IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MINNESOTA

KONG L.,	Case No. 0:26-cv-04332
Petitioner,	**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241**
v.	
DAVID EASTERWOOD, Director of St. Paul Enforcement and Removal Operations, Immigration and Customs Enforcement; **MARKWAYNE MULLIN**, Secretary of the Department of Homeland Security; **DAVE ISAIS**, Jail Commander of the Sherburne County Jail; **DAVID J. VENTURELLA**, Acting Director, U.S. Immigration and Customs Enforcement; and **TODD BLANCHE**, Attorney General of the United States,	
Respondents.	

Petitioner Kong L., through undersigned counsel, petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241.

INTRODUCTION

1. This Petition presents the *Zadvydas* claim that this Court expressly held was not before it in Kong's first habeas case and expressly directed him to raise in a new petition. In *Kong L. v. Easterwood*, No. 26-cv-3669 (LMP/LIB), ECF No. 17 at 6 (D. Minn. Sept. 28, 2026), the Court held that the expiration of Kong's Lao travel document and the failure of the promised September 16 removal presented "a new claim." The Court

then stated the procedural route in direct terms: "the proper route forward" is "for Kong to file a new habeas petition raising a *Zadvydas* claim." This is that petition.

2. The new claim rests on a factual record that did not exist when ICE returned Kong to custody on August 18, 2026. ICE justified that detention by stating that Laos had issued a travel document valid through September 16, 2026 and that ICE had "scheduled" Kong's removal to occur "no later than" September 16. Prior Case, ECF No. 8-6 at 1. September 16 came and went. Kong was not removed. The document on which ICE relied expired by its own terms. Petitioner strongly believes that such travel document did not exist, and ICE has not proven otherwise, merely ignoring such allegation at each step of the way.

3. Kong remains detained today. Respondents have not served Kong or counsel with a Lao travel document, an extension of the alleged expired document, a new Lao acceptance, a flight itinerary, a new removal date, or any other concrete evidence demonstrating that removal can presently occur. The earlier case contains no such evidence either.

4. The question now is therefore the question *Zadvydas v. Davis* requires the Court to ask: whether Kong's present detention remains reasonably related to the actual execution of removal. 533 U.S. 678, 699–701 (2001). The Supreme Court held that "if removal is not reasonably foreseeable," continued detention is "no longer authorized by statute." *Id.* at 699.

5. That inquiry cannot be answered by restarting the clock on August 18 as though Kong had never before been detained and released after the Government failed to remove

him. In *Samson C.C. v. Easterwood*, No. 26-cv-3588 (KMM/DTS), ECF No. 15 at 18–20 (D. Minn. Sept. 17, 2026), Judge Menendez observed that "most courts" considering re-detention after supervised release have rejected the proposition that the six-month *Zadvydas* period simply resets. This District said the same years ago: "The Court is aware of no authority" suggesting that the six-month period starts over after revocation of supervised release. *Nhean v. Brott*, No. 17-cv-28 (PAM/FLN), 2017 WL 2437268, at *2 (D. Minn. May 2, 2017), report and recommendation adopted, 2017 WL 2437246 (D. Minn. June 5, 2017).

6. Nor is Kong required to prove that removal to Laos is impossible forever. His initial burden is substantially narrower. *Zadvydas* requires "good reason to believe" that removal is not significantly likely in the reasonably foreseeable future. 533 U.S. at 701. *Samson C.C.* described that burden as "relatively minimal." ECF No. 15 at 19. Once that showing is made, Respondents must answer with evidence.

7. Kong meets that burden on the present facts. The Government was unable to remove him after his 2005 order and released him under supervision. He then lived under that supervision for approximately twenty-one years. In 2026 ICE identified one development that allegedly changed that history: a Lao travel document expiring September 16 and a removal supposedly scheduled by that same date. The document expired. The removal did not happen. More than three weeks later, no replacement document or concrete removal arrangement has been disclosed. There is no concrete date for removal, no travel plans, no travel document, nothing in the record that would support that removal is likely in the reasonably foreseeable future.

