IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

VATSANA NOUANSISOUHAK,

PETITIONER,

v.

KRISTI NOEM, et al.,

RESPONDENTS.

Case No. 3:25-CV-2222-K

MOTION FOR EVIDENTIARY HEARING ON HABEAS PETITION & PRELIMINARY INJUNCTION

NOW COMES Petitioner, Vatsana Nouansisouhak, by and through undersigned counsel, and files this Motion for Evidentiary Hearing on Habeas Petition & Preliminary Injunction. This motion is filed at the same time as Mr. Nouansisouhak's Reply Brief in Support of Habeas Petition & Preliminary Injunction. To avoid being repetitive, Mr. Nouansisouhak incorporates by reference the facts, relevant procedural history, and legal arguments in that brief. As noted in the Reply brief and discussed in greater detail below, Respondent's Response Brief and the Declaration of DO Goche attached as Ex. 1 make numerous ambiguous, factually unsupported, and/or disputed statements. For these reasons and those discussed more fully below, Mr. Nouansisouhak respectfully requests that the Court set this matter for an evidentiary hearing.

I. **An evidentiary hearing is necessary for the Court to hear testimony on a number of ambiguous, factually unsupported, and/or disputed statements made in the Government's response and DO Goche's declaration.**

Mr. Nouansisouhak respectfully submits that an evidentiary hearing is necessary to resolve critical factual disputes central to his Petition for a Writ of Habeas Corpus. Respondents' Response and the supporting declaration of Deportation Officer Goche are predicated on a series of ambiguous, misleading, and factually questionable assertions. These are not matters of legal interpretation but contested facts that go to the very heart of whether Mr. Nouansisouhak's detention is lawful.[1] When the government seeks to deprive a man of his liberty after 25 years of compliance with an Order of Supervision, it must do so on the basis of clear, credible, and verifiable facts. Because Respondents' justification for Mr. Nouansisouhak's detention fails to meet this standard and is directly contradicted by the evidence, a hearing is required to adjudicate his petition.

Specifically, Respondents' entire case for detaining Mr. Nouansisouhak rests on three pillars of disputed fact: (1) the existence of a specific individualized change in circumstances justifying Mr. Nouansisouhak's detention; (2) the actual likelihood of effectuating his removal in the reasonably foreseeable future; and (3) compliance with mandatory due process regulations. The current record reveals profound conflicts on all three points that cannot be resolved on the papers alone.

A. A Hearing is Necessary to Determine the Veracity of Respondents' "Changed Circumstances" Justification.

[1] *See Schriro v. Landrigan*, 550 U.S. 465, 474 (2007) (explaining an evidentiary hearing is warranted where a habeas petitioner's claims, if true, would entitle him to relief and the record presents a factual dispute).

The cornerstone of the government's argument is the ambiguous claim that removal of Laos nationals has been happening since January of 2025.[2] This assertion is both factually disputed and intentionally vague, requiring testimony and factual development.

To justify detention. the government must show that removal is reasonably foreseeable. Its declaration fails to do so, offering only vague and unquantified assertions that require scrutiny at a hearing.

- The declaration claims awareness of "approximately 113 individuals" removed to Laos since January of 2025, but fails to provide any context for whether these individuals were recent entrants from Laos. versus individuals like Mr. Nouansisouhak who came here as a refugee decades ago.

- The declaration states that as of February 14, 2025, "Laos has started issuing travel documents for aliens with final orders of removal?" This does nothing though to tell the Court what that process requires? How long does it take? What are the requirements for making such a request?

- The declaration provides nothing in terms of a time table for either receiving travel documents or removal. It states that it DO Goche "completed the travel document packet and submitted it to Laos" on August 26, 2025.[3] But this does nothing to tell the Court how likely or when this request is expected to get a response.

- The declaration, like the response itself, is completely devoid of any explanation as to why Mr. Nouansisouhak' detention is required now—much less why it has been required for the last 47-days.

A court cannot determine the likelihood of Mr. Nouansisouhak's removal based on such imprecise and self-serving terms. An evidentiary hearing is necessary to compel Respondents to provide concrete data: the total number of Laos individuals for whom travel documents have been sought, the number of documents issued, the number of removals

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[2] (Dkt. no. 10 p. 6.)

[3] (*Id.*)

effectuated, and the average time frame for this process. Without these facts, the government's claim that removal is likely in the reasonably foreseeable future is nothing more than unverifiable speculation.

B. A Factual Dispute Exists as to Whether Respondents Complied with Regulatory Due Process.

Respondents claim that at the time of his arrest, Mr. Nouansisouhak was afforded an "informal interview" in compliance with 8 C.F.R. § 241.13(i). More specifically, DO Goche's declaration states:[4]

> 12. At the time of his arrest, NOUANSISOUHAK was informed that he would be detained because he was subject to a final order of removal and there is now a likelihood of removal to Laos. In accordance with 8 C.F.R. § 241.13(i)(3), he was informed that the reason for his revocation and was given the opportunity to respond during this informal interview.

Initially, it is important to point out that this statement by DO Goche is nothing more than him "parroting the statutory language."[5] As discussed in detail in the Reply Brief being filed contemporaneously with this motion, courts have soundly rejected nearly identical statements by ICE deportation officers seeking to claim they complied with 8 C.F.R. § 241.13(i).[6] In so doing, the *Robles* court for example, explained the multitude of problems with notice that is nothing more parroting the standard, perhaps most notably the fact that

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[4] (*Id.*)

[5] (Dkt. no. 10 p. 6.)

