22 An alien is entitled to habeas relief after a presumptively reasonable six-month period of
23 detention under § 1231(a)(6) only upon demonstration that the detention is “indefinite”—i.e., that there
24 is “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable
25 future.” *Diouf v. Mukasey*, 542 F.3d 1222, 1233 (9th Cir. 2008)(internal citations omitted).

26 Petitioner has not demonstrated that there is no significant likelihood of removal in the
27 reasonably foreseeable future. ICE has a valid travel document for Petitioner to remove him, and DHS
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1 can effectuate Petitioner's removal once the District Court lifts its order prohibiting transfer and removal
2 of Petitioner. Decl, ¶¶ 12, 13; Exhibit 4. *See generally e.g. Gebrelibanos v. Wolf*, No. 20-cv-1575-
3 WQH-RBB, 2020 WL 7059531 (S.D. Cal. Dec. 2, 2020)(habeas petition denied for alien with final
4 order of removal when ICE requested travel document from foreign government and once travel
5 document received, ICE will complete travel arrangements as expeditiously as possible); *Faheem Tariq*
6 *v. Bruce Scott*, No. 2:25-cv-02387-LK, 2026 WL 1706870 (W.D. Wash. June 12, 2026)(habeas petition
7 and TRO motion denied when alien in ICE detention ninth months and ERO received a valid travel
8 document, the facts did not demonstrate that there was no significant likelihood of alien's removal in the
9 reasonably foreseeable future); *Singh v. United States Immigration and Customs Enforcement Field*
10 *Office Director*, 2025 WL 746295 at *10, *findings and recommendations adopted by* 2025 WL 745629
11 (W.D. Wash. Mar. 7, 2025)(although alien held more than six months, it was significantly likely that his
12 removal would occur in the reasonably foreseeable future as ICE obtained a valid travel document for
13 him).

14 After six-months in custody, Petitioner would bear the burden to show good reason to believe there
15 is no significant likelihood of removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701.
16 Petitioner cannot satisfy that burden since he has not demonstrated that the receiving country will not take
17 him or that removal is barred by our own laws. As the Ninth Circuit stated in *Prieto-Romero v. Clark*,
18 534 F.3d 1053, 1063 (9th Cir. 2008)[in the context of an alien with an administratively final removal order
19 but with a stay from the Ninth Circuit](internal citation omitted), "Although his removal has certainly
20 been delayed by his pursuit of judicial review of his administratively final removal order, he is not stuck
21 in a "removable-but-unremovable limbo," as the petitioners in *Zadvydas* were. Here there is no evidence
22 that Prieto-Romero is unremovable because the destination country will not accept him or his removal is
23 barred by our own laws. Cf. *Zadvydas*, 533 U.S. at 697, 121 S.Ct. 2491."

24 In *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 142 S. Ct. 1827, 213 L.Ed.2d 125 (2022), the
25 Supreme Court held that "there is no plausible construction of the text of § 1231(a)(6) that requires the
26 Government to provide bond hearings before immigration judges after six months of detention, with the
27 Government bearing the burden of proving by clear and convincing evidence that a detained noncitizen
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1 poses a flight risk or a danger to the community,” *Hernandez v. Warden of the Golden State Annex Det.*
2 *Facility*, No. 1:25-CV-01772-SAB-HC, 2026 WL 453517, at *3 (E.D. Cal. Feb. 18, 2026), citing,
3 *Arteaga-Martinez*, 596 U.S. at 581.

4 Notably, Petitioner’s claims and arguments seem inaccurate and unpersuasive. For instance,
5 Petitioner claims “ICE did not give the Petitioner an opportunity for an informal interview.” (ECF 1 at
6 20). Contrary to Petitioner’s assertion, it appears that ICE provided him with notice and attempted to
7 interview him (but he declined). *See* Decl, ¶ 10; Exhibits 2-3.

8 As discussed above, Petitioner is detained pursuant to 8 USC § 1231. There is no cognizable
9 claim for habeas relief. A district court may grant a writ of habeas corpus when the petitioner “is in
10 custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3).
11 “[D]istrict courts retain jurisdiction under 28 U.S.C. § 2241 to consider habeas challenges to
12 immigration detention that are sufficiently independent of the merits of [a] removal order.” *Lopez-*
13 *Marroquin v. Barr*, 955 F.3d 759, 759 (9th Cir. 2020) (citing *Singh v. Holder*, 638 F.3d 1196, 1211–12
14 (9th Cir. 2011)). Petitioner has not demonstrated his detention violates the Constitution or laws of the
15 United States.