8. The most factually similar recent decision is *Siackasorn v. Scott*, No. 2:26-cv-02607-GJL, ECF No. 27 (W.D. Wash. Sept. 28, 2026). There, as here, a Laotian national had previously been released after removal could not be accomplished, the Government later relied on Lao travel documents to justify detention, and the Government's promised removal failed when the document expired. The court rejected ICE's belief that it could obtain another document as mere "statements of aspiration" and ordered immediate release. *Id.* at 10–11.

9. Judge Provinzino's own *Zadvydas* decision supplies the same rule. In *Castillo-Loriga v. Mullin*, No. 26-cv-2335 (LMP/ECW), ECF No. 8 at 6–8 (D. Minn. May 8, 2026), the Court held that generalized statements that ICE was exploring removal options were "woefully insufficient" once the petitioner had given good reason to believe removal was not reasonably foreseeable. The Government had to produce evidence of an actual path to removal.

10. Kong's medical circumstances add another practical question that cannot be resolved through speculation. He reports kidney disease, chronic lower-back pain, dizziness, gout, a prior stroke, and hypertension. He takes daily Atorvastatin 40 mg, Allopurinol 100 mg, Vitamin D3, aspirin, Carvedilol 12.5 mg, Amlodipine 5 mg, and Losartan 100 mg. Counsel is obtaining the supporting medical records and will supplement them when received.

11. Petitioner does not presently allege that ICE has denied him medical clearance for travel because Respondents have not disclosed whether any current medical clearance exists. The point is narrower: given his history of kidney disease, stroke, dizziness,

hypertension, and daily cardiovascular medication, medical fitness for international air travel is part of the practical removability inquiry if Respondents contend that removal is imminent. Courts have treated medical ability to complete travel as a real, not theoretical, component of removability. See *Mendez-Mojena v. Noem*, No. 2:26-cv-00491-SPC-NPM, ECF No. 14 at 2–4 (M.D. Fla. July 23, 2026) (ordering release where Mexico refused removal because of age and medical condition and ICE had no alternative plan); *Hassan v. Bondi*, No. 2:25-cv-02444, ECF No. 90 at 8–14 (W.D. Wash. July 24, 2026) (ordering release where medical needs made the proposed removal plan constitutionally inadequate and no unexpired travel document existed).

12. This Petition does not ask the Court to reconsider the warrant, revocation-notice, or § 241.13 arguments adjudicated in the first case. It challenges Kong's present detention on the new factual predicate the Court itself held belonged in a new action: the Government's stated removal deadline failed, its identified travel document expired, and the present record no longer contains concrete evidence that removal is significantly likely in the reasonably foreseeable future.

13. Kong therefore seeks the ordinary *Zadvydas* remedy: immediate release subject to the same supervision conditions that successfully governed him for approximately twenty-one years. At minimum, if Respondents contend that removal has again become concrete, they should be ordered promptly to produce the current travel document, the current Lao acceptance or authorization, the current itinerary or scheduled removal date, and any medical clearance on which an asserted imminent removal depends.

JURISDICTION

14. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) because Kong is presently in federal immigration custody and alleges that his continued detention violates 8 U.S.C. § 1231(a)(6) as construed in *Zadvydas* and the Due Process Clause of the Fifth Amendment.

15. Federal courts possess habeas jurisdiction to determine whether post-removal-period immigration detention remains authorized by law. *Zadvydas*, 533 U.S. at 687–88.

16. This Petition does not challenge Kong's 2005 removal order, seek review of the Immigration Judge's removability determination, or ask this Court to adjudicate any application for immigration relief. It challenges only Respondents' present physical custody over his person.

17. Sections 1252(a)(5) and 1252(b)(9) do not strip jurisdiction over this detention claim. *Jennings v. Rodriguez*, 583 U.S. 281, 292–95 (2018); *Zadvydas*, 533 U.S. at 687–88.

18. Nor is this Petition an attempt to relitigate the earlier habeas judgment. The Court held on September 28 that Kong's expired-travel-document argument presented a new *Zadvydas* claim that was not properly before it under Rule 59(e), and expressly stated that a new habeas petition was the "proper route forward." Prior Case, ECF No. 17 at 4–6.

