

DISTRICT JUDGE JAMAL N. WHITEHEAD
MAGISTRATE JUDGE BRIAN A. TSUCHIDA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Chittakone "Alan" Phetsadakone,

Petitioner,

v.

Bruce SCOTT, Warden, Northwest ICE
Processing Center; Camilla WAMSLEY,
Enforcement and Removal Operations,
Seattle Field Office Director, U.S.
Immigration and Customs Enforcement;
Kristi NOEM, Secretary, U.S. Department
of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY;

Respondents.

Civil Case No. 2:25-CV-01678-JNW-BAT

**MOTION SEEKING PERMISSION TO
CONDUCT LIMITED DISCOVERY**

NOTED: September 24, 2025

I. Relief Requested

Plaintiff Chittakone "Alan" Phetsadakone respectfully moves for an order permitting limited discovery in support of his § 2241 petition and request for injunctive relief, as good cause exists to warrant such discovery.

II. Facts

A complaint was filed alleging that Chittakone ("Alan") Phetsadakone, a Laotian national who has lived in the United States since childhood, was unlawfully re-detained by ICE in July 2025 after 24 years of full compliance with an order of supervision following a final removal

1 order. Dkt. 1. It alleges that the government failed to provide notice or a hearing regarding the
2 revocation of his release, and his removal to Laos remains not reasonably foreseeable due to
3 longstanding repatriation barriers. Id. In conjunction with the complaint, Plaintiff moved for
4 injunctive relief. Dkt. 2-1.

5
6 Plaintiff requested that the Court order his release and bar Respondents from removing
7 him to any country until his pending writ of coram nobis is resolved, and from removing him for
8 punitive purposes or without due process in reopened removal proceedings. Id. If immediate
9 release is not granted, he seeks an order preventing transfer out of this district to protect his
10 attorney-client relationship and participation in ongoing judicial proceedings. Id. Plaintiff
11 requires limited discovery to establish that he was denied due process and to demonstrate that
12 removal to Laos is unreasonable due to specific barriers. The discovery requests are as follows:

13
14 **Interrogatories**

15 1. Identify each individual who was personally involved in making the decision to re-
16 detain Mr. Phetsadakone on or about July 21, 2025, including their full name, title, and role in
17 the decision-making process.

18 2. State all reasons upon which you contend that you had legal authority to re-detain
19 Mr. Phetsadakone on or about July 21, 2025, and identify all statutes, regulations, policies, or
20 other legal bases supporting your contention.

21
22 3. State all reasons upon which you contend that the government of Laos would issue a
23 travel document for Mr. Phetsadakone, including any communications, policies, or practices
24 relied upon in forming this contention.

25 4. State all reasons upon which you contend that there were changed circumstances on
26 or about July 21, 2025, at the time of Mr. Phetsadakone's re-detention, making it significantly

1 likely that he would be removed to Laos in the reasonably foreseeable future.

2 5. Identify the date(s) on which you requested a travel document from the government
3 of Laos for Mr. Phetsadakone, and describe the method(s) by which such request(s) were made.

4 6. State the total number of individuals whom you have deported to a third country
5 from January 15, 2025, to the present, where such individuals were ordered removed to Laos on
6 their final order of removal.
7

8 7. State the total number of individuals for whom you have requested travel
9 documents from the government of Laos from January 15, 2025, to the present. For those same
10 individuals, state the number of travel documents that have been issued by Laos.

11 8. Identify the date and describe the circumstances under which you changed your
12 policy to find that circumstances had changed with respect to the foreseeability of removal to
13 Laos.
14

15 9. State the average length of time, in days, that a person with a final order of removal
16 designating Laos as the country of removal has spent in ICE custody in 2025, specifying
17 separately the average length for individuals who have been removed and the average length for
18 individuals who have not been removed.

19 **Requests for Admissions**

20 1. Admit that, as a matter of policy, you contend that there are changed circumstances
21 making removal to Laos significantly likely in the reasonably foreseeable future for all
22 individuals with removal orders designating Laos as the country of removal.

23 2. Admit that you have deported individuals with removal orders designating Laos as
24 the country of removal to other countries without first attempting to secure a travel document
25 from Laos for those individuals.
26

1 3. Admit that it is your policy not to provide advance notice to individuals from Laos
2 with final orders of removal whom you intend to detain.

