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

VATSANA NOUANSISOUHAK,

PETITIONER,

v.

KRISTI NOEM, et al,

RESPONDENTS.

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

**PETITIONER'S OBJECTIONS TO THE FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Petitioner, Vatsana Nouansisouhak, by and through undersigned counsel, files these written objections to the Magistrate Judge's Findings, Conclusions, and Recommendation that relief be denied in this case filed on October 9, 2025. Petitioner submits the following:

## I. Procedural Background

On August 19, 2025, Petitioner filed an Emergency Petition for a Writ of Habeas Corpus and Emergency Motion for Temporary Restraining Order and/or Preliminary Injunction seeking immediate release from immigration detention.[1] On August 29, 2025, Respondents filed a response contending that Petitioner is properly re-detained because Laos has changed its stance regarding the issuance of travel documents and "there is now a high probability [that Nouanisiouhak] will be removed in the foreseeable future."[2]

---

[1] Dkt. 2, 4.

[2] Dkt. 8.

Petitioner filed a reply indicating that Respondents' position is wholly based on speculation and requested an evidentiary hearing.[3]

On October 9, 2025, the Magistrate Judge filed its recommendation that the Motion for Injunctive Relief be denied and that an evidentiary hearing was not necessary due to there being sufficient facts before the court to make an informed decision.[4] In its findings, the Magistrate Court claims that Petitioner has not demonstrated a substantial likelihood of success on the merits of his claim.[5] Specifically, the Magistrate Court concluded that Respondents have shown changed circumstances that there is now a significant likelihood that Petitioner may be removed to Laos in the reasonably foreseeable future.[6]

## II. Factual Background

Petitioner is a citizen of Laos and a 51-year-old respected, hardworking member of his community. He has lived in the United States since around 1980, when he arrived as a young refugee from Laos.

After a conviction in 1995, Petitioner was ordered removed to Laos by an Immigration Judge on May 22, 1997.[7] The order of removal became final on January 29, 1998, when the Board of Immigration Appeals dismissed his appeal.[8] Mr. Nouansisouhak,

---

[3] Dkt. 11, 12.

[4] Dkt. 13.

[5] Dkt. 13 at 6.

[6] Dkt. 13 at 7-8.

[7] Dkt. 10 at 5.

[8] *Id.*

however, remained detained by INS for another 837 days while it attempted to execute the removal order against him.[9] It was not until May 15, 2000, that INS acknowledged it could not remove Mr. Nouansisouhak because Laos would not issue the required travel documents needed for removal.[10] Said differently, INS detained Mr. Nouansisouhak for nearly 2.5 years after his removal order became final in January 1998. When INS finally released him, Mr. Nouansisouhak was placed on an Order of Supervision ("OSUP").[11] For the past twenty-six years, Mr. Nouansisouhak has lived a quiet, law-abiding life under an Order of Supervision ("OSUP") with U.S. Immigration and Customs Enforcement ("ICE"). He has never violated his OSUP.

His reward for this compliance was to be summarily arrested. On July 23, 2025, Mr. Nouansisouhak did exactly what he has done for the past two years: he appeared at the ICE-ERO Dallas Field Office ("DFO") for his scheduled annual check-in. Without warning, explanation, or any lawful basis, ICE agents detained him. Respondents did not identify any new criminal activity, any violation of his supervision, or any change in circumstances that would suddenly make his removal to Laos—who still does not have a repatriation agreement with the United States—reasonably foreseeable. Indeed, Petitioner has never attempted to stop his removal to Laos—it has only always been an impossibility, as further evidenced by Respondents *still* not having travel documents for him, even though

---

[9] *Id.*

[10] *Id.*

[11] *Id.*

months have passed since his re-detention began.

Since his unlawful seizure, Mr. Nouansisouhak has been held in ICE custody at the Prairieland Detention Center in this district. He is missed by his wife, children, and community. Petitioner has received zero information to indicate that his re-detention will terminate any time in the near future, or he otherwise will be removed to Laos soon.