19. Recent courts confronting the same procedural sequence have treated a later *Zadvydas* petition based on changed facts as a distinct habeas claim. In *Saaryan v. Blanche*, No. 2:26-cv-03093, ECF No. 11 at 3–4 (W.D. Wash. Oct. 2, 2026), the court held that the "factual basis" for denial of the first habeas had changed and that the

lapse of time supplied cause to consider the second petition. In *Abedi v. Carter*, No. 26-3012-JWL, ECF No. 6 at 3–4 (D. Kan. Feb. 20, 2026), the court likewise entertained a second *Zadvydas* petition because it asserted "a new claim based on different supporting facts," after the earlier court had invited refiling when the claim became ripe.

20. Even if common-law abuse-of-the-writ principles apply to a second § 2241 petition in this Circuit, they do not bar a claim that could not have been adjudicated on its present facts in the earlier action and that the prior court expressly held should be raised separately.

VENUE

21. Venue is proper in the District of Minnesota because Kong is physically detained at the Sherburne County Jail in Elk River, Minnesota, within this District. *See* 28 U.S.C. § 2241(a); *Rumsfeld v. Padilla*, 542 U.S. 426, 442–43 (2004).

22. The prior habeas did not raise any independent venue issues, and no issues currently existing would change that analysis.

23. Venue is independently proper under 28 U.S.C. § 1391(e) because federal Respondents perform official duties within this District and a substantial part of the detention and removal activity giving rise to this Petition is administered through ICE's St. Paul Field Office.

PARTIES

24. Petitioner Kong L. was born on [redacted], in Thailand after his family fled Laos. He entered the United States as a refugee on May 24, 1989, when he was eight

years old, and adjusted to lawful permanent resident status effective that same date. He is presently detained by ICE at the Sherburne County Jail.

25. Respondent Dave Isais is the Jail Commander of the Sherburne County Jail and Kong's immediate physical custodian. He is sued in his official capacity.

26. Respondent David Easterwood is the Director of the St. Paul Enforcement and Removal Operations Field Office of U.S. Immigration and Customs Enforcement. He exercises authority over ICE detention, custody, transfer, supervision, and removal operations affecting Kong in Minnesota. He is sued in his official capacity.

27. Respondent David J. Venturella is the Acting Director of U.S. Immigration and Customs Enforcement and has supervisory authority over ICE and ERO detention and removal operations. He is sued in his official capacity.

28. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security and has supervisory responsibility over DHS and ICE. He is sued in his official capacity.

29. Respondent Todd Blanche is the Attorney General of the United States and is sued in his official capacity.

PRIOR PROCEEDINGS AND THE NEW FACTUAL PREDICATE

30. An Immigration Judge ordered Kong removed to Laos on May 17, 2005. ICE issued a Form I-205 warrant of removal that same day. Prior Case, ECF No. 8 ¶¶ 9–10.

31. ICE did not remove Kong. On August 18, 2005, ICE released him under an Order of Supervision because the Government had not effectuated his removal. The Order itself states: "Because the Service has not effected your deportation or removal during

the period prescribed by law," Kong would be "placed under supervision and permitted to be at large." Prior Case, ECF No. 8-5 at 1.

32. Kong then remained in the community under federal supervision for approximately twenty-one years. He appeared for ICE reporting appointments and remained available to the Government. Prior Case, ECF No. 8 ¶ 11; ECF No. 8-5.

33. On June 18, 2026, ICE records state that the Lao People's Democratic Republic issued a travel document for Kong's return. Prior Case, ECF No. 8 ¶ 13.

34. On August 18, 2026, Kong appeared for a scheduled ICE check-in at Fort Snelling. ICE took him into custody and served a Form 71-091 Notice of Revocation. Prior Case, ECF No. 8 ¶¶ 14–19; ECF No. 8-1 at 2.

35. The Notice identified a single concrete basis for the claimed change in removability: the June 18 Lao travel document. It stated that the document was "valid through September 16, 2026" and that "ICE has obtained a travel document and scheduled your removal to take place no later than 09/16/2026." Prior Case, ECF No. 8-6 at 1.

