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UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

SAKHONE LASAPHANGTHONG,

Petitioner,

v.

SERGIO ALBARRAN, in his official capacity, Acting Field Office Director, San Francisco Field Office, U.S. Immigration and Customs Enforcement; DAVID J. VENTURELLA, in his official capacity, Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement; MARKWAYNE MULLIN, in his official capacity, Secretary, U.S. Department of Homeland Security; and TODD BLANCHE, in his official capacity, Attorney General of the United States,

Respondents.

Case No. _____

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

Immigration Habeas Case

INTRODUCTION

1. Petitioner Sakhone Lasaphangthong is a 51-year-old former refugee from Laos who has resided in the United States since 1981. He is a husband to a U.S. citizen wife and the stepfather to two U.S. citizen teenage stepdaughters. He was unlawfully detained this morning by U.S. Immigration and Customs Enforcement ("ICE") after over seven years of reporting compliance with the conditions of his release from ICE custody. He brings this petition to obtain his release and to enjoin Respondents from unlawfully re-detaining him without a meaningful opportunity to be heard on whether his detention is necessary and warranted.

2. Mr. Lasaphangthong has resided in the United States since 1981, when he entered as a refugee when he was six years old. He subsequently obtained lawful permanent residency.

3. In 2018, an immigration judge ordered Mr. Lasaphangthong removed to Laos, presumably based on his 2002 conviction for murder—a crime he committed when he was 22 years old. ICE released Mr. Lasaphangthong on an order of supervision in November 2018 because it could not deport him to Laos and because he did not pose a danger to the community or flight risk.

4. Since then, Mr. Lasaphangthong has complied with his reporting requirements, attended check-in appointments with ICE, stayed free of any arrests or convictions, and supported his family. He has opened his own small business providing community services, has served as a Chinatown Community Ambassador, and has worked with multiple non-profits serving low-income, immigrant, and unhoused individuals. His community work has been recognized in mass media and local news, as well as by local leaders.

5. Despite over seven years of contributions to his family and diligent compliance with his supervision requirements, on September 24, 2026, ICE abruptly re-detained Mr. Lasaphangthong at his annual ICE check-in at the San Francisco ICE Field Office. ICE provided no advance notice, no pre-deprivation hearing, and no meaningful opportunity to contest the revocation of his long-standing release on supervision, in violation of Petitioner's due process rights. ICE also did not properly conduct an informal interview, in violation of the regulations.

ICE claims that Laos issued Petitioner a travel document but did not show a copy to Petitioner or his counsel at the time of the informal interview. Based on information and belief, Petitioner is presently detained at the San Francisco ICE Field Office at 630 Sansome Street in San Francisco, California.

6. Mr. Lasaphangthong files this habeas petition to seek release from ICE custody because his removal is not reasonably foreseeable and because ICE's revocation of his supervised release violated governing regulations and his due process rights. Mr. Lasaphangthong also seeks to enjoin Respondents from removing him to a third country without notice and an opportunity to be heard as required by the Constitution and the Immigration and Nationality Act ("INA").

7. Mr. Lasaphangthong respectfully asks this Court to intervene now. He seeks immediate release from unlawful detention; an order prohibiting re-detention absent advance notice and a hearing before a neutral decisionmaker, and an injunction preventing his removal while his motion to reopen and appeal rights are adjudicated.

CUSTODY

8. Based on information and belief, Mr. Lasaphangthong is currently detained in ICE custody at 630 Sansome Street, San Francisco, California, 94111. Petitioner appeared for a scheduled check-in with ICE at that address, during which time he was detained.

JURISDICTION

9. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331, general federal question jurisdiction; 5 U.S.C. § 701, *et seq.*, All Writs Act; 28 U.S.C. § 2241, *et seq.*, habeas corpus; 28 U.S.C. § 2201, the Declaratory Judgment Act; Art. 1, § 9, Cl. 2 of the United States Constitution (Suspension Clause); Art. 3 of the United States Constitution, and the common law.

10. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651 to protect Petitioner's rights under the Due Process Clause of the Fifth Amendment to the United States

Constitution, the Excessive Bail Clause of the Eighth Amendment, and under applicable Federal law, and to issue a writ of habeas corpus for his immediate release. *See generally INS v. St. Cyr*, 533 U.S. 289 (2001); *Zadvydas*, 533 U.S. 678.

VENUE

11. Venue is proper in the Northern District of California under 28 U.S.C. § 1391(e) because Respondents are federal officers or employees sued in their official capacities; one or more Respondents reside in this District; Petitioner resides in this District; Petitioner is detained in this District; and a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District.

INTRADISTRICT ASSIGNMENT

12. The decision to detained Petitioner was made by the San Francsico Field Office of ICE. Therefore, the assignment to the San Francisco Division of this Court is proper under N.D. Local Rule 3-2(d).

REQUIREMENTS OF 28 U.S.C. § 2243

13. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed." *Id.* (emphasis added).

14. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

15. Habeas corpus must remain a swift remedy. Importantly, "the statute itself directs courts to give petitions for habeas corpus 'special, preferential consideration to insure

expeditious hearing and determination.'" *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (internal citations omitted). The Ninth Circuit warned against any action creating the perception "that courts are more concerned with efficient trial management than with the vindication of constitutional rights." *Id.*

PARTIES

16. Petitioner SAKHONE LASAPHANGTHONG was born in Laos and has resided in the United States since June 1981. He has extensive family ties to the U.S., including his U.S. citizen wife, two U.S. citizen stepdaughters, four U.S. citizen sisters and a U.S. citizen brother. Since November 2018, he has been a subject to supervision by the ICE San Francisco Field Office.

17. Respondent SERGIO ALBARRAN is the Acting Field Office Director responsible for the San Francisco Field Office of ICE Enforcement and Removal Operations, which has immediate physical custody of Petitioner. He is sued in his official capacity.

