

District Judge Richard A. Jones  
Magistrate Judge Michelle L. Peterson

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UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BOUPANE PHAYMANY,

Petitioner,

v.

NORTHWEST IMMIGRATION AND  
CUSTOMS ENFORCEMENT PROCESSING  
CENTER,

Respondent.

Case No. 2:25-cv-00854-RAJ-MLP

UNITED STATES' <sup>1</sup> SUPPLEMENTAL  
BRIEF

Noted for Consideration on:  
October 29, 2025

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**I. INTRODUCTION**

This Court should dissolve the temporary restraining order enjoining Petitioner Bounpane Phaymany's removal to a third country, including Laos. Dkt. No. 22, Order. Since the Order was issued, the immigration court granted the Department of Homeland Security's ("DHS") motion and has reopened Phaymany's removal proceedings. As a result of his reopened removal proceedings, Phaymany is no longer subject to a final order of removal and cannot be removed from the United States until a new final order of removal is issued. *See* 8 U.S.C. § 1231(a)(1)(B)

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<sup>1</sup> The Northwest ICE Processing Center is owned and operated by a private contractor, the Geo Group. Undersigned counsel does not represent the named Respondent. The Petition does not name a federal entity. To protect the Government's interests, the United States submits this return as an interested non-party.

1 (defining the beginning of the removal period). Furthermore, he will have the opportunity to  
2 raise his claim of fear concerning removal to Laos before the immigration court.

3 As a result, there is no imminent risk of Phaymany's removal without notice and  
4 opportunity to be heard.

## 5 II. PROCEDURAL BACKGROUND

6 Phaymany commenced this habeas action challenging his immigration detention on May  
7 1, 2025. Dkt. No. 1. In response, the interested non-party United States filed a return to the  
8 habeas petition in August explaining that U.S. Immigration and Customs Enforcement ("ICE")  
9 detained Phaymany pursuant to 8 U.S.C. § 1231 but also explained that DHS had sought to  
10 reopen his removal proceedings, which, if granted, would shift his detention authority back to 8  
11 U.S.C. § 1226(c). Dkt. No. 13, Return, at 1. DHS moved the immigration court to reopen  
12 removal proceedings for the purpose of delegating Laos as the appropriate country of removal  
13 and for Phaymany to make any relevant fear claims to the immigration judge. Dkt. No. 14,  
14 Booth Decl., ¶ 11. On September 18, 2025, Phaymany filed a motion for a temporary restraining  
15 order enjoining the Government "from deporting [him] to any country uncommon to [him],  
16 including but not limited to: Vietnam, Cambodia, Laos." Dkt. No. 17, Motion.

17 The United States notified this Court that the immigration court had granted DHS's  
18 motion to reopen (Dkt. No. 18) and the United States argued, in part, that "the appropriate forum  
19 to object to the designation or to raise fear claims would be in [Phaymany's] reopened  
20 immigration proceedings." Dkt. No. 19, at 3. However, the United States had to correct its  
21 briefing after learning that the immigration court considered Phaymany's removal proceedings to  
22 be closed and that its order granting the reopening constituted a final order of removal to Laos.  
23 Dkt. No. 21, at 1. Thus, it did not appear that Phaymany would have the opportunity to appear  
24 before the immigration court. That same day, this Court issued the Order enjoining Phaymany's

1 removal to a third country, but the Order also stated that it would provide the parties “an  
2 opportunity to address the new developments raised in the United States notice of pending  
3 correction.” Order, at 9.

4 At the same time, DHS filed a new motion to reopen Phaymany’s removal proceedings  
5 with the immigration court that specifically requested a master calendar hearing to allow  
6 Phaymany to apply for and adjudicate any forms of relief from removal that may be available  
7 based on his Laotian citizenship and fear of return to Laos. Lambert Decl., Ex. A, Motion to  
8 Reopen. On October 6, 2025, the Immigration Judge (“IJ”) granted DHS’s motion to reopen  
9 Phaymany’s proceedings. Lambert Decl., Ex. B, Order of the IJ. A hearing has been scheduled  
10 for October 21, 2025. Lambert Decl., Ex. C, Notice of In-Person Hearing.

11 **III. ARGUMENT**

12 This Court should dissolve the Order in its entirety. In the Order, the Court found that  
13 “there are serious questions going to the merits of removing Mr. Phaymany to a third country.”  
14 Order, at 5. The Court’s concerns about the constitutionality of deporting Phaymany to Laos  
15 “[a]bsent a hearing, opportunity to be heard, and a final order of removal” have since been  
16 addressed. *Id.* Phaymany will have an opportunity to assert his fear claims concerning removal  
17 to Laos in his reopened removal proceedings. At the culmination of these proceedings, the IJ  
18 will determine whether Phaymany should be ordered removed to Laos. Thus, the proper forum  
19 for raising the third country claims is in front of the immigration court. Moreover, without a  
20 pending final order of removal, Phaymany cannot demonstrate irreparable harm as he cannot be  
21 removed from the United States without one.

22 Accordingly, this Court should dissolve the Order.

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1 DATED this 9th day of October, 2025.

2 Respectfully submitted,

3 CHARLES NEIL FLOYD  
4 United States Attorney

5 *s/ Michelle R. Lambert*

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15 *Attorneys for the Government*

16 I certify that this memorandum contains 702  
17 words, on compliance with the Local Civil Rules.

CERTIFICATE OF SERVICE

I hereby certify that I am an employee in the Office of the United States Attorney for the Western District of Washington and of such age and discretion as to be competent to serve papers.

I further certify on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to the following CM/ECF participant(s):

- 0 -

I further certify on this date, I arranged for service of the foregoing on the following non-CM/ECF participant(s), via Certified Mail with return receipt, postage prepaid, addressed as follows:

Bounpane Phaymany, *Pro Se* Petitioner

  
NW Detention Center  
1623 E. J Street, Suite 5  
Tacoma, WA 98421-1615

DATED this 9th day of October, 2025.

s/ Hung Nguyen

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