

TIMOTHY COURCHAINE  
United States Attorney  
District of Arizona  
  
KATHERINE R. BRANCH  
Assistant United State Attorney  
Arizona State Bar No. 025128  
Two Renaissance Square  
40 North Central Avenue, Suite 1800  
Phoenix, Arizona 85004-4449  
Telephone: (602) 514-7500  
Facsimile: (602) 514-7760  
E-Mail: Katherine.Branch@usdoj.gov  
*Attorneys for Respondents*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Viengkhone Sikeo,

No. 2:25-cv-03191-PHX-SHD (CDB)

Petitioner,

V.

John E. Cantu, et al.,

## RESPONDENTS' SUPPLEMENTAL BRIEF RE RE-DETENTION

### Respondents.

Pursuant to the Court's order (Doc. 18), Respondents submit the following supplemental brief.

Petitioner is subject to a final order of removal entered in July 2005 directing his removal to Laos. Doc. 14-1 at Ex. 3. Petitioner was released from immigration detention on Orders of Supervision in October 2005 and June 2009. Doc. 11-1 at ¶¶ 12, 15. On June 25, 2025, Petitioner was served with a Notice of Revocation of Release notifying him that his Order of Supervision had been removed because ICE had determined he could be expeditiously removed from the United States. Ex. 1, Decl. of Katherine Ormonde, at ¶ 6; Ex. 1-A. On the same date, ICE ERO in San Francisco conducted an informal interview with Petitioner. Ex. 1 at ¶ 7. Petitioner declined to make an oral statement responding to the reasons for revocation of his order of supervision and declined to provide a written statement regarding the same. Ex. 1 at ¶ 7; Ex. 1-B. Petitioner will receive a custody review following

1 his 90th day in custody. Ex. 1 at ¶ 8. Petitioner will have been detained for 90 days on  
2 September 23, 2025. Ex. 1 at ¶ 9.

3 Petitioner's Order of Supervision was lawfully revoked under 8 C.F.R.  
4 § 241.4(l)(2)(iii), which provides that release may be revoked in the exercise of discretion  
5 when, in the opinion of the revoking official, revocation is "appropriate to enforce a removal  
6 order or to commence removal proceedings against an alien." Authority for revocation  
7 decisions has been delegated to the Assistant Field Office Director. Ex. 1-C. 8 C.F.R.  
8 §241.4(l)(1) provides that "[u]pon revocation, the alien will be notified of the reasons for  
9 revocation of his or her release or parole. The alien will be afforded an initial informal  
10 interview promptly after his or her return to Service custody to afford the alien an  
11 opportunity to respond to the reasons for revocation stated in the notification." If the alien  
12 is not released from custody following the informal interview, the alien then receives the  
13 "normal review process" and "scheduling of an interview, which will ordinarily be expected  
14 to occur within approximately three months after release is revoked." 8 C.F.R. § 241.4(l)(3).

15 Here, the Assistant Field Office Director for ERO's San Francisco Field Office  
16 determined that Petitioner's release was subject to revocation because his removal had  
17 become significantly likely to occur in the reasonably foreseeable future, and complied with  
18 8 C.F.R. § 241.4(l)(1) by notifying Petitioner for the reasons for revocation the same day  
19 the revocation occurred, *see* Ex. 1-A, and by conducting the initial informal interview the  
20 same day that Petitioner was returned to custody, *see* Ex. 1-B. Shortly after Petitioner was  
21 returned to custody, Laos issued a travel document for him. *See* Doc. 14 at Ex. 4 (travel  
22 document issued by Laos on August 6, 2025). But for the temporary restraining order issued  
23 by this Court, Petitioner would have been removed to Laos. At least one judge in this district  
24 has determined that revocation of an order of supervision is clearly related to the execution  
25 of a final removal order and is therefore unreviewable under 8 U.S.C. § 1252(g). *See Najera*  
26 *v. Sessions*, No. CV 18-01333-PHX-DLR, 2018 WL 11447065, at \*3 ("The decision to  
27 revoke Petitioner's order of supervision 'arose from' the decision to 'execute [the] removal  
28 order.' 8 U.S.C. § 1252(g). Respondents' revocation decision, therefore, is outside the scope  
of this Court's review.")

1 Petitioner has submitted supplemental briefing arguing that “it is extremely likely  
2 that Mr. Sikeo was born outside of Laos, that he never had a birth certificate from Laos, that  
3 he was never registered with the government of Laos as having been born in that country or  
4 having citizenship in that country, and that he never was accorded such citizenship in Laos  
5 at any time in his life.” Doc. 15 at 1. Petitioner claims to be “stateless”, *id.*, and has submitted  
6 a declaration from a purported expert on Southeast Asian refugees in Laos stating that Laos  
7 likely will not grant Petitioner permanent residence there, *see* Doc. 15-1 at Ex. A. It has  
8 become clear that Petitioner is challenging ICE’s ability to remove him pursuant to his 2005  
9 removal order, which he did not appeal, and which designates Laos as the country of  
10 removal. This Court has absolutely no jurisdiction to review Petitioner’s order of removal  
11 designating Laos as the country of removal. 8 U.S.C. § 1252(b)(9) provides that judicial  
12 review “arising from any action taken or proceeding brought to remove an alien from the  
13 United States” is only available for judicial review of a final order and, except as otherwise  
14 provided by 8 U.S.C. § 1252, “no court shall have jurisdiction,” including by habeas  
15 petition, “to review such an order or such questions of law or fact.” The “sole and exclusive  
16 means for judicial review of an order of removal” is “a petition for review filed with an  
17 appropriate court of appeals.” 8 U.S.C. § 1252(a)(5). The posture of this habeas is now a  
18 challenge to the execution of an order of removal, so this Court is deprived of jurisdiction  
19 by 8 U.S.C. § 1252(g), and is a challenge to Petitioner’s final order of removal, such that  
20 the Court is deprived of jurisdiction under 8 U.S.C. § 1252(b)(9). Petitioner seeks review of  
his final order of removal but the Court has no jurisdiction to review that order.

21 Petitioner was ordered removed to Laos in 2005. His order of supervision was  
22 revoked when ICE determined that his removal was significantly likely to occur. He was  
23 notified of the reasons for the revocation immediately upon revocation, and received the  
24 initial informal interview required by 8 C.F.R. § 241.4(l)(1) the same day he was taken into  
25 custody. Laos has issued a travel document to Petitioner, and this Court lacks jurisdiction to  
26 enjoin Petitioner’s removal to Laos.

27 Respectfully submitted this 17th day of September, 2025.

28 TIMOTHY COURCHAINE

United States Attorney  
District of Arizona

*s/ Katherine R. Branch*  
KATHERINE R. BRANCH  
Assistant United States Attorney  
*Attorneys for Respondents*