18. Respondent DAVID J. VENTURELLA is the Senior Official Performing the Duties of the ICE Director. As the head of ICE, an agency within the U.S. Department of Homeland Security that detains and removes certain noncitizens, Respondent Venturella is a legal custodian of Petitioner. He is sued in his official capacity.

19. Respondent MARKWAYNE MULLIN is the Secretary of the U.S. Department of Homeland Security. He is responsible for the administration of the federal immigration laws. 8 U.S.C. § 1103(a). Secretary Mullin is a legal custodian of Petitioner. He is sued in his official capacity.

20. Respondent TODD BLANCHE is the Attorney General of the United States. He is responsible for overseeing the implementation and enforcement of the federal immigration laws. He has the authority to interpret immigration law and adjudicate removal cases. The Attorney General delegates this responsibility to the Executive Office for Immigration Review ("EOIR"), which administers the immigration courts and the Board of Immigration Appeals

("BIA"). In his official capacity, Attorney General Blanche is the ultimate legal custodian of Petitioner.

FACTUAL ALLEGATIONS

Mr. Lasaphangthong's History

21. Mr. Lasaphangthong was born in Laos in 1975. He first entered the United States as a refugee on or about June 17, 1981, and subsequently obtained his lawful permanent residency. Mr. Lasaphangthong has extensive family ties to the United States, including a U.S. citizen wife, two U.S. citizen stepdaughters, four U.S. citizen sisters, and a U.S. citizen brother.

22. Mr. Lasaphangthong has two criminal convictions. In 2002, he was convicted in Sacramento County of one count of second-degree murder pursuant to California Penal Code § 187(a), with a firearm enhancement pursuant to California Penal Code § 12022.5(a)(1). He was 22 years old at the time that he committed this offense. He was sentenced to a total term of 30 years to life in prison. In 2008, while serving his sentence, he was convicted of one count of battery by a prisoner pursuant to California Penal Code § 4501.5, for which he was sentenced to an additional 48 months in prison.

23. While incarcerated, Mr. Lasaphangthong transformed his life. He attained three associate degrees in social and behavioral science, general business, and American studies and leveraged his status among other prisoners to convince them to pursue their education.

24. On December 12, 2017, the California Board of Parole Hearings found Mr. Lasaphangthong suitable for release on parole based on, *inter alia*, his record of rehabilitation in prison.

25. Upon his release from prison in 2018, he was immediately taken into custody by Immigration and Customs Enforcement ("ICE"). The Executive Office for Immigration Review's ("EOIR") Automated Case Information system reflects that, on August 6, 2018, he was ordered removed. Mr. Lasaphangthong is no longer in possession of the removal order that was

issued in his case or the charging document that was filed in his immigration case.[1] His best recollection is that his murder conviction was the basis for the removal order. A murder conviction is considered a deportable aggravated felony offense under federal immigration law. *See* 8 U.S.C. § 1227(a)(2)(A)(iii); 8 U.S.C. § 1101(a)(43)(a).

26. Despite being ordered removed in 2018, Mr. Lasaphangthong was not physically removed to Laos. This was likely because no travel documents could be secured for him. Laos has, for many years, been considered a "recalcitrant" country, meaning that it did not accept deportees. *See, e.g.*, Department of Homeland Security, DHS Announces Implementation of Visa Sanctions (July 10, 2018), *available at:* https://www.dhs.gov/archive/news/2018/07/10/dhs-announces-implementation-visa-sanctions.

27. Mr. Lasaphangthong recalls that, during the course of his ICE detention in 2018, he participated in a phone call with the Laotian embassy. As best as he can recall, during the course of that conversation, Mr. Lasaphangthong learned that the Laotian government had no record of him whatsoever. Not long after, Mr. Lasaphangthong was released from ICE custody pursuant to an Order of Supervision ("OSUP"), which required regular check-ins with ICE. Exh. C, Order of Supervision.

28. Since his release in 2018, Mr. Lasaphangthong has focused on rebuilding his life and supporting his community. He runs his own small business focused on delivering community services, has served as a Chinatown Community Ambassador, and has worked with multiple non-profits serving low-income, immigrant, and unhoused individuals.

29. Mr. Lasaphangthong has complied with the reporting requirements of his order of supervision. The personal report record portion of Mr. Lasaphangthong's OSUP confirms that, since being placed on OSUP in 2018, he has never missed a check-in. His Record of Arrests and Prosecutions ("RAP") reflects no other convictions and no negative criminal contact whatsoever since his release from prison in 2018.

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[1] Ms. Rabinovich has tried to verify the basis for Petitioner's removal order through formal records request but has yet to receive records from EOIR or DHS.

30. On June 11, 2026, Mr. Lasaphanthong attended an ICE check-in appointment. At this appointment, he was given a visa application from the Lao People's Democratic Republic and told to return for a check-in appointment on June 25, 2026 with the completed form and passport photos. At the June 25, 2026, check-in, Mr. Lasaphanthong turned in the completed forms. ICE gave him another check-in date of September 24, 2026.

31. Mr. Lasaphangthong attended his September 24, 2026, ICE check-in at 630 Sansome Street in San Fracisco, California, accompanied by counsel Kelsey Morales. Morales Decl. at ¶ 13.

32. Mr. Lasaphangthong and counsel were taken to a room on the Fifth Floor, where a deportation officer informed Mr. Lasaphangthong that ICE had obtained travel documents to Laos and, given that, ICE was going to revoke his order of supervision and detain him for removal to Laos. *Id.* at ¶ 14. When Mr. Lasaphangthong and counsel asked if they could see the travel document, they were informed by the deportation officer that it was unavailable, because it was currently in route. *Id.* at ¶ 15.