## III. Specific Objections to the Magistrate's Findings and Conclusions

The Magistrate Court's findings provide another example of how the Northern District of Texas is proving to be an anomaly in this unfortunately growing area of law. By recommending that relief be denied in this case, the Northern District is effectively rubber-stamping ICE's punitive re-detention scheme without considering whether there is a legitimate, lawful purpose for ICE's actions. These acts, however, clearly contravene bedrock principles of our law, and this is only exacerbated by Respondents' failure to provide any legitimate reason for doing so.

There have been several district courts throughout the country that have granted the exact type of relief sought by Petitioner to individuals who have been detained in circumstances similar to those presented by Petitioner. Specifically, these cases involve individuals that had been placed on an OSUP when they could not be removed to their native country because it refused to issue travel documents, but they were nonetheless suddenly re-detained after years of compliance with their OSUPs on account of alleged

"changed circumstances."[12] Even districts in this state have granted injunctive relief.[13] Petitioner therefore generally objects to the conclusions and recommendation made in the Magistrate Court's decision and respectfully requests this Court to follow the reasoning of these district court decisions and order ICE to immediately release him from custody because he has demonstrated a substantial likelihood of success on the merits of his claim.

### A. Petitioner objects to the Magistrate Court's finding that ICE had authority to re-detain him on July 23, 2025.

In its findings, the Magistrate Court concludes that Petitioner's preliminary injunction motion is largely premised on this habeas claim that he cannot be re-detained or removed to Laos.[14] The Magistrate then finds "[t]here is no dispute that ICE has authority to re-detain noncitizens such as Nouansisouhak when there are changed circumstances such that there is a significant likelihood that the noncitizen may be removed in the future."[15] Petition objects to this conclusion and maintains that there is no constitutional or statutory authority for ICE to re-detain him. And at no time in these proceedings have Respondents attempted to show otherwise, instead focusing on discussing the possibility of now obtaining travel documents for Petitioner and when these documents will be issued. Respondents, and the Magistrate Court in its findings, therefore wholly fail to contemplate

---

[12] *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *4–6 (E.D. Cal. July 16, 2025), *Hoac v. Beccerra, et al.*,, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *3 (E.D. Cal. July 16, 2025), and *Nguyen v. Hyde*, No. 25-CV-11470-MJJ, 2025 WL 1725791, at *3 (D. Mass. June 20, 2025).

[13] *See Santiago v. Noem*, No. EP-25-CV-361-KC, 2025 WL 2606118 (W.D. Tex. Sept. 9, 2025); *Martinez v. Secretary of Noem*, No. 5:25-CV-01007-JKP, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025).

[14] Dkt. 13 at 6.

[15] *Id.*

the core issue raised in Petitioner's habeas petition: Was there a legal basis for detaining Petitioner in July 2025? And what is the reason for his current civil detention?

As the Magistrate Court recognized, the authority of ICE to detain noncitizens derives from 8 U.S.C. § 1231 but this authority does not permit re-detention long after Petitioner's removal period has ended.[16] The Immigration and Nationality Act provides that a noncitizen who is "ordered removed" "shall" be removed "from the United States within a period of 90-days."[17] The 90-day period is "referred to as the 'removal period'" in § 1231.[18] The 90-day "removal period begins on the latest of the following: (i) The date the order of removal becomes administratively final; (ii) If the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court's final order; (iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement."[19] The statute also has a subsection entitled "Suspension of period" which states:

> The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure or conspires or acts to prevent the alien's removal subject to an order of removal.[20]

---

[16] Dkt. 13 at 7.

[17] 8 U.S.C. § 1231(a)(1)(A).

[18] *Id.*

[19] *Id.* at (a)(1)(B).

[20] *Id.* at (a)(1)(C).