36. The Government never filed the actual Lao travel document in the first habeas case. Instead, it filed declarations and agency records describing the document. See Prior Case, ECF Nos. 8, 8-1 through 8-7.

37. On August 25, 2026, Deportation Officer William Robinson did not state that Kong had been booked or manifested on a flight. He stated only that "ICE is currently scheduling Petitioner on a removal flight to Laos." Prior Case, ECF No. 8 ¶ 20.

38. Kong filed a habeas petition challenging the August 18 arrest and revocation in *Kong L. v. Easterwood*, No. 26-cv-3669 (LMP/LIB). The petition challenged the legality of

the August 18 custody event, including the I-205 warrant and ICE's compliance with the regulations governing revocation of supervised release.

39. On September 21, 2026, the Court denied that petition. ECF No. 10. The Court held that the 2005 I-205 remained valid because Kong had not yet been physically removed and held that the June 18 travel document and stated September 16 removal date were sufficient to support the revocation. *Id.* at 4–10.

40. Critically, the September 21 Order also stated that Kong "remains detained at the Sherburne County Jail." *Id.* at 3. Thus, by the time judgment entered, the September 16 removal date had already passed and the only identified travel document had expired.

41. Kong moved under Rule 59(e), arguing in part that the failed September 16 predicate and expired document raised a present *Zadvydas* issue. ECF No. 15.

42. On September 28, 2026, the Court denied Rule 59(e) relief because it held that the present-removability issue was a "new claim," not because the Court found that a renewed document or current removal arrangement actually existed. ECF No. 17 at 4–6.

43. The Court specifically recognized that the Government had not yet been required to identify a "renewed document, renewal request, new Lao authorization, or new removal arrangement." *Id.* at 4. The Court reasoned that the Government should have "a chance to demonstrate" whether it had since obtained a renewed Lao travel document or concrete arrangements. *Id.* at 4–5.

44. The Court therefore stated twice that Kong should raise the issue in a new action: "Kong cannot raise" the new claim through Rule 59(e), but "can raise a *Zadvydas* challenge in a subsequent petition"; and "the proper route forward" is "for Kong to file a new habeas petition raising a *Zadvydas* claim." *Id.* at 4, 6.

45. This Petition follows that direction. It does not seek reconsideration of the Court's rulings concerning the legality of the August 18 arrest or the procedures ICE used that day. Under the District's May 27, 2026, Order for Assignment of Cases, a new civil action may be treated as related where the cases share common issues, a decision in one would effectively resolve substantially all issues in the other, or the interests of justice and judicial economy favor assignment to one judge. Even where potential relatedness exists, new civil cases are initially randomly assigned, and reassignment occurs only if the judges determine both that the actions are related and that they should be handled by the same judge. Order for Assignment of Cases ¶ 4(a)–(c) (D. Minn. May 27, 2026). Although this action involves the same Petitioner and arises from the same underlying immigration custody, it presents a materially different claim based on facts that post-date the operative basis of the first action. Because the first action did not adjudicate that claim and cannot resolve the present factual question, Petitioner respectfully submits that judicial economy does not require reassignment and that the ordinary random-assignment process should remain in place.

CURRENT FACTUAL ALLEGATIONS

46. Kong remains detained at Sherburne County Jail as of the filing of this Petition.

47. September 16, 2026 passed without Kong's removal to Laos.

48. The travel document described by ICE expired on September 16, 2026 according to the Government's own Notice of Revocation. Prior Case, ECF No. 8-6 at 1.

49. Since September 16, neither Kong nor undersigned counsel has been served with a renewed Lao travel document, an extension of the June 18 document, a replacement document, or written evidence that Laos has renewed or continued its acceptance of Kong.

50. Neither Kong nor counsel has been given a new flight itinerary, a new removal date, a new manifest, or other concrete travel arrangement.

51. Nothing presently available to Kong identifies an airline, charter, flight number, staging date, departure date, or other operational detail showing that removal is presently scheduled.

52. Nothing presently available to Kong identifies when any request for a renewed Lao document was made, whether Laos has agreed to issue another document, or when a new document is expected.

53. That absence is especially significant because the Government's earlier representation was not open-ended. ICE represented that it had both a time-limited document and a removal that would occur "no later than" the very date on which that document expired.