33. Counsel asked if a flight had been scheduled to remove Mr. Lasaphangthong and the officer replied that one had not yet been scheduled because he was not yet officially in custody. *Id.* at ¶ 16. Counsel then asked if ICE would be amenable to permitting Mr. Lasaphangthong to remain out of custody until a flight had been scheduled for removal but was told that Alternatives to Detention ("ATD") was not available for this case. *Id.* at ¶ 17. When counsel asked whether this was a blanket policy, the officer again said that ATD was not available in this case. *Id.* Counsel left with the impression that it was a blanket policy. *Id.*

34. Following a medical evaluation counsel was not permitted to attend, a deportation officer reviewed a number of documents with Mr. Lasaphangthong, including a Notice of Revocation, the Informal Interview Form, Notice of Imminent Removal, and a Warrant of Removal/Deportation. *Id.* at ¶¶ 19, 21. During the informal interview, Mr. Lasaphangthong and counsel stated reasons contesting the revocation of the order of supervision. *Id.* at ¶ 23. As

noted in the Form, one of the reasons raised was that Mr. Lasaphangthong and counsel were not able to review the travel document to confirm that it did, in fact, identify Mr. Lasaphangthong and permit his travel to Laos, given that the Laotian embassy told Mr. Lasaphangthong in 2018 that it did not have a record of him. *Id.* They likewise raised the hardship detention and removal would have on Mr. Lasaphangthong's U.S. citizen family, as well as his over seven-year record of compliance with the order of supervision. *Id.*

35. Counsel asked the officer who would consider the reasons raised in the Informal Interview. *Id.* at ¶ 24. He stated that there would be a reviewing official who would look through the file and make a final determination. *Id.* Counsel asked if Mr. Lasaphangthong would get a response and the officer said he should get something personally or through his representative.

36. Immediately thereafter, the deportation officer read us the Notice of Imminent Removal, stating that ICE "will not conduct a custody review at this time" and that Mr. Lasaphangthong "will remain in custody pending [his] removal." *Id.* at ¶ 25. As the officer had just represented to counsel that a reviewing official would look at the Informal Interview, counsel asked the officer anew whether there was going to be any review of our reasons contesting the revocation of the order of supervision. *Id.* The officer paused and stated that he did not know. *Id.* He subsequently stated that there was "not going to be a review" of the reasons provided in the Informal Interview. *Id.*

37. The officer further stated that, as of that moment, whether Mr. Lasaphangthong would be released was a matter of "legal options." *Id.* at ¶ 26. Counsel took this to mean that the officer did not have any authority whatsoever to consider the reasons raised in the informal interview, notwithstanding the concerns raised. *Id.*

38. Following completion of the Informal Interview, and while counsel and the deportation officers were discussing where ICE intended to detain Mr. Lasaphangthong, they were provided with a copy of the Laotian travel document. *Id.* at ¶ 27.

39. Mr. Lasaphangthong has extensive family ties to the United States, including a U.S. citizen wife, two U.S. citizen teenage stepdaughters, four U.S. citizen sisters, and a U.S. citizen brother. *Id.* at ¶ 29. He runs his own small business focused on delivering community services, and has served as a Chinatown Community Ambassador. *Id.* at ¶ 30. He has been recognized for his positive contributions by numerous elected official and local leaders. *Id.*

Third Country Removals

40. Since early 2025, ICE has escalated efforts to remove noncitizens with final orders of removal to "third countries," *i.e.*, countries that the immigration judge has not designated as potential countries for removal during the noncitizen's removal proceedings. *See Zakzouk v. Becerra*, No. 25-CV-06254-KAW, 2025 WL 2899220, at *2 (N.D. Cal. Oct. 10, 2025) ("Although Petitioner explained that he had no right to return to either country because he is stateless, the officer responded: "Things are different now."); *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *7 (E.D. Cal. July 16, 2025); *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *6 (E.D. Cal. July 16, 2025).

41. Because the "third country" was not at issue during the original removal proceedings, a noncitizen who is threatened with removal to a third country has never had an opportunity to express fear of or seek legal protection from removal to that country.

42. On July 9, 2025, ICE issued a memo to staff that represents the agency's current policy with respect to third country removals.[2] The memo provides that if the United States has received credible "diplomatic assurances" from a third country that deportees will not be

[2] *See* Nate Raymond and Ted Hesson, "ICE May Deport Migrants to Countries Other Than Their Own With Just Six Hours Notice, Memo Says, Reuters" (July 14, 2025), *available at*: https://www.reuters.com/world/us/ice-may-deport-migrants-countries-other-than-their-own-with-just-six-hours-2025-07-13/; Maria Sacchetti, Carol D. Leonnig and Marianne LeVine, "ICE memo outlines plan to deport migrants to countries where they are not citizens," The Washington Post (July 13, 2025), *available at*: https://www.washingtonpost.com/immigration/2025/07/12/immigrants-deportations-trump-ice-memo/.

persecuted or tortured in that country, ICE may deport a noncitizen to that third country without notice or an opportunity to be heard. *See* Exh. I, DHS Policy Regarding Third Country Removal.

43. The memo provides that if the United States has not received such diplomatic assurances, ICE officers must serve the noncitizen a "Notice of Removal" stating the intended country of removal; it need not, however, ask whether the noncitizen fears removal to that country. *Id.* Although officers should "generally wait at least 24 hours following service of the Notice of Removal before effectuating removal," they may under certain conditions effectuate removal only six hours after service of the Notice of Removal. *Id.*

44. Under the ICE memo, if the noncitizen "does not affirmatively state a fear of persecution or torture if removed" to the third country, ICE may proceed with removal. *Id.* Only if the noncitizen "does affirmatively state a fear" of removal to that country will they be screened for eligibility for withholding of removal and protection under the Convention Against Torture ("CAT"). *Id.*

45. On February 25, 2026, U.S. District Court Judge Brian E. Murphy of the U.S. District Court of Massachusetts declared that DHS's third-country removal policy, as embodied in DHS's March 30, 2025, memorandum and ICE's July 9, 2025, memorandum is unlawful and set aside the policy. *See D.V.D. v. U.S. Dep't of Homeland Sec.*, No. CV 25-10676-BEM, 2026 WL 521557, at *44 (D. Mass. Feb. 25, 2026). That case went to the First Circuit, who issued a decision this week.