If the alien does is not removed within the removal period, the alien, pending removal, shall be subject to supervision, *i.e.*, an OSUP.[21]

Petitioner went through this 90-day removal period in 1997 after he was taken into ICE custody and ordered removable by an IJ. He was detained more than two years after his removal order and finally released on an OSUP on May 15, 2000, because ERO was unable to remove him. Because Petitioner's removal was not, has not, and is not, a practical possibility, ICE released him after spending over two years detained. He has been following all the rules of his OSUP ever since that date 25 years ago.

The INA provides no legal authority to detain Petitioner after more than two decades of compliance with the OUSP. Congress specifically laid out reasons that the time can be extended beyond 90 days in subsection (C)'s provision. None of these reasons apply to Petitioner. The provision shows that Congress was aware there may be reasons to toll the timing of the removal period but still chose not to include situations like the one that Petitioner is currently facing. There is no statutory authority that permits Petitioner's current detention.

Perhaps more importantly, no constitutional authority provides reasoning for this re-detention, either. "The Fifth Amendment's Due Process Clause forbids the Government to 'depriv[e]' any 'person . . . of . . . liberty . . . without due process of law.'"[22] "Freedom from imprisonment—from government custody, detention, or other forms of physical

---

[21] *Id.* at (a)(3).

[22] *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (quoting U.S. Const. Amend. 5).

restraint—lies at the heart of the liberty that Clause protects."[23] Accordingly, the Supreme Court has explicitly stated "that government detention violates this clause unless the detention is ordered in a *criminal* proceeding with adequate procedural protections. . . . or in certain special and 'narrow' nonpunitive 'circumstances,' . . . where a special justification . . .outweighs the "individual's constitutionally protected interest in avoiding physical restraint."[24] To this end, civil detention may not be penal in nature and it must be limited to "a period reasonably necessary to secure removal" to comport with the Constitution and controlling statutes.[25] Indeed, "[a] statute permitting indefinite detention of an alien would raise a serious constitutional problem."[26] "There is no sufficiently strong special justification here for indefinite civil detention."[27] And as the Court has explained that under the INA, the Government has an interest in "ensuring the appearance of aliens at future immigration proceedings" and "preventing danger to the community" and therefore can justify limited detention.[28] But "preventative detention based on dangerousness" is "limited to specially dangerous individuals." And an alien's removable statute in itself "bears no relation to a detainee's dangerousness."[29] The Supreme Court has

---

[23] *Id.* (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)).

[24] *Id.*

[25] *Id.* at 699.

[26] *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

[27] *Id.*

[28] *Id.*

[29] *Id.*

made explicitly clear, then, that the only way that extended re-detention can be constitutional is if Respondents can demonstrate that it is necessary to prevent a flight risk or danger to the community. Here, however, Respondents have made no such effort to do that.

Indeed, Petitioner's documented history of reporting to ICE over the past two decades shows he is not a flight risk. The most powerful evidence of this is his own action on July 23, 2025: he voluntarily appeared for a scheduled ICE check-in, fully aware of the agency's recent practice of detaining Laos and Vietnamese immigrants and surrendered himself. A man who walks willingly into his own detention is not a man who will later abscond. There can be no more compelling evidence that he is not a flight risk, and this only rings more true after considering Petitioner's entire life, including his family, is in the Northern District of Texas. Moreover, Petitioner is not a danger to society, and the only criminal cases Petitioner has ever had were decades ago. He has lived in society for decades without any issues, proving he is not a dangerous person living in society.

What's even more alarming, however, is that the "civil confinement here at issue is not limited, but potentially permanent."[30] *Zadvydas* and its progeny make certain that indefinite detention in the immigration context is not constitutionally permissible.[31] Rather, *Zadvydas* explained that once 180 days have passed since the removal period began, a noncitizen may bring a habeas petition seeking release from further ICE custody. Petitioner

---

[30] *Zadvydas*, 533 U.S. at 690 (citing *United States v. Salerno*, 481 U.S. 739 (1987); *Carlson v. Landon*, 342 U.S. 524, 545-46 (1962)).

