

1 TIMOTHY COURCHaine
United States Attorney
2 District of Arizona
3 KATHERINE R. BRANCH
Assistant United State Attorney
4 Arizona State Bar No. 025128
Two Renaissance Square
5 40 North Central Avenue, Suite 1800
6 Phoenix, Arizona 85004-4449
Telephone: (602) 514-7500
7 Facsimile: (602) 514-7760
8 E-Mail: Katherine.Branch@usdoj.gov
Attorneys for Respondents

9
10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF ARIZONA**

12 Viengkhone Sikeo,

13 Petitioner,

14 v.

15 John E. Cantu, et al.,

16 Respondents.

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

**RESPONDENTS' SUPPLEMENTAL
BRIEF RE RE-DETENTION**

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

19 Petitioner is subject to a final order of removal entered in July 2005 directing his
20 removal to Laos. Doc. 14-1 at Ex. 3. Petitioner was released from immigration detention on
21 Orders of Supervision in October 2005 and June 2009. Doc. 11-1 at ¶¶ 12, 15. On June 25,
22 2025, Petitioner was served with a Notice of Revocation of Release notifying him that his
23 Order of Supervision had been removed because ICE had determined he could be
24 expeditiously removed from the United States. Ex. 1, Decl. of Katherine Ormonde, at ¶ 6;
25 Ex. 1-A. On the same date, ICE ERO in San Francisco conducted an informal interview
26 with Petitioner. Ex. 1 at ¶ 7. Petitioner declined to make an oral statement responding to the
27 reasons for revocation of his order of supervision and declined to provide a written statement
28 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 according 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
21 his final order of removal but the Court has no jurisdiction to review that order.

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

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

TIMOTHY COURCHINE

United States Attorney
District of Arizona

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28