46. There have been multiple credible reports of Laotian citizens being subjected to these third country removals.[3]

[3] *See, e.g.*, Felicia Schwartz and Maya Ward, "South Sudan took 8 migrants from the US. It wants something in return." Politico (July 30, 2025), available at: https://www.politico.com/news/2025/07/30/south-sudan-might-take-more-us-migrant-deportees-it-has-a-few-asks-00482793; Farouk Chothia, "Eswatini confirms receiving $5.1m from the US for accepting deportees," BBC.com (Nov. 18, 20205), available at: https://www.bbc.com/news/articles/cq50vjdx368o.

47. This Court's intervention is needed to ensure that Petitioner's regulatory and due process rights are protected, that his unjust detention does not become prolonged and indefinite, and that he is not unjustly removed to a third country.

LEGAL FRAMEWORK

Post-Removal Order Detention, Release, and Re-Detention

48. The Immigration and Nationality Act directs ICE to remove a noncitizen "within a period of 90 days" following a final order of removal, known as the "removal period." 8 U.S.C. § 1231(a)(1)(A).

49. ICE "shall detain" the noncitizen during the 90-day removal period. 8 U.S.C. § 1231(a)(2)(A).

50. If ICE does not effectuate removal during the removal period, the noncitizen is released "subject to supervision," 8 U.S.C. § 1231(a)(3), except that certain categories of noncitizens "may be detained" beyond the removal period, 8 U.S.C. § 1231(a)(6). In light of the due process concerns that indefinite detention would raise, the Supreme Court has construed section 1231(a)(6) to limit a noncitizen's "post-removal period detention to a period reasonably necessary to bring about that [noncitizen's] removal from the United States." *Zadvydas*, 533 U.S. at 689.

51. Two regulations, 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13, govern release and re-detention following a final order of removal.

52. Government agencies are required to follow their own regulations. *United States ex rel Accardi v. Shaughnessy*, 347 U.S. 260, 267-68 (1954); *Nat'l Ass'n of Home Builders v. Norton*, 340 F.3d 835, 852 (9th Cir. 2003). Courts have routinely found that, when ICE fails to follow its own regulations in revoking release, detention is unlawful and the petitioner must be released. *See, e.g.*, *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 166 (W.D.N.Y. 2025) ("In sum, because ICE did not follow its own regulations in deciding to re-detain Ceesay, his due process

rights were violated, and he is entitled to release."); *Rombot v. Souza*, 296 F. Supp. 3d 383, 387-89 (D. Mass. 2017) (ordering release because ICE failed to follow the requirements set forth in § 241.4); *Nguyen v. Hyde*, 788 F. Supp. 3d 144, 152 (D. Mass. 2025) (ordering release because ICE violated 8 C.F.R. § 241.13, its own regulations); *Constantinovici v. Bondi*, 806 F. Supp. 3d 1155, 1165-66 (S.D. Cal. 2025).

Required notice and opportunity to respond

53. 8 C.F.R. §§ 241.4(d)(1) and 241.13 provide that DHS must notify the noncitizen of the reasons for revocation of his or her release [upon revocation]." 8 C.F.R. §§ 241.13(i)(3), 241.4(*l*)(1). Language in a revocation notice that "summarily asserts that changed circumstances render [the noncitizen's] removal from the U.S. significantly likely in the reasonably foreseeable future" does "not satisfy the Government's obligation to provide the 'reasons' why" the petitioner was re-detained. *Roble v. Bondi*, 803 F. Supp. 3d 766, 771-72 (D. Minn. 2025); *see also Sun v. Noem*, No. 3:25-cv-02433-CAB-MMP, 2025 WL 2800037, at *2 (S.D. Cal. Sept. 30, 2025) ("A pro forma notice that gives no information on why release is being revoked . . . is insufficient").

54. DHS is also required to conduct an "initial informal interview promptly after" the noncitizen's "return to [ICE] custody to afford the [noncitizen] an opportunity to respond to the reasons for revocation stated in the notification." 8 C.F.R. §§ 241.13(i)(3), 241.4(*l*)(1).

Requirements outlining when re-detention is warranted

55. The regulations also require that ICE have a proper basis for re-detention, namely that the individual violated the conditions of their release, 8 C.F.R. §§ 241.13(i)(1), 241.4(*l*)(1), or—where the noncitizen was previously released because removal was not foreseeable—that circumstances have changed such that there is now a "significant likelihood" that the individual can be "removed in the reasonably foreseeable future." § 241.13(i)(2).

56. Notably, under "ICE's own regulations," ICE bears the burden to establish "changed circumstances that make removal significantly likely in the reasonably foreseeable

future." *Sun*, 2025 WL 2800037, at *2 (citing § 241.13(i)(2)); *see also Nguyen v. Hyde*, 788 F. Supp. 3d 144, 152 (D. Mass. 2025) ("*Respondents* cannot make the showing that circumstances have changed such that there is a significant likelihood [of removal] in the reasonably foreseeable future." (emphasis added)). DHS simply repeating the language of the regulations and making conclusory statements that re-detention is warranted because circumstances have changed such that removal is now reasonably foreseeable is clearly insufficient. *See, e.g. Nguyen,* 788 F. Supp. 3d at 150-52; *Yang v. Kaiser*, No. 2:25-cv-02205-DAD-AC (HC), 2025 WL 2791778, at *6 (E.D. Cal. Aug. 20, 2025). Courts have also repeatedly held that the fact that a travel document request is pending is insufficient to establish changed circumstances. *See, e.g.*, *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *5 (E.D. Cal. July 16, 2025); *Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP, 2025 WL 1993771, at *4 (July 16, 2025, E.D. Cal.); *Vu v. Noem*, No. 1:25-CV-01366-KES-SKO (HC), 2025 WL 3114341, at *6 (E.D. Cal. Nov. 6, 2025) (finding the "general assertion that ICE is 'mak[ing] efforts' to obtain travel documents for petitioner is not compelling" for purposes of changed circumstances).

