

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Tou Pao Lee, A 

Civil Action No. 0:25-cv-02926

Petitioner,

v.

PAMELA BONDI,
ATTORNEY GENERAL;
KRISTI NOEM,
SECRETARY OF THE DEPARTMENT OF
HOMELAND SECURITY;
RYAN SHEA,
FREEBORN COUNTY SHERIFF
TODD M. LYONS,
DIRECTOR OF ICE FOR THE WASHINGTON,
D.C. HEADQUARTERS

Respondents

**PETITION FOR A WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

Petitioner, Tou Pao Lee, hereby petitions this Court for a writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents. In support of this petition and complaint for injunctive relief, Petitioner alleges as follows:

CUSTODY

1. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE"). Petitioner is currently detained in the Freeborn Adult Detention Center located in Albert Lea MN.

JURISDICTION

2. This action arises under the Constitution of the United States, and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104 - 208, 110 Stat. 1570, and the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 et seq.

3. This Court has jurisdiction under 28 U.S.C. § 2241; art. I § 9, cl. 2 of the United States Constitution (“Suspension Clause”); and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, and the All Writs Act, 28 U.S.C. § 1651.

4. Petitioner has exhausted any and all administrative remedies to the extent required by law.

VENUE

5. Pursuant to Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484, 493–500 (1973), venue lies in the United States District Court for the District of Minnesota, as the Petitioner resides in Brooklyn Center, Minnesota and his order of removal occurred in Fort Snelling, MN and his initial detention occurred in Minnesota.

PARTIES

6. Petitioner is stateless, having entered the United States as a refugee from a refugee camp in Thailand. Petitioner was first taken into ICE custody on February 1, 2005 when he was ordered removed and was released under an order of supervision on June 27, 2005. On June 6, 2025 Mr. Lee was once again taken into ICE custody and his order of supervision was revoked. Since that time Mr. Lee has remained in ICE detention.

7. Respondent, Pamela Bondi, is the Attorney General of the United States and is responsible for the administration of the Executive Office of the Immigration Review also known as the Immigration Court and the implementation and enforcement of the Immigration & Naturalization Act (INA).

8. Respondent, Kristi Noem, is the Secretary of the Department of Homeland Security. She is responsible for the administration of ICE and the implementation and enforcement of the INA. As such, Secretary Noem is the legal custodian of Petitioner.

9. Respondent, Ryan Shea, County Sheriff of Freeborn County Minnesota where Petitioner is currently detained under the authority of ICE, alternatively may be considered to be Petitioner's immediate custodian.

10. Respondent, Thomas M. Lyons, Director of ICE Washington D.C. Headquarters is the person in charge of the administrative agency that revoked Mr. Lee's order of supervision and re-detained him.

FACTUAL ALLEGATIONS

11. Petitioner, Tou Pao Lee, is stateless. Petitioner has been in ICE custody twice, the first time from February 1, 2005 to June 27, 2005 and this second time since June 6, 2025. An Immigration Judge in Fort Snelling ordered the Petitioner removed on February 1, 2005.

12. Petitioner is a 43 year-old male whose family fled Laos during the secret war. Petitioner was born in and lived in a refugee camp in Thailand with his family until he came to the United States on December 18, 1991 at the age of 10. He has remained a refugee.

13. Petitioner was plead guilty to and was convicted of solicitation of a person under 18 in violation of Minnesota statute §609.322.1.1 on June 29, 2004. **Exhibit A**. Petitioner was sentenced to 20 years of probation but that was cut short in 2017 due to good behavior. **Exhibit B**. (There is a clerical error on the order, it cites the right count and the right statute but has the incorrect title of the crime for which Petitioner was convicted).

14. To date, however, ICE has been unable to remove the Petitioner to Laos or any other country as they are waiting for a travel document. Upon information and belief, there has been no indication from the Government of Laos that a travel document will issue for the Petitioner nor that the decision on its issuance is anticipated in the near future.

15. Petitioner has cooperated fully with all efforts by ICE to remove Petitioner from the United States. Petitioner has kept up with all of his required check-ins and has provided ICE with anything and everything they needed upon request. **Exhibit C**.

16. Petitioner has already been detained and released once, at present there does not appear to be any change in circumstances that would warrant a second detention, especially when Petitioner has willingly complied with all of ICE's demands.