16 Respectfully, the Court should not interfere with the execution of a final order of removal
17 pursuant to 8 USC § 1252(g).

18 **B. CONCLUSION**

19 For these reasons, it is respectfully requested that the Court deny the habeas petition and lift its
20 no removal order (ECF 4) so ICE can execute the final order of removal pursuant to its legal authority.
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22 Dated: July 16, 2026

ERIC GRANT
United States Attorney

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24 By: /s/ ANTHONY ANDREWS
25 ANTHONY ANDREWS
26 Assistant United States Attorney
27
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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SOMCHAY NAKKOUN,

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Respondents.

CASE NO. 1:26-CV-05095-EJD

**DECLARATION OF
DEPORTATION OFFICER DANIEL
CASTILLO**

I, Daniel Castillo, make the following statements under oath and subject to the penalty of perjury:

1. I am a Deportation Officer ("DO") with the U.S. Department of Homeland Security ("DHS"), U.S. Immigration and Customs Enforcement ("ICE"), Enforcement and Removal Operations ("ERO"), in the Fresno sub-office of the San Francisco Field Office. I have been employed with DHS since November 10, 2025. I currently serve as a DO and am assigned to the Detained Unit, overseeing aliens detained at the Golden State Annex Immigrant Processing Center ("GSA"), which is a detention facility located in McFarland, California, that is managed by the GEO Group, Inc ("GEO").

2. My responsibilities include, but are not limited to, tracking the progression of detained cases through removal proceedings, tracking detained cases with final orders of removal, obtaining travel documents for aliens ordered removed, and effectuating the removal of aliens to other countries.

3. I am familiar with ICE policies and procedures governing the detention and removal of aliens who come into ICE custody.

4. The facts in this declaration are based on my personal and professional knowledge, consultation with other DHS and ICE personnel, and reasonable review of official documents, systems, and records maintained by the agency and DHS, and other relevant sources during the regular course of my duties.

1 5. I have obtained and attached to my Declaration true and correct copies of the following
2 documents from the case file of Mr. Somchay Nakkoun ("Petitioner") and from records maintained by
3 DHS, which will be referenced as Exhibits ("Exh.") as follows:

4 Exh. 1: Form I-213, dated May 6, 2026.

5 Exh. 2: Petitioner's OSUP Revocation, dated May 6, 2026.

6 Exh. 3: Informal Interview for OSUP Revocation, dated May 6, 2026.

7 Exh. 4: Copy of Petitioner's Travel Document.

8 6. Petitioner is a native and citizen of Laos. Exh. 1.

9 7. On April 8, 2002, Petitioner was ordered removed from the United States to Laos. Exh. 1.

10 8. As of the execution of this declaration, there is no indication that Petitioner has any
11 pending appeals of the Order of Removal, dated April 8, 2002.

12 9. On September 13, 2002, ICE released Petitioner under an Order of Supervision
13 ("OSUP"). Exh. 2.

14 10. On May 6, 2026, ICE revoked Petitioner's OSUP. Exh. 2. The same day, ICE attempted
15 to conduct an informal interview with Petitioner regarding the revocation of his OSUP, however
16 Petitioner declined to provide a statement. Exh. 3.

17 11. On or about May 6, 2026, ICE took Petitioner into custody.

18 12. ICE is in possession of a valid Travel Document for Petitioner that would enable his
19 removal to Laos. Exh. 4. ICE intends to remove Petitioner to Laos.

20 13. As of the execution of this declaration, ICE anticipates that Petitioner could be removed
21 to Laos on by the end of July, barring any unforeseen circumstances and if the Court were to lift the no
22 transfer order.

23 14. The Court's order prohibiting transfer and removal is the only impediment for
24 Petitioner's removal.

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2 I declare, under penalty of perjury, under 28 U.S.C. § 1746, that the foregoing is true and correct
3 to best of my knowledge, information, belief, and reasonable inquiry.
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5 DATED: July 16, 2026

6 DANIEL
7 CASTILLO

Digitally signed by DANIEL
CASTILLO
Date: 2026.07.16 11:19:54
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8 Daniel Castillo
9 Deportation Officer
10 Enforcement and Removal Operations
11 U.S. Immigration and Customs Enforcement
12 U.S. Department of Homeland Security
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