Requirements regarding who can make the decision to re-detain

57. The regulations also permit only certain officials to revoke a noncitizen's release: the ICE Executive Associate Director, a field office director, or an official "delegated the function or authority . . . for a particular geographic district, region, or area." *Ceesay*, 781 F. Supp. 3d at 160-61 (citing 8 C.F.R. § 241.4(*l*)(2) and § 1.2 and explaining that the Homeland Security Act of 2002 renamed the position titles listed in § 241.4). If the field office director, or another local ICE official with delegated authority—rather than the ICE Executive Associate Director—intend to revoke release, they must first make findings that "revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate [Director]." 8 C.F.R. § 241.4(*l*)(2).

Revocation of Post-Order Release Must Also Comport with Due Process

58. The Due Process Clause further constrains ICE's ability to re-detain a noncitizen who was previously released on an order of supervision. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas*, 533 U.S. at 690.

59. Procedural due process requires that a noncitizen's detention be accompanied by strong "procedural protections," *id.* at 692, such as a hearing before a neutral adjudicator. *See Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) ("The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'"). Courts in this Circuit have determined that a noncitizen subject to conditional release has a liberty interest in that release such that a pre-deprivation hearing before a neutral adjudicator is required prior to any redetention. *See e.g. Yang*, 2025 WL 2791778, at *8; *Guillermo M. R. v. Kaiser*, 791 F. Supp. 3d 1021, 1031 (N.D. Cal. 2025) ("The fact that Petitioner is subject to discretionary conditions of release likewise does not mean he lacks a protectable liberty interest and can be re-detained without process."). That is because, generally the Due Process Clause "requires some kind of a hearing *before* the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (emphasis in original).

60. Substantive due process requires that a noncitizen's detention bear a reasonable relationship to the purposes of immigration detention, to prevent flight and to protect the community. *Zadvydas*, 533 U.S. at 690-91; *see also Cty. of Sacramento v. Lewis*, 523 U.S. 833, 845 (1998) ("[T]he touchstone of due process is protection of the individual against arbitrary action of government.") (citation omitted).

Third Country Removals

61. Congress has established a multi-step process for designating countries to which noncitizens may be removed. 8 U.S.C. § 1231(b).

62. First, ICE shall remove the noncitizen to the country that the noncitizen chooses to designate, with certain limitations on that choice. *Id.* §§ 1231(b)(2)(A)-(B). ICE may disregard the noncitizen's designation only under specified circumstances. *Id.* § 1231(b)(2)(C).

63. Second, if the noncitizen is not removed to the country they designated, ICE shall remove the noncitizen to an "alternative country"—*i.e.,* "a country of which the [noncitizen] is a subject, national, or citizen"—unless that country does not cooperate with ICE's removal efforts. *Id.* § 1231(b)(2)(D).

64. Third, if the noncitizen is not removed to the country they designated or to an alternative country, then ICE may pursue a list of "[a]dditional removal countries," including the country from which the noncitizen was admitted to the United States and the country in which the noncitizen was born. *Id.* § 1231(b)(2)(E). Only if "impracticable, inadvisable, or impossible" to remove the noncitizen to any of the additional removal countries may ICE depart from the list and pursue removal to any country willing to accept the noncitizen. *Id.* § 1231(b)(2)(E)(vii).

65. Importantly, the statute also prohibits removal to any country where a person may be persecuted or tortured, a form of protection known as withholding of removal. *Id.* § 1231(b)(3)(A) (providing that ICE "may not remove" a noncitizen to a country if "the [noncitizen's] life or freedom would be threatened in that country because of the [noncitizen's] race, religion, nationality, membership in a particular social group, or political opinion"). Congress has also codified the protections of the Convention Against Torture ("CAT") prohibiting the government from removing a person to a country where they face torture. *See* Foreign Affairs Reform and Restructuring Act of 1998 ("FARRA"), Pub. L. No. 105-277, div. G, Title XXII, § 2242(a), 112 Stat. 2681, 2681-822 (1998) (codified as Note to 8 U.S.C. § 1231) ("It shall be the policy of the United States not to expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, regardless of whether the person is physically present in the United States.").

66. If ICE cannot remove an individual to the country or countries specified in their removal order, an alternative country may be designated, but the designation must occur "in the appropriate way." *See Aden v. Nielsen*, 409 F. Supp. 3d 998, 1009 (W.D. Wash. 2019). "That means the designation must be permitted by § 1231(b) and . . . must comport with due process." *Id.* Constitutional due process requires that noncitizens receive sufficient notice of the country of removal and a meaningful opportunity to be heard through reopened removal proceedings. *See Nguyen v. Scott*, 796 F. Supp. 3d 703, 727-29 (W.D. Wash. 2025) (holding that removal to a third country without meaningful notice and reopening of removal proceedings for a hearing would violate due process and contravene Ninth Circuit precedent (citing *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999), *Najjar v. Lynch*, 630 F. App'x 724 (9th Cir. 2016), and *Sadychov v. Holder,* 565 F. App'x 648, 651 (9th Cir. 2014)); *A.A.M. v. Andrews,* No. 1:25-cv-01514-DC-DMC (HC), 2025 WL 3485219, at *11 (E.D. Cal. Dec. 4, 2025) (enjoining removal to third country until petitioner has had the opportunity to present his fear-based claim in reopened removal proceedings before an immigration judge because his constitutional right to a full and fair hearing in front of a neutral adjudicator "is not satisfied by simply providing Petitioner the time and opportunity to file a discretionary motion to reopen his immigration proceedings").