[31] *Id.*

was released after the statutory removal period had expired because INS could not obtain travel documents for him from Laos. He has already spent over two years in ICE custody 25 years ago. Now, over 90 days have passed since Petitioner was unlawfully taken back into custody. Respondents have made no attempt to justify the re-detention in that period of time and have failed to provide how long they expect Petitioner to remain in custody.

Petitioner has dutifully complied with the conditions of his OSUP for the past 25 years. Since that date of his re-detention, there has been zero explanation for his detention, and he has received no explanation as to why his detention continues to be necessary. This is likely due to the fact that there is no statute, constitutional provisions, or other source of law that authorizes Respondents to detain Petitioner. Respondents' ultra vires actions are completely unlawful and in violation of Petitioner's constitutional and statutory rights. Petitioner therefore objects to the Magistrate Court's finding otherwise and maintains that he has demonstrated a substantial likelihood of success on the merits of his habeas claim.[32]

**B. Petitioner objects to the Magistrate Court's finding that Respondents should receive the benefit of the presumption of regularity.**

The Magistrate Court also concludes that the presumption of regularity supports a finding that Respondents are providing accurate information.[33] The court concludes that "[w]ithout evidence or anything more than speculation," Petitioner "asks the Court to deny the presumption of regularity and find that Respondents are providing inaccurate

---

[32] *See* Dkt. 13 at 6.

[33] Dkt. 13 at 9.

information."[34] Petitioner objects to this finding and the assertion that Petitioner has only provided "bare allegations" that are "not sufficient to rebut the presumption of regularity."[35]

The presumption of regularity supports the official acts of public officers and requires courts to presume that they have properly discharged their duties.[36] This presumption can be overcome, however, if sufficient evidence is presented.[37] And Petitioner has provided sufficient information to show the presumption should not be permitted here.

8 C.F.R. § 241.13(i) explicitly requires an informal interview, written notice of reasons for the revocation of an individual's OSUP, and an opportunity for the noncitizen to respond. In his habeas petition, Petitioner asserted that he received none of this process when he was randomly re-detained. Respondents only attempt to show their compliance with § 241.13(i) through a single, conclusory paragraph in the declaration of DO Goche. More specifically, DO Goche's declaration states:[38]

---

[34] *Id.*

[35] *Id.*

[36] *Id.* (citing *United States v. Armstrong*, 517 U.S. 456, 464 (1996); *R.H. Stearns Co. of Boston v. United States*, 291 U.S. 54, 63 (2001)).

[37] *See United States v. Burnett*, 476 F.2d 726, 728 (5th Cir. 1973) ("Justice will not permit it to become a cloak to hide all official action from court scrutiny."); *Marcello v. United States*, 328 F.2d 961 (5th Cir. 1964).

[38] Dkt. 10 at 6.

> 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.

This declaration wholly lacks the factual detail necessary to establish that Petitioner received specific notice of any changed circumstances in his immigration and a lawful "information interview." It fails to state how conducted the interview, what specific information was provided to Petitioner, or how he was given a meaningful opportunity to respond. Critically, DO Goche does not claim to have personal knowledge of the arrest and his duties appear to be administrative, suggesting his statements are based on a second-hand file review.[39]

At most, DO Goche's declaration provides vague and conclusory statements about the notice that Petitioner received. As a district court in Minnesota recently determined, this cannot be sufficient under due process.[40] There, Mr. Roble, a Somali national who immigrated to the United States in 1995 as a refugee, was placed on an OSUP in 2019.[41] Like Mr. Nouansisouhak, Mr. Roble was suddenly arrested in July 2025 with zero indication of any changed circumstances.[42] Mr. Roble subsequently filed a habeas

---

[39] Dkt. 12 at 2-3.

[40] *Roble v. Bondi*, No. 25-cv-3196, 2025 WL 2443453, at *1 (D. Minn. Aug. 25, 2025).