54. The predicted event did not occur. The Government's only identified concrete removal window closed.

55. Kong's history before August 2026 reinforces why the failed window matters. For approximately twenty-one years before re-detention, the Government did not

accomplish his removal to Laos despite the final order. ICE instead supervised him in the community.

56. Kong has also continued to experience significant medical conditions. He reports kidney disease, lower-back pain, dizziness, gout, a prior stroke, and hypertension.

57. Kong reports taking the following medications every day: Atorvastatin 40 mg; Allopurinol 100 mg; Vitamin D3; aspirin as a blood thinner; Carvedilol 12.5 mg; Amlodipine 5 mg; and Losartan 100 mg.

58. Counsel has not yet received Kong's complete detention medical records. Those records have been requested and Petitioner will supplement the record promptly upon receipt.

59. At present, Respondents have not disclosed to Kong or counsel whether Kong has received medical clearance for international air travel, whether a current removal plan has been reviewed for his medical needs, or whether any carrier has agreed to transport him.

60. Petitioner does not allege, without records, that medical clearance has affirmatively been denied. Rather, if Respondents contend that an international removal is currently imminent, the existence and scope of medical clearance are concrete facts bearing on whether that removal can actually occur.

61. Kong has complied with supervision for years and appeared voluntarily at the August 18 appointment where ICE detained him. Release under the same or comparable supervision conditions therefore remains an available means to ensure his appearance if removal later becomes genuinely practicable.

LEGAL FRAMEWORK

A. Section 1231(a)(6) does not authorize detention untethered from reasonably foreseeable removal.

62. Section 1231(a)(1) directs the Government to remove a noncitizen within a 90-day removal period. Detention is mandatory during that period. 8 U.S.C. § 1231(a)(1)–(2). After the removal period, § 1231(a)(6) permits continued detention of certain noncitizens, including persons removable because of specified criminal grounds.

63. But § 1231(a)(6) is not an authorization for detention without an endpoint. In *Zadvydas*, the Supreme Court construed the statute "in light of the Constitution's demands" and held that it permits detention only for the period reasonably necessary to accomplish removal. 533 U.S. at 689.

64. The statutory purpose controls the inquiry. The Court explained that post-order detention exists to "assur[e] the alien's presence at the moment of removal." *Id.* at 699. Thus, "if removal is not reasonably foreseeable," continued detention becomes "no longer authorized by statute." *Id.*

65. *Zadvydas* adopted six months as a presumptively reasonable period for ordinary administration. *Id.* at 701. But the six-month presumption is not a jurisdictional bar and does not convert every later period of detention into a fresh period insulated from judicial review.

66. After the presumptive period, once the noncitizen provides "good reason to believe" there is no significant likelihood of removal in the reasonably foreseeable future, "the Government must respond with evidence sufficient to rebut that showing." *Id.* And

"as the period of prior postremoval confinement grows," the reasonably foreseeable future must become correspondingly shorter. *Id.*

67. The inquiry is practical rather than metaphysical. The question is not whether removal could someday become possible. It is whether there is a significant likelihood that removal will occur in the reasonably foreseeable future on the facts that exist now.

B. Re-detention after supervised release does not simply erase the prior post-order detention history.

68. Kong's current detention cannot be analyzed as though August 18, 2026 were the first day the Government ever attempted to detain him under the 2005 removal order. He was previously detained after that order and was then affirmatively released when removal could not be accomplished.

69. This District has repeatedly rejected an automatic reset theory. In *Nhean*, the court stated it was "aware of no authority" suggesting that the six-month presumptively reasonable detention period starts over after revocation of supervised release. 2017 WL 2437268, at *2.

70. More recently, Judge Menendez held that "most courts" addressing re-detention after supervised release have rejected the notion that the six-month *Zadvydas* period resets. *Samson C.C.*, No. 26-cv-3588, ECF No. 15 at 18–19. The court cited *Khazanov v. Bullock*, No. 3:26-cv-401, 2026 WL 1603304, at *7–8 (M.D. Tenn. June 4, 2026);* Qu v. Mullin, *No. 5:26-cv-1302, 2026 WL 836681, at* 3 (C.D. Cal. Mar. 26, 2026); *Nguyen v. Noem*, No. 5:25-cv-176, 2026 WL 237282, at *7 (S.D. Tex. Jan. 28, 2026);

and Siguenza v. Moniz, *No. 25-cv-11914, 2025 WL 2734704, at* 3 (D. Mass. Sept. 25, 2025).