67. The onus is on the government to reopen immigration proceedings to adjudicate the legality of removal to a third country. *See, e.g.*, *Nguyen*, 796 F. Supp. 3d at 777 ("[The due process clause and the governing statute] place the burden on the government – regardless of whether the country of deportation is designated during or after the removal hearing—to provide a meaningful opportunity to be heard on asylum and withholding claims."); *Arenado-Borges v. Bondi*, No. 2:25-CV-02193-JNW, 2025 WL 3687518, at *6 (W.D. Wash. Dec. 19, 2025) ("Simply allowing the petitioner *to move to reopen* their immigration proceedings is not enough to satisfy Due Process—the Government must *actually reopen* proceedings so that the petitioner has a fair and adequate opportunity to be heard." (emphasis in original)).

68. Numerous courts have held that ICE's third-country removal policies violate the INA, 8 U.SC. § 1231(a), its implementing regulations, and the Fifth Amendment because they do not provide sufficient process and circumvent the statutory framework. *See, e.g.*, *Nguyen,* 796 F. Supp. 3d at 728 (holding that the ICE policy on third-country removals set forth in its July 9, 2025 memo "contravenes Ninth Circuit law" and that "[i]t would be impossible to comply both with Ninth Circuit precedent and the policy"); *Vu*, 2025 WL 3114341, at *9 ("ICE's policy is contrary to Ninth Circuit precedent."); *Esmail v. Noem*, No. 2:25-CV-08325-WLH-RAO, 2025 WL 3030589 at *6-7 (C.D. Cal. Sept. 26, 2025) (providing a detailed analysis of how ICE's third-country removal policy violates due process, regardless of whether an assurance is provided by the receiving country); *Baltonado v. Bondi*, No. C25-1958RSL, 2025 WL 3123991, at *3 (W.D. Wash. Nov. 7, 2025) (collecting multiple cases that found that challenges to ICE's policy on third-country removals are likely to succeed on the merits). That is because a "last minute" designation of a country for removal, affording no meaningful opportunity to apply for protection, "violate[s] a basic tenet of constitutional due process." *Andriasian*, 180 F.3d at 1041.

CLAIMS FOR RELIEF

COUNT ONE
Unlawful Re-Detention – Procedural Due Process
U.S. Const. amend. V

69. Petitioner re-alleges and incorporates by reference, as if set forth fully herein, the allegations in the preceding paragraphs.

70. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

71. Petitioner has a vested liberty interest in his conditional release. Due Process does not permit the government to strip him of that liberty without a hearing before this Court. *See Morrissey v. Brewer*, 408 U.S. 471, 482-483 (1972); *Young v. Harper*, 520 U.S. 143, 146-47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973); *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *3 (N.D. Cal. July 24, 2025) ("[E]ven when ICE has the initial

discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody she has a protected liberty interest in remaining out of custody"); *Yang*, 2025 WL 2791778, at *8 (determining that seven years out of custody on "supervised release, as well as petitioner's ties to his community, strengthen petitioner's interest in his continued release"). Thus, the Court should apply the Mathews balancing test to determine what process is due.

72. Turning to the first *Mathews* factor, Petitioner has a profound private interest in remaining free from detention. *See Zadvydas*, 533 U.S. at 690; *Phouvieng*, 2025 WL 3265504, at *8; *Yang*, 2025 WL 2791778, at *8. The Ninth Circuit has found it "beyond dispute" that a noncitizen's private interest in freedom from immigration detention is "fundamental." *Hernandez v. Sessions*, 872 F.3d 976, 993 (9th Cir. 2017). Petitioner's private interest in freedom from ICE custody is particularly weighty given the negative impacts that detention is having on him and his family.

73. As to the second factor, releasing Petitioner from custody until and unless Petitioner is provided with a pre-detention hearing before a neutral adjudicator where the government establishes that Petitioner's re-detention is warranted will greatly decrease the risk of Petitioner being erroneously deprived of liberty. The existing procedural protections associated with re-detention, found in ICE's regulations, are woefully insufficient to reduce the risk of erroneous detention because the regulations allow ICE to make a unilateral decision to revoke release. 8 C.F.R. §§ 241.4(*l*)(2), 241.13(i). *See Yang*, 2025 WL 2791778, at *9 ("The court therefore rejects respondents' contention that the regulatory framework sufficiently mitigates the risk of an erroneous deprivation of petitioner's liberty interest."); *Guillermo M. R.*, 791 F. Supp. 3d at 1034 ("The lack of any neutral review creates a heightened risk of deprivation for Petitioner."); *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001), *abrogated on other grounds by Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006) ("A neutral judge is one of the most basic due process protections."). In this case, the deportation officer stated that given the

notice of imminent removal pursuant to 8 C.F.R. § 241.4(g)(4), there was "not going to be a review" of the reasons Petitioner provided in the Informal Interview. The risk of error is high where there is no meaningful consideration of reasons and evidence offered by the Petitioner. On the other hand, a pre-detention hearing would ensure that a neutral adjudicator reviews Petitioner's substantial evidence that he is neither a danger nor a flight risk and consider whether he can remain out of custody until a flight has been scheduled or self deport, thus vastly reducing the risk of erroneous detention (as well as the cost to the government to detain and remove him). *See Foucha*, 504 U.S. at 81-82 (striking down civil detention scheme that did not provide for an "adversary hearing" before a neutral decisionmaker).

74. Turning to the third *Mathews* factor, the government's interest in keeping Petitioner in detention without a due process hearing is low, and the burden of providing such a hearing would be minimal. DHS cannot credibly contend that, after allowing Petitioner to live in the community for over at least 15 years, it has an urgent need to detain Petitioner without any pre-detention process. *See Zakzouk*, 2025 WL 2097470, at *6-7. Providing such a hearing will impose a *de minimis*, if any, burden on the government, *see Ffriend v. Albarran*, No. 26-CV-03942-WHO, 2026 WL 1915726, at *8 (N.D. Cal. May 14, 2026) (recognizing that "a hearing before a neutral decisionmaker prior to re-detention is a de minimis burden on the government."), and would be far *less* costly and burdensome for the government than keeping Petitioner detained while no flight has been scheduled, *see Zakzouk*, 2025 WL 2097470 at *7.