[41] *Id.*

[42] *Id.*

application, along with a motion for a temporary restraining order, arguing that ICE violated his due process rights and their own regulations when it re-detained him.[43] In considering whether ICE followed its own regulations, the district court considered that a noncitizen must "be notified of the reasons for revocation of his or her release" but this requirement is not satisfied by "simply recit[ing] the language of the regulation."[44] Instead, "the essence of due process is notice and an opportunity to respond."[45] If the notification "does not actually state any reasons for revocation," then it cannot be said that the requisite process has been met.[46]

In this case, Respondents have failed to provide sufficient information for Petitioner to understand his changed circumstances. Respondents' lack of contemporaneous documentation of the alleged interview that took place when he was re-detained is telling. At no point in his affidavit does DO Goche claim that he was present for that interview or have specific information as to what was said to Petitioner. The government's decision to rely on a vague, second-hand declaration instead of primary evidence creates a factual dispute as to whether the procedural safeguards of § 241.13(i) were followed. Even knowing this, Respondents still failed to provide any real evidence to support that their agency's procedural requirements were followed.

---

[43] *Id.* at *2.

[44] *Id.* at *3.

[45] *Id.*

[46] *Id.*

Unlike the Magistrate Court finds, Petitioner has presented more than "bare allegations," and anyways, it's difficult for him to prove a negative. Any evidence presented by Respondents is completely vague and lacks any details. This could easily be resolved if the information and process was in fact followed. But still nothing has been provided to support Respondents' position. In this instance, then, Petitioner maintains that he has presented sufficient information to rebut the presumption of regularity, it should not be followed here, and Petitioner objects to the Magistrate Court's finding otherwise.

### C. Petitioner objects to the Magistrate Court's finding that the remaining preliminary injunction factors do not warrant relief.

The Magistrate Court further finds that Petitioner fails to satisfy the remaining elements for issuance of a preliminary injunction.[47] To obtain a TRO or preliminary injunction, a plaintiff must establish (1) likelihood of success on the merits of their claims; (2) substantial threat of irreparably injury if the injunction is not granted; (3) the balance of hardships between the parties; and (4) the public interest in granting the preliminary injunction.[48] To show immediate and irreparable harm, a plaintiff must demonstrate that it is likely that he will suffer irreparable harm in the absence of preliminary relief.[49]

---

[47] Dkt. 13 at 15.

[48] *Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 288 (5th Cir. 2012); *Abbott Labs v. Sandoz, Inc.*, 566 F.3d 1282, 1298 (Fed. Cir. 2009).

[49] *Winter v. Nat. Res. Def Council*, 555 U.S. 7, 20 (2008).

Petitioner has already objected to the Magistrate Court's conclusion that he has not demonstrated a substantial likelihood of success on the merits of his claim.[50] However, the Magistrate Court also finds that Petitioner's "sweeping and speculative" claims that he is "irreparably harmed by the loss of his fundamental liberty" does not entitle him to injunctive relief.[51] The court points out that Petitioner admits he is not afraid of being removed to Laos, and because ICE is following its regulations in re-detaining him, Petitioner suffers no irreparable harm.[52]

Petitioner objects to the conclusion that any irreparable harm he submits is "speculative." Indeed, continued detention is, by its very nature, an irreparable injury.[53] The Supreme Court has affirmed that "[f]reedom from imprisonment . . . lies at the heart of the liberty" protected by the Due Process Clause.[54] "Where, as here, the 'alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary'."[55]

---

[50] *See supra* p. 5-10.

[51] Dkt. 13 at 15.

[52] Dkt. 13 at 16.

[53] *Phan*, 2025 WL 1993735, at *5 ("Further, '[i]t is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'") (citing *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)).

[54] *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

[55] *Phan*, 2025 WL 1993735, at *5 (citing *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (quoting Wright, Miller, & Kane, Federal Practice and Procedure, § 2948.1 (2d ed. 2004)).