3 **Request for Production**

4 1. Subject to a protective order, produce a complete copy of Mr. Phetsadakone's A-File.
5

6 **III. Argument**

7 Discovery is not automatically available in habeas proceedings. *Bracy v. Gramley*, 520
8 U.S. 899, 904 (1997). A federal habeas court may permit discovery for good cause under the
9 Federal Rules of Civil Procedure and may limit its scope. See Rule 6(a) of the Rules Governing
10 Section 2254 Cases (applicable to § 2241 cases via Rule 1(b)). Good cause exists “where specific
11 allegations before the court show reason to believe that the petitioner may, if the facts are fully
12 developed, be able to demonstrate that he is ... entitled to relief.” *Bracy*, 520 U.S. at 908-09
13 (quoting *Harris v. Nelson*, 394 U.S. 286, 300 (1969)). A district court abuses its discretion by
14 denying Rule 6(a) discovery when it is “essential” for a habeas petitioner to “develop fully” the
15 underlying claim. *Smith v. Mahoney*, 596 F.3d 1133, 1151-52 (9th Cir. 2010) opinion amended
16 and superseded on other grounds, 611 F.3d 978 (9th Cir. 2010), cert. denied, 131 S. Ct. 461, 178
17 L. Ed. 2d 293 (2010) (quoting *Pham v. Terhune*, 400 F.3d 740, 743 (9th Cir. 2005)).
18

19 **IV. The limited discovery sought by Plaintiff will aid him in developing**
20 **facts fully to demonstrate that his rights were violated.**

21
22 There is good cause for discovery in this habeas proceeding under the standard per *Bracy*
23 and Rule 6(a) of the Rules Governing Section 2254 Cases, as applied to § 2241 cases. The
24 complaint sets forth specific allegations that, if substantiated, could entitle Mr. Phetsadakone to
25 relief. The core claims are that ICE unlawfully re-detained him after 24 years of compliance with
26 an order of supervision, without notice or a hearing, and without evidence that his removal to

1 Laos is reasonably foreseeable. The complaint further alleges that ICE failed to follow statutory
2 and regulatory procedures for revocation of release, did not provide the required notice or
3 opportunity to respond.

4 The proposed discovery—interrogatories, admissions, and production—directly targets
5 the factual bases for these allegations: who made the re-detention decision, the asserted legal
6 authority and policy changes, communications with Laos, the existence and issuance of travel
7 documents, the number and circumstances of removals to Laos or third countries, and the
8 procedural steps (or lack thereof) taken in Mr. Phetsadakone's case. These are not speculative or
9 fishing expeditions; rather, they are tailored to develop the facts necessary to prove or disprove
10 the government's compliance with statutory, regulatory, and constitutional requirements, as well
11 as to test the government's assertions regarding changed circumstances and the likelihood of
12 removal.
13

14 Given the complaint's detailed factual allegations—such as the absence of notice, lack of
15 a hearing, no evidence of travel documents, and the implementation of a new removal policy—
16 there is reason to believe that the petitioner may, if the facts are fully developed, be able to
17 demonstrate that he is entitled to relief. The requested discovery is essential to fully develop the
18 record on these points, including whether ICE had a lawful basis for re-detention, whether
19 removal is reasonably foreseeable, and whether due process was afforded.
20

21 For example, the notice that Respondents claim they gave Petitioner upon his re-
22 detention is of questionable veracity. It lacks a date and a government official's signature, unlike
23 the 2001 letter signed by the Assistant District Director for Detention and Removal releasing
24 him. Compare Dkt. 8-1 with Dkt. 8-3. In the recent *Nguyen v. Scott* case, Respondents similarly
25 claimed, in response to a TRO, that they provided the petitioner a Notice of Revocation of
26

1 Release, but later admitted this notice contained a false statement because ICE not had requested
2 a travel document at the time of his re-detention. 2025 WL 2419288, at *3.

3 In cases such as this and in circumstances as extraordinary as this, denying such
4 discovery would risk preventing the petitioner from substantiating claims that go to the heart of
5 his entitlement to habeas relief, which would be an abuse of discretion under the governing
6 standard.
7

8 Dated: September 3, 2025
9

10 Respectfully submitted,
11

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VERIFICATION

Pursuant to Local Court Rule 100(c), I, Jennifer Pasquarella, verify that the facts set forth therein are true and correct to the best of my knowledge. I make this verification on behalf of Petitioner Chittakone Phetsadakonc, who is unable to make this verification himself while he is detained at the Northwest Immigration and Customs Enforcement Processing Center in Tacoma, Washington.

DATED: September 3, 2025

/s/ Jennifer Pasquarella
Jennifer Pasquarella