75. For these reasons, Petitioner's re-arrest and detention without notice and a hearing violated the Constitution. *See e.g.*, *Prasomsy v. Albarran*, No. 3:26-CV-09534-JSC, 2026 WL 2653813, at *4 (N.D. Cal. Sept. 8, 2026) (applying *Mathews* factors and finding noncitizen with a final order raised serious questions as to a due process violation under similar circumstances) (ordering release and enjoining re-detention without notice and a pre-deprivation hearing). The only remedy for this violation is his immediate release from immigration detention until the government provides him with a hearing before a neutral adjudicator. At the hearing, the neutral

adjudicator would evaluate, *inter alia,* whether clear and convincing evidence demonstrates that his removal is reasonably foreseeable and that, taking into consideration alternatives to detention, Petitioner is a danger to the community or a flight risk, such that his re-incarceration is warranted. *See Phouvieng*, 2025 WL 3265504, at *8-9, 11; *Yang*, 2025 WL 2791778, at *9, 11.

COUNT TWO
Unlawful Detention – Substantive Due Process
U.S. Const. amend. V

76. Petitioner re-alleges and incorporates by reference, as if set forth fully herein, the allegations in the preceding paragraphs.

77. The Due Process Clause of the Fifth Amendment forbids the government from depriving individuals of their right to be free from unjustified deprivations of liberty. U.S. Const. amend. V.

78. Petitioner has a vested liberty interest in his conditional release. Due Process prohibits the government from stripping him of that liberty interest unless it is necessary to mitigate against the risk of flight or to protect the community from danger—the sole constitutional bases for civil detention. *See Zadvydas*, 533 U.S. at 690-91.

79. Since approximately 2018, Petitioner has complied with the reporting requirements imposed on him by ICE, thus demonstrating that he is not a flight risk. Exh. C, OSUP. Moreover, each time that he has been permitted to return for another check-in date, ICE has necessarily determined that he does not pose a danger. Finally, there has been no change in circumstances that now renders his detention necessary to remove him to Laos, given that Petitioner is amenable to alternatives to detention until such a time as a flight is scheduled. Re-arresting him now would be punitive and violate his constitutional right to be free from the unjustified deprivation of his liberty.

80. For these reasons, Petitioner's detention violates the Constitution.

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COUNT THREE
Unlawful Detention – Violation of the INA and Applicable Regulations; 8 U.S.C. § 1231; 8 C.F.R. §§ 241.4, 241.13(i); & 5 U.S.C. § 706(2)(D)

81. Petitioner re-alleges and incorporates by reference, as if set forth fully herein, the allegations in the preceding paragraphs.

82. The INA provides for detention during the ninety (90) day "removal period" that begins immediately after a noncitizen's order of removal becomes final. 8 U.S.C. § 1231(a)(1). After the ninety (90) day removal period, the INA and its applicable regulations provide that detaining noncitizens is generally permissible only upon notice to the noncitizen and after an individualized determination of dangerousness and flight risk. *See* 8 U.S.C. § 1231(a)(6); 8 C.F.R. § 241.4(d), (f), (h) & (k). Here, the 90 day post-order period began the date that Petitioner's removal order became administratively final—August 6, 2018. *See* 8 U.S.C. § 1231(a)(1)(B). The 90 day post-order detention period does not restart upon re-detention. *See id.* Eight years have passed since Petitioner's removal order became final.

83. Here, ICE failed to meaningfully provide Petitioner with an informal interview as required by the regulations. While the deportation officer when through the steps of an informal interview, the process itself was meaningless, as, when pressed by counsel, the officer stated that there was "not going to be a review" of the reasons raised in the informal interview. This interview is supposed to provide meaningful process to noncitizens whose liberty is being revoked. In these circumstances, the regulations and Due Process require that ICE meaningfully consider the options raised. However, that was not the case here, given that the officer then read the Notice of Imminent Removal Pursuant to 8 C.F.R. 241.4(g)(4), which states that ICE "will not conduct a custody review at this time." Additionally, at the time of the Informal Interview, Petitioner had yet to review the travel document and therefore was not provided a meaningful opportunity to contest alleged change in circumstances, as identified by the deportation officer. Petitioner was only shown the travel document *after* the interview had concluded, which

deprived him of the opportunity in the interview to contest. Accordingly, the ICE violated the regulations and failed to provide him with an informal interview.

84. As such, the revocation of Petitioner's OSUP was also not in accordance with the INA and implementing regulations governing under what circumstances ICE may lawfully revoke an OSUP. Government agencies are required to follow their own regulations. *United States ex. rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954); *Nat'l Ass'n of Home Builders v. Norton*, 340 F.3d 835, 852 (9th Cir. 2003). "Numerous district courts, including courts in the Ninth Circuit, have determined that where ICE fails to follow its own regulations in revoking release, the detention is unlawful and the petitioner's release must be ordered." *Constantinovici v. Bondi*, No. 3:25-CV-02405-RBM-AHG, 2025 WL 2898985, at *6 (S.D. Cal. Oct. 10, 2025) (citing cases); *see also*, *Phouvieng K.*, 2025 WL 3265504, at *4; *Yang*, 2025 WL 2791778, at *6; *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 161 (W.D.N.Y. 2025); *Rombot v. Souza*, 296 F. Supp.3d 383, 387 (D. Mass. 2017).

85. Accordingly, Respondents' revocation of Petitioner's order of supervision violated the regulations and must be held unlawful and set aside because it was contrary to the agency's authority and not in accordance with the INA and implementing regulations.