Petitioner is currently being detained with no end in sight. Unlike the Magistrate Court contends, there is nothing "speculative" about this claim—it's the reality that Petitioner has been facing since he showed up to his annual check-in on July 25, 2025. Every day Petitioner remains in custody, he is irreparably harmed by the loss of his fundamental liberty, his separation from his U.S. citizen wife and children, and the loss of his ability to provide for his family. There is nothing abstract or speculative about this harm.

Finally, the Magistrate Court holds that because Petitioner is subject to a final order of removal and the Government and public at large have a strong interest in the enforcement of the immigration laws and the removal of aliens who are unlawfully present in the United States, the final factors do not weigh in Petitioner's favor.[56] But "[j]ust as the public has an interest in the orderly and efficient administration of this country's immigration laws. [ ] the public has a strong interest in upholding procedural protections against unlawful detention."[57] The availability of habeas petitions are itself proof that there is a strong public interest against unlawful detention of anyone present in the United States.

The Magistrate Court also fails to take into consideration that although there is a legitimate interest in enforcing immigration laws, this should not overcome the public's interest in needless and arbitrary detention. In this case, and many others, ICE's intention to indefinitely detain Petitioner in the speculative hope of someday getting a travel

---

[56] Dkt. 13 at 16.

[57] *Phan*, 2025 WL 19933735 (citing *Vargas v. Jennings*, No. 20-cv-5785-PJH, 2020 WL 5074312, at *4 (N.D. Cal. Aug. 23, 2020).

document to Laos is not grounded in the legitimate enforcement of the immigration laws, but rather the agency's desire to use Petitioner as to its detention statistics. But Petitioner is not a statistic, he is a human being, and the agency's refusal to treat him as such underscores the necessity of granting this habeas petition. His ultimate removal to Laos simply does not require his pre-emptive confinement. This fact is only exacerbated when this Court considers the immense waste of public resources and taxpayer money Petitioner's current detention is. Allowing Petitioner to remain at liberty pending removal would not only save these significant detention costs but would also enable him to potentially purchase his own plane ticket. There is simply no public interest in detaining a productive individual that could do more good in the public than being locked up indefinitely.

Petitioner therefore objects to the Magistrate Court's finding that the remaining factors weigh against granting a preliminary injunction.[58] By reaching this conclusion, the court completely fails to take into consideration any of the valid points and reasons that Petitioner brought up in his own filings and instead focuses on the fact that the government has an interest in the enforcement of immigration laws. The reality is that the harm of ordering Petitioner released is nonexistent. Mr. Nouansisouhak is not a danger to the community; he has lived peacefully and productively for decades. He is not a flight risk; he has complied with his OSUP and reported to ICE on July 23, 2025, fully aware that he would likely be detained. Releasing Mr. Nouansisouhak to his OSUP, a status ICE itself

---

[58] Dkt. 13 at 16-17.

deemed appropriate for over two decades, poses no conceivable harm to the government. Meanwhile, the harm to Mr. Nouansisouhak and his family if his is not released is not speculative but significant and irreparable.

## IV. Conclusion

The Magistrate Court's findings and conclusions show its willingness to wholesale adopt the Respondents' speculative position and make it its own. The problem is this position lacks any constitutional or statutory authority and fails to grapple with the real issues and consequences at stake. For 25 years, Petitioner has lived according to the removal order that was imposed after he was placed in removal proceedings and detained for two years. His compliance should not be rewarded with indefinite and unlawful civil detention.

For this reason, Petitioner Vatsana Nouansisouhak objects to the Magistrate Court's findings, conclusions, and recommendation, and respectfully asks this Court to grant relief in this case and immediately order his release from custody.

RESPECTFULLY SUBMITTED,

*/s/ Dan Givident*

Dan Givident
Texas State Bar No. 24075434
18208 Preston Rd., Ste. D9-284
Dallas, TX 75252
972-256-8641
Dan@GividenLaw.com

## CERTIFICATE OF SERVICE

I hereby certify that I electronically submitted this document via this Court's ECF system and served all parties electronically, including AUSA Ann Cruce-Haag on the date of filing.

*/s/ Dan Givіden*
Dan Gividen