

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

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BOUNPANE PHAYMANY,

Petitioner,

v.

NORTHWEST IMMIGRATION AND  
CUSTOMS ENFORCEMENT PROCESSING  
CENTER,

Respondent.

Case No. 2:25-cv-854-RAJ-MLP

UNITED STATES'<sup>1</sup> RESPONSE TO  
PETITIONER'S EMERGENCY  
MOTION FOR ORDER OF RELEASE

Noted for consideration on:  
October 23, 2025

This Court should deny Petitioner Bounpane Phaymany's emergency motion for an order of release from immigration custody, or in the alternative, a writ of habeas corpus. Dkt. No. 25, Motion. Phaymany brought this habeas litigation to challenge his immigration detention while awaiting removal to Thailand. Dkt. No. 8, Petition. This Motion seeks the identical relief of release from immigration custody. *Id.*, at ECF 21. It is duplicative of the pending habeas petition and procedurally improper in that Phaymany is not asking the Court to preserve the status quo

<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 brief as an interested non-party.

1 pending further proceedings. Instead, he effectively asks the Court to rule immediately in his favor  
2 on the ultimate issue in this case and to grant him precisely the same relief that he seeks in his  
3 Petition.

4 The briefing and adjudication of the habeas petition in the ordinary course are the  
5 appropriate mechanism for resolving the legal issues presented in this Motion. *See Guy v. Tanner*,  
6 No. 13-cv-6750, 2014 WL 2818684, at \*3 (E.D. La. June 23, 2014) (stating that the petitioner’s  
7 “is no more than a veiled attempt to expedite the resolution of his habeas petition”). The United  
8 States has filed a return memorandum (Dkt. No. 13), and Phaymany has had the opportunity to  
9 respond to that filing. In addition, this Court has issued a supplemental briefing schedule which  
10 will allow Phaymany the opportunity to submit additional briefing to the Court. Dkt. No. 23,  
11 Minute Order

12 When this litigation started, U.S. Immigration and Customs Enforcement (“ICE”) lawfully  
13 detained Phaymany pursuant to 8 U.S.C. § 1231(a)(6) pending his removal to Thailand. However,  
14 his removal proceedings have been reopened for the purposes of designating Laos as a country of  
15 removal. Dkt. No. 26, Supp. Brief. Therefore, ICE now detains Phaymany pursuant to 8 U.S.C.  
16 § 1226(c) for the duration of his reopened removal proceedings. Once those proceedings end, his  
17 detention will again shift to 8 U.S.C. § 1231(a) to allow for his removal. In the meantime, his  
18 detention remains lawful and mandatory.

19 This Motion’s sole purpose is to obtain faster consideration of his habeas petition.  
20 Phaymany has not presented any analysis concerning the basis for his request for emergency  
21 injunctive relief. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Moreover, he has  
22 not demonstrated that without expedited consideration he will be irreparably harmed. Nothing in  
23 the Motion distinguishes Phaymany from any other person in immigration detention who  
24

1 challenges their arrest and detention. *See Taha v. Bostock*, No. 25-cv-649-RSM, 2025 WL  
2 1126681, at \*3 (W.D. Wash. Apr. 16, 2025) (“The Court agrees with Defendants that Petitioner’s  
3 ‘irreparable harm-based argument begs the constitutional questions presented in his petition by  
4 assuming that [P]etitioner has suffered constitutional injury[,]’ and his emotional harm from this  
5 ‘loss of liberty’ is ‘common to all’ like Petitioner.”); *Leiva-Perez v. Holder*, 640 F.3d 962, 969  
6 (9th Cir. 2011) (“[A] noncitizen must show that there is a reason specific to his or her case, as  
7 opposed to a reason that would apply equally well to all aliens and all cases, that removal would  
8 inflict irreparable harm[.]”).

9 For these reasons, this Court should deny the Motion.

10 DATED this 16th day of October, 2025.

11 Respectfully submitted,

12 CHARLES NEIL FLOYD  
13 United States Attorney

14 *s/ Michelle R. Lambert*  
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23 *Attorneys for the United States*

24 *I certify that this memorandum contains 515 words, in  
compliance with the Local Civil Rules.*

1 **CERTIFICATE OF SERVICE**


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

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

7 - 0 -

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

11 Boupane Phaymany, *Pro Se* Petitioner

12   
13 NW Detention Center  
1623 E. J Street, Suite 5  
Tacoma, WA 98421-1615

14 DATED this 16th day of October, 2025.

15 *s/ Joseph A. Fonseca*  
16 \_\_\_\_\_  
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