17. At the time Petitioner went into ICE custody, he had a full time job, where he was taken from by ICE to be placed in detention. He has been in a relationship with his wife for twenty-four (24) years. They had a cultural marriage in 2001 and legal marriage in 2022. **EXHIBIT D**. They lived together and raised six (6) children together and recently welcomed a grandchild into the world. Petitioner had completed his probation term successfully. In addition to supporting and caring for his wife, children and grandchild, Petitioner also supports his elderly mother and aunt by helping with repairs around the house and taking them to doctor's appointments. Since Petitioner has been detained his family has been suffering financially. As such, Petitioner constitutes neither a danger nor a flight risk.

18. Finally, Petitioner is seeking remedies in Immigration Court and will be filing a motion to reopen, a motion for a temporary stay of removal and a motion terminate his proceedings. **EXHIBIT E**.

LEGAL FRAMEWORK FOR RELIEF SOUGHT

19. In Zadvydas v. Davis, 533 U.S. 678 (2001), the U.S. Supreme Court held that six months is the presumptively reasonable period during which ICE may detain aliens in order to effectuate their removal. Id. at 702. In Clark v. Martinez, 543 U.S. 371 (2005), the Supreme Court held that its ruling in Zadvydas applies equally to inadmissible aliens. Department of Homeland Security administrative regulations also recognizes that the HQPDU has a six-month period for determining whether there is a significant likelihood of an alien's removal in the reasonably foreseeable future. 8 C.F.R. § 241.13(b)(2)(ii).

20. Petitioner was ordered removed on February 1, 2005. In the intervening twenty years, ICE has been unable to secure a travel document, and during over 6 months in ICE detention, ICE appears to remain unable to secure such a document.

CLAIMS FOR RELIEF COUNT ONE STATUTORY VIOLATION

21. Petitioner re-alleges and incorporates by reference paragraphs 1 through 20 above.

22. Petitioner's continued detention by Respondents is unlawful and contravenes 8 U.S.C. § 1231(a)(6) as interpreted by the Supreme Court in Zadvydas. The six-month presumptively reasonable period for removal efforts has expired. Petitioner still has not been removed, and Petitioner continues to languish in detention. Petitioner's removal to Laos or any other country is not significantly likely to occur in the reasonably foreseeable future. The Supreme Court held in Zadvydas and Martinez that ICE's continued detention of someone like Petitioner under such circumstances is unlawful.

COUNT TWO

SUBSTANTIVE DUE PROCESS VIOLATION

22. Petitioner re-alleges and incorporates by reference paragraphs 1 through 22 above.

23. Petitioner's continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.

24. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. While Respondents would have an interest in detaining Petitioner in order to effectuate removal, that interest does not justify the indefinite detention of Petitioner, who is not significantly likely to be removed in the reasonably foreseeable future. Zadvydas recognized that ICE may continue to detain aliens only for a period reasonably necessary to secure the alien's removal. The presumptively reasonable period during which ICE may detain an alien is only six months. Petitioner has already been detained in excess of six months and Petitioner's removal is not significantly likely to occur in the reasonably foreseeable future.

COUNT THREE

PROCEDURAL DUE PROCESS VIOLATION

25. Petitioner re-alleges and incorporates by reference paragraphs 1 through 23 above.

26. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that s/he should not be detained. Petitioner in this case has been denied that opportunity. ICE does not make decisions concerning aliens' custody status in a neutral and impartial manner. The failure of Respondents to provide a neutral decision-maker to review the continued custody of Petitioner violates Petitioner's right to procedural due process. Further, Respondents have failed to acknowledge or act upon the Petitioner's administrative request for release in a timely manner. There is no administrative mechanism in place for the Petitioner to demand a decision, ensure that a decision will ever be made, or appeal a custody decision that violates Zadvydas.

PRAYER FOR RELIEF

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

- 1) Assume jurisdiction over this matter;
- 2) Grant a Temporary Restraining Order directing Respondents shall not remove Petitioner from Minnesota while his actions in Immigration Court are pending;
- 3) Grant Petitioner a writ of habeas corpus directing the Respondents to immediately release Petitioner from custody;
- 4) Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner;
- 5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and
- 6) Grant any other and further relief that this Court deems just and proper. I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted,
The Defendant,
By his Attorney,

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Date: July 18, 2025

Date July 18, 2025

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