71. The same reasoning appears in *Totpal v. Blanche*, No. 2:26-cv-02492, ECF No. 13 at 6 (W.D. Wash. Sept. 16, 2026), which held that prior confinement counts when a person is released and later re-detained under § 1231(a)(6).

72. The point does not depend on a mechanical day count alone. Kong's prior release is itself powerful evidence about the statutory purpose. ICE did not merely choose a different detention facility. It returned him to the community under supervision after removal could not be effected, and that supervised arrangement persisted for approximately twenty-one years.

73. Accordingly, Respondents cannot avoid meaningful *Zadvydas* review simply by characterizing the August 2026 custody event as the beginning of a wholly new presumptively reasonable detention cycle.

C. This second petition is the procedurally proper vehicle for the new current-removability claim.

74. The Court has already resolved the procedural question in this case. Its September 28 Order held that the expired-document/current-removability argument was not properly adjudicated through Rule 59(e) because it was a "new claim." Prior Case, ECF No. 17 at 4.

75. The Court expressly rejected the proposition that Kong was barred from bringing that claim. It stated: "This is not to say that Kong cannot raise a *Zadvydas* challenge in a

subsequent petition." *Id.* It then said the "proper route forward" is a new *Zadvydas* habeas. *Id.* at 6.

76. That approach is consistent with recent § 2241 decisions. In *Saaryan*, a first *Zadvydas* petition was denied on the factual posture then existing, but the court entertained a second petition after the relevant time and facts changed. The court explained that "the factual basis" for the first denial "has changed." No. 2:26-cv-03093, ECF No. 11 at 3 (W.D. Wash. Oct. 2, 2026).

77. *Abedi* is equally instructive. There, the district court had denied the first habeas and expressly allowed the petitioner to file again if detention later became unreasonable. On the second petition, the court held that the new action presented a distinct claim based on "different supporting facts" and proceeded to the merits. No. 26-3012-JWL, ECF No. 6 at 3–4 (D. Kan. Feb. 20, 2026).

78. That is exactly the posture here. The first case adjudicated whether ICE lawfully arrested Kong and revoked supervision on August 18 based on the record then before the Court. This Petition asks whether Respondents may continue detaining him after the only identified travel document expired and the represented removal date failed.

D. Kong has provided good reason to believe removal is not significantly likely, and generalized predictions are not enough to rebut that showing.

79. Kong's initial *Zadvydas* burden is not onerous. *Samson C.C.* called it "relatively minimal." No. 26-cv-3588, ECF No. 15 at 19.

80. Several facts satisfy that burden here when considered together: the Government's inability to remove Kong after the 2005 order; approximately twenty-one years of

supervised release; the Government's 2026 reliance on a single time-limited Lao travel document; ICE's specific representation that removal would occur no later than September 16; the failure of that predicted removal; expiration of the identified document; and the absence of any disclosed current document or itinerary.

81. The failure of a specific removal plan carries more weight than the abstract possibility that Laos may someday issue another document. In *Siackasorn*, the Government had previously obtained Lao travel documents and argued that it believed a corrected or renewed version could be obtained. No. 2:26-cv-02607-GJL, ECF No. 27 at 4–5, 10–11. The court held that those "statements of aspiration" did not render removal reasonably foreseeable after the existing document expired. *Id.* at 10.

82. *Siackasorn* is particularly instructive because the petitioner's first habeas had already been denied when the Government represented that a new Lao document would arrive "expeditiously." *Id.* at 4. When that prediction failed, the court adjudicated the later petition on the actual current facts and ordered immediate release.

83. Judge Provinzino applied the same evidentiary principle in *Castillo-Loriga*. Once the petitioner had shown that two countries refused to accept him, ICE offered a declaration stating that headquarters would explore other third-country options. The Court held that "[w]ithout more," the showing was "woefully insufficient" to establish a significant likelihood of removal in the reasonably foreseeable future. No. 26-cv-2335, ECF No. 8 at 6–7.