COUNT FOUR
Procedural Due Process and APA – Unconstitutionally Inadequate Procedures Regarding Third Country Removal
U.S. Const. amend. V; 5 U.S.C. § 706(2)(D)

86. Petitioner re-alleges and incorporates by reference, as if set forth fully herein, the allegations in the preceding paragraphs.

87. The Due Process Clause of the Fifth Amendment requires sufficient notice and an opportunity to be heard prior to the deprivation of any protected rights. U.S. Const. amend. V; *see also Louisiana Pacific Corp. v. Beazer Materials & Services, Inc.*, 842 F. Supp. 1243, 1252 (E.D. Cal. 1994) ("[D]ue process requires that government action falling within the clause's mandate may only be taken where there is notice and an opportunity for hearing.").

88. The INA, FARRA, and implementing regulations further mandate meaningful notice and opportunity to present a fear-based claim to an immigration judge before ICE deports a person to a third country. Under binding Ninth Circuit authority, "[f]ailing to notify individuals who are subject to deportation that they have a right to apply for asylum in the United States and for withholding of deportation to the country to which they will be deported violates both INS regulations and the constitutional right to due process." *Andriasian*, 180 F.3d at 1041.

89. Respondents' policy for third country removals is unlawful because it directs ICE agents to remove individuals to third countries without any notice or process *at all* where diplomatic assurances are received and, where no diplomatic assurances are received, to provide flagrantly insufficient notice (6-24 hours) and opportunity to respond, in violation of governing the statutes and regulations and the Fifth Amendment. *See* Exh. I, ICE's Third Country Memo. *See Gonzalez-Sanchez v. Warden*, No. 1:26-CV-04375-DC-CKD P, 2026 WL 2212535, at *2 (E.D. Cal. July 31, 2026) ("Courts across this circuit have found that ICE's policy… is likely unconstitutional and contrary to Ninth Circuit precedent.").[4]

90. Petitioner also has a protected liberty interest in his life. Thus, prior to any third country removal, he must be provided with constitutionally compliant notice and an opportunity to respond and contest that removal if he has a fear of persecution or torture in that country.

91. Petitioner has a due process right to meaningful notice and opportunity to present a fear-based claim to an IJ before DHS deports him to a third country. *See, e.g., Aden*, 409 F. Supp. 3d at 1004; *Zakzouk v. Becerra*, No. 25-CV-06254-KAW, 2025 WL 2899220, at *4 (N.D. Cal. Oct. 10, 2025) (finding that the petitioner had raised serious question as to the merits of his claim that he is entitled to notice and an opportunity to be heard before being removed to a third country); *Enamorado v. Kaiser*, No. 25-CV-04072-NW, 2025 WL 4109736, at *6 (N.D. Cal.

[4] *Report and recommendation adopted sub nom. Gonzalez-Sanchez v. Cent. Valley Annex*, No. 1:26-CV-04375-DC-CKD (HC), 2026 WL 2294819 (E.D. Cal. Aug. 10, 2026).

Nov. 3, 2025) (same); *Lam v. Albarran*, No. 25-CV-09980-NW, 2025 WL 4479437, at *6 (N.D. Cal. Dec. 23, 2025) (same).

92. For these reasons, Petitioner's removal to any third country without adequate notice and an opportunity to present any fear-based claims in reopened removal proceedings would violate his due process rights, the INA, the CAT, and governing regulations. "Due Process requires that Petitioner receive a full and fair hearing of his fear-based claim in front of a neutral adjudicator." *A.A.M. v. Andrews*, 815 F. Supp. 3d 1124, 1141 (E.D. Cal. 2025) (granting temporary restraining order). The only remedy of this violation is for this Court to order that he not be removed to any third country unless and until he is provided with "notice and opportunity to assert a fear-based claim for relief from removal to any third-country identified by Respondents, and that Petitioner's fear-based claim for relief from removal to the third-country, if any, is heard by an immigration judge in reopened removal proceedings." *A.A.M. v. Andrews*, No. 1:25-CV-01514-DC-DMC (HC), 2025 WL 3685159, at *7 (E.D. Cal. Dec. 19, 2025) (granting preliminary injunction).

93. For these reasons, Petitioner's removal to any third country without adequate notice and an opportunity to apply for relief under the Convention Against Torture would violate his due process rights. The only remedy of this violation is for this Court to order that he not be summarily removed to any third country unless and until he is provided constitutionally adequate procedures.

PRAYER FOR RELIEF

WHEREFORE, the Petitioner prays that this Court grant the following relief:

(1) Assume jurisdiction over this matter;

(2) Order the immediate release of Petitioner from DHS custody on the conditions of his prior OSUP;

(3) Enjoin ICE from re-arresting Petitioner unless and until a hearing can be held before a neutral adjudicator to determine whether his re-incarceration would be lawful because the government has shown that his removal is reasonably

foreseeable and that he is a danger or a flight risk by clear and convincing evidence;

a. At any such hearing, the neutral arbiter must consider whether, in lieu of incarceration to effectuate removal, alternatives to detention exist (such as self-deportation) that would sufficiently mitigate any risk established by the government; and

b. Petitioner must be provided with notice of at least 14 days before any such hearing and is permitted to be represented by counsel.

(4) Declare that Petitioner cannot be re-arrested unless and until he is afforded a hearing on the question of whether his re-incarceration would be lawful as set forth above;

(5) Order that Petitioner cannot be removed to any third country without first being provided meaningful notice and "the opportunity to present his fear-based claim in reopened removal proceedings before an Immigration Judge," *see A.A.M.*, 2025 WL 3485219, at *11;

(6) Award reasonable costs and attorney fees; and

(7) Grant such further relief as the Court deems just and proper.

Dated: September 24, 2026

Respectfully submitted,
ALAMEDA COUNTY PUBLIC DEFENDER'S OFFICE

s/Kelsey Morales
Kelsey Morales
Attorney for Petitioner

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed with the Petitioner the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: September 24, 2026

/s/ Kelsey Morales
Kelsey Morales