[6] (Pet'r's Reply Br. at 21 – 23.)

such vague notice applicable to anyone being re-detained fails to provide the noncitizen with the information needed to respond as envisioned by the regulations.[7]

Equally important, completely absent from the statement above is how (not to mention when) DO Goche made this determination. Based on the statements in his declaration, it is quite unlikely that he was involved with the actual re-detainment of Mr. Nouansisouhak on July 23, 2025. First, DO Goche's duties listed in the declaration do not include making arrests, processing, conducting interviews, etc.[8] Furthermore, based on information, belief, and statements in DO Goche's declaration, it appears the basis for his knowledge is through reviewing his case—which is code in ICE language for reviewing the alien file and all of the relevant DHS systems that track things such as encounters, interviews, and statements by noncitizens.[9]

What is DO Goche's basis for the statements he made in paragraph 12 of his declaration? Surely the best evidence of the process being adhered to is the report, system entry, or other documentation that was actually made at the time of Mr. Nouansisouhak's

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[7] *Roble v. Bondi*, 2025 WL 2443453, at *3 (D. Minn. Aug. 25, 2025) ("The notice summarily asserts that changed circumstances render Roble's removal from the U.S. significantly likely in the reasonably foreseeable future. That language is not individualized . . .in fact, it applies to *any* noncitizen detained under 8 C.F.R. § 241.13(i)(2), since the notice simply mirrors the legal standard applicable to detaining a noncitizen released on [OSUP]. Providing a notice that simply recites the language of the regulation does not satisfy the Government's obligation to provide the "reasons" why [the OSUP] was revoked. . . .The essence of due process is notice and an opportunity to respond. Indeed, DHS's own regulations contemplate that a noncitizen will have an opportunity to "respond to the reasons for revocation stated in the notification" during the initial informal interview after re-detention. 8 C.F.R. § 241.13(i)(3). But [one] cannot be expected to "respond to the reasons for revocation stated in the notification" if the notification does not actually *state* any reasons for revocation.").

[8] (Dkt. no. 10 p. 6.)

[9] (*Id.* at pp. 2-3.)

re-detainment. This begs the question: why not submit that documentation? These facts were explicitly pled in the habeas petition and are now in dispute.[10]

A hearing is required to question DO Goche under oath about the events of July 23rd:

- Did he or whoever arrested Mr. Nouansisouhak contemporaneously document this "informal interview"? Did anyone realize and conclude on that day that an informal interview was conducted? Or did this conclusion get reached within 24-hours of its inclusion in the declaration?

- What specific information did ICE convey to Mr. Nouansisouhak on July 23, 2025, to provide him notice of the reasons it believed circumstances had changed? Or, as the declaration seems to indicate, does ICE think that simply making the vague statement that they think he "could be removed" is sufficient under 8 C.F.R. § 241.13(i)? More to the point, what did they convey to Mr. Nouansisouhak which would have given him the ability to meaningfully respond as required by the regulation?

- Did whoever spoke with Mr. Nouansisouhak that day intentionally and deliberately give Mr. Nouansisouhak an "opportunity to respond" to ICE's claim it could now remove him? Or, looking back when preparing the declaration signed by DO Goche on August 28, 2025, did ICE conclude that Mr. Nouansisouhak had an opportunity to respond? Regardless of when ICE realized it was giving him an opportunity to respond, what, if anything, does it believe it did to give Mr. Nouansisouhak the understanding that he was being given an opportunity to respond?

Simply telling a man he is being arrested and asking if he has questions does not satisfy the due process requirements of 8 C.F.R. § 241.13(i). Mr. Nouansisouhak

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[10] Mr. Nouansisouhak is more than willing to sign a declaration indicating that he was not aware that an "informal interview" was conducted; nor was he told anything of substance other than telling him they were removing him to Laos; nor did he realize he had any opportunity to provide any response to ICE's decision to detain him. According to the detention facility, however, ICE has not given them permission to provide detainees with documents to sign and return to counsel. And getting an in-person visit scheduled is not a possibility in the near future (i.e., next month or so).

respectfully requests that the Court hear testimony on this issue to determine what truly happened.

C. A Hearing is Needed to Establish a Credible Timeline for Removal.

Respondents' own admissions create grave doubt as to whether Mr. Nouansisouhak's removal can be effectuated within a reasonable period. They admit they did not even make the travel document request until more than a month after re-detianing Mr. Nouansisouhak. Then they fail to provide any concrete estimate as to how much longer the entire process is likely to take for Mr. Nouansisouhak specifically.

This creates a real possibility that Mr. Nouansisouhak could be detained for a period approaching or exceeding a total of 3 years, including the nearly 2.5 years he was detained post removal order from January 1998 to May 2000, and the nearly 2 months that have passed since his re-detention. This would result in Mr. Nouansisouhak being detained for more than 6 times the presumptively reasonable period of detention under *Zadvydas v. Davis* for noncitizens immediately following a final order. It is untenable that the government could re-detain someone after 25 years of liberty for any period longer than what is necessary to assure his presence at the moment of removal. An evidentiary hearing is the only way to establish a credible timeline by compelling Respondents to provide evidence, not speculation, about how long each step of this process will actually take.

CONCLUSION

Both the Reply Brief and the above, demonstrate that there are significant factual discrepancies concerning Mr. Nouansisouhak's re-detention which require an evidentiary hearing to flesh out. For this reason, those above, and the ones articulated in the Reply Brief, Mr. Nouansisouhak respectfully requests that the Court set this matter for an evidentiary hearing.

RESPECTFULLY SUBMITTED.

/s/ Dan Givіden

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CERTIFICATE OF CONFERENCE

I hereby certify that on September 8, 2025, undersigned counsel emailed Assistant U.S. Attorney Ann Haag regarding this motion and AUSA Haag indicated the government is opposed to it.

RESPECTFULLY SUBMITTED.

/s/ Dan Givіden

Dan Givіden