84. *Samson C.C.* likewise demonstrates that even more concrete Government activity does not automatically defeat the petitioner's showing. Respondents there presented

evidence that Uganda was willing to accept the petitioner and had placed him on a removal-flight manifest. No. 26-cv-3588, ECF No. 15 at 19–20. The court nevertheless held that this did not establish a significant likelihood of lawful removal in the reasonably foreseeable future because unresolved legal barriers remained. *Id.*

85. Those decisions reflect the same rule: "some possibility" of eventual removal is not equivalent to a "significant likelihood" of removal in the reasonably foreseeable future. *Samson C.C.*, ECF No. 15 at 20 (quoting *Nguyen v. Scott*, 796 F. Supp. 3d 703, 725 (W.D. Wash. 2025)).

86. Here, Kong's showing is stronger than a case involving an open-ended delay. ICE chose a date certain. It said the travel document expired September 16 and the removal would occur no later than September 16. That concrete prediction failed. The Government cannot rely indefinitely on the failed prediction as present proof of foreseeability.

87. The September 28 Order anticipated precisely what should happen next. It stated that the Government must be given an opportunity to demonstrate whether it has "since obtained a renewed Lao travel document or concrete removal arrangements." Prior Case, ECF No. 17 at 4–5. The new petition supplies the vehicle for that showing.

88. If Respondents possess a new valid Lao document, current Lao acceptance, and concrete travel arrangements, they can produce that evidence. If they do not, continued detention cannot be sustained on the theory that a document may perhaps be issued again later.

E. Medical fitness is relevant to whether removal is practically attainable, although Petitioner does not overstate the present medical record.

89. *Zadvydas* asks whether removal is practically attainable in the reasonably foreseeable future, not merely whether a destination country might theoretically accept the person. 533 U.S. at 699–701.

90. Medical inability to complete the proposed travel can therefore matter to that practical inquiry. In *Mendez-Mojena*, ICE physically attempted removal to Mexico, but Mexico refused the petitioner because of his age and medical condition. Because ICE had no alternative plan, the court found no significant likelihood of removal and ordered release. No. 2:26-cv-00491-SPC-NPM, ECF No. 14 at 2–4.

91. In *Hassan*, the petitioner had end-stage renal disease requiring uninterrupted dialysis. The court held that where the Government had no constitutionally adequate means to transport him and no unexpired travel document, continued detention no longer served the legitimate purpose of ensuring his presence for removal. No. 2:25-cv-02444, ECF No. 90 at 8–14.

92. Other cases show the opposite side of the same rule. When the Government can produce actual medical clearance, a concrete flight, and specific arrangements accommodating the person's medical needs, courts may find removal sufficiently foreseeable. See *Tran v. Wesling*, No. 1:26-cv-11236, ECF Nos. 14, 20 (D. Mass. Mar. 27 & Apr. 21, 2026).

93. Kong's present record is not yet developed enough for counsel to represent that medical clearance has been denied. But his kidney disease, stroke history, dizziness,

hypertension, and substantial daily medication regimen make medical fitness a nontrivial factual component of any assertion that he can be put on an international flight immediately.

94. Accordingly, if Respondents rely on imminent removal to defeat this Petition, they should identify whether Kong has current medical clearance for that removal and what current travel plan exists. Petitioner will supplement his medical evidence as soon as the requested records are received.

CLAIMS FOR RELIEF

COUNT I VIOLATION OF 8 U.S.C. § 1231(a)(6) AS CONSTRUED BY *ZADVYDAS v. DAVIS*

95. Petitioner incorporates the preceding paragraphs as though fully set forth here.

96. Kong is detained under the post-removal-order detention authority of 8 U.S.C. § 1231(a)(6).

97. Section 1231(a)(6), as construed by *Zadvydas*, authorizes detention only for the period reasonably necessary to accomplish removal and does not authorize continued detention once removal is no longer reasonably foreseeable. 533 U.S. at 689, 699–701.

98. Kong has provided good reason to believe that his removal is not significantly likely in the reasonably foreseeable future. The Government failed to remove him for years after his 2005 order and released him under supervision; the supervised release continued for approximately twenty-one years; the only concrete 2026 removal

instrument disclosed to him expired September 16; and the Government's representation that removal would occur by that date did not come true.

99. As of filing, no renewed travel document, extension, new Lao acceptance, or current removal itinerary has been disclosed to Kong or counsel.

100. Under *Zadvydas*, the burden therefore shifts to Respondents to produce evidence sufficient to rebut Kong's showing. 533 U.S. at 701.

101. The Government cannot satisfy that burden through generalized assertions that it continues to pursue removal, that Laos has issued documents in the past, or that another document may eventually be obtained. See *Castillo-Loriga*, No. 26-cv-2335, ECF No. 8 at 6–8; *Siackasorn*, No. 2:26-cv-02607-GJL, ECF No. 27 at 10–11.

102. Nor does the August 18 re-detention automatically generate a fresh period during which present removability is immune from judicial review. *Samson C.C.*, No. 26-cv-3588, ECF No. 15 at 18–20; *Nhean*, 2017 WL 2437268, at *2.

103. Because Kong's present detention is not supported by a demonstrated significant likelihood of removal in the reasonably foreseeable future, continued detention is unauthorized by § 1231(a)(6).

104. Kong is entitled to immediate release subject to appropriate supervision conditions.

COUNT II FIFTH AMENDMENT DUE PROCESS - CONTINUED CIVIL DETENTION WITHOUT A PRESENTLY ATTAINABLE REMOVAL PURPOSE

105. Petitioner incorporates the preceding paragraphs as though fully set forth here.

106. "Freedom from imprisonment" lies at the core of the liberty protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 690.

107. Immigration detention is civil, not punishment. Its constitutionality therefore depends upon a legitimate nonpunitive purpose and a reasonable relationship between the detention and that purpose. *Id.* at 690, 699; *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

108. The asserted purpose of Kong's detention is to ensure his presence for removal. That purpose becomes too attenuated to justify incarceration when Respondents cannot demonstrate a present, concrete path to removal.

109. The Government already maintained Kong successfully in the community under supervision for approximately twenty-one years. He reported as directed and was taken into custody only because he appeared for a scheduled ICE appointment.

110. Continued incarceration in the absence of a current travel document, disclosed acceptance, or concrete removal arrangement imposes a severe liberty deprivation without a demonstrated present removal purpose.

111. Kong's medical conditions further heighten the need for current, concrete evidence if Respondents contend removal is imminent. His medical history does not independently establish unremovability on the present record, but it is directly relevant to whether an asserted travel plan is practically executable.

112. On these facts, continued detention violates the Fifth Amendment for the same core reason identified in *Zadvydas*: civil confinement may not continue when it has become untethered from the actual prospect of removal.

113. Immediate release to supervision is the appropriate remedy. *See Castillo-Loriga*, No. 26-cv-2335, ECF No. 8 at 8; *Samson C.C.*, No. 26-cv-3588, ECF No. 15 at 21; *Siackasorn*, No. 2:26-cv-02607-GJL, ECF No. 27 at 11.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Kong L. respectfully requests that this Court:

a) Assume jurisdiction over this action under 28 U.S.C. § 2241;

b) Issue an expedited order directing Respondents to show cause why the writ should not issue;

c) Declare that Kong's continued detention is not authorized by 8 U.S.C. § 1231(a)(6) because Respondents cannot demonstrate a significant likelihood of removal in the reasonably foreseeable future;

d) Declare that Kong's continued detention violates the Due Process Clause of the Fifth Amendment;

e) Issue a writ of habeas corpus ordering Respondents to release Kong immediately in Minnesota subject to the same terms and conditions of his preexisting Order of Supervision, or other reasonable supervision conditions established by ICE;

f) Order Respondents to file prompt notice confirming Kong's release and the conditions imposed;

g) Grant such other and further relief as law and justice require. 28 U.S.C. § 2243.

[signature block to follow]

Dated: October 7, 2026

Respectfully submitted,

/s/ Hannah Brown
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