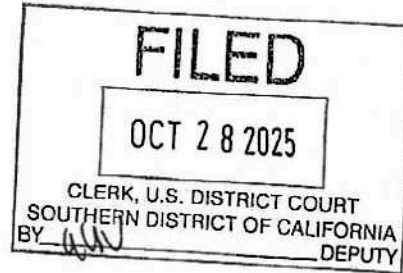


1 **Saengphet**  
2 **(a.k.a., Saengphet No Last Name, Saengphet NLN)**

3 A   
4 Otay Mesa Detention Center  
5 P.O. Box 439049  
6 San Diego, CA 92143-9049

7 Pro Se<sup>1</sup>



8  
9 **UNITED STATES DISTRICT COURT**  
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 **SAENGPHE**  
12 **(a.k.a., Saengphet No Last Name,**  
13 **Saengphet NLN),**

14 **Petitioner,**

15 **v.**

16 **KRISTI NOEM, Secretary of the**  
17 **Department of Homeland Security,**  
18 **PAMELA JO BONDI, Attorney General,**  
19 **TODD M. LYONS, Acting Director,**  
20 **Immigration and Customs Enforcement,**  
21 **JESUS ROCHA, Acting Field Office**  
22 **Director, San Diego Field Office,**  
23 **CHRISTOPHER LAROSE, Warden at**  
24 **Otay Mesa Detention Center,**

25 **Respondents.**

**CIVIL CASE NO.: '25CV2909 JES BLM**

**Motion for Appointment  
of Counsel**

26 Mr. Saengphet respectfully moves this court to appoint Federal Defenders  
27 of San Diego, Inc., as counsel for petitioner. Mr. Saengphet has a strong claim to  
28 release under *Zadvydas v. Davis*, 533 U.S. 678 (2001), the agency's own

29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100  
101  
102  
103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169  
170  
171  
172  
173  
174  
175  
176  
177  
178  
179  
180  
181  
182  
183  
184  
185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198  
199  
200  
201  
202  
203  
204  
205  
206  
207  
208  
209  
210  
211  
212  
213  
214  
215  
216  
217  
218  
219  
220  
221  
222  
223  
224  
225  
226  
227  
228  
229  
230  
231  
232  
233  
234  
235  
236  
237  
238  
239  
240  
241  
242  
243  
244  
245  
246  
247  
248  
249  
250  
251  
252  
253  
254  
255  
256  
257  
258  
259  
260  
261  
262  
263  
264  
265  
266  
267  
268  
269  
270  
271  
272  
273  
274  
275  
276  
277  
278  
279  
280  
281  
282  
283  
284  
285  
286  
287  
288  
289  
290  
291  
292  
293  
294  
295  
296  
297  
298  
299  
300  
301  
302  
303  
304  
305  
306  
307  
308  
309  
310  
311  
312  
313  
314  
315  
316  
317  
318  
319  
320  
321  
322  
323  
324  
325  
326  
327  
328  
329  
330  
331  
332  
333  
334  
335  
336  
337  
338  
339  
340  
341  
342  
343  
344  
345  
346  
347  
348  
349  
350  
351  
352  
353  
354  
355  
356  
357  
358  
359  
360  
361  
362  
363  
364  
365  
366  
367  
368  
369  
370  
371  
372  
373  
374  
375  
376  
377  
378  
379  
380  
381  
382  
383  
384  
385  
386  
387  
388  
389  
390  
391  
392  
393  
394  
395  
396  
397  
398  
399  
400  
401  
402  
403  
404  
405  
406  
407  
408  
409  
410  
411  
412  
413  
414  
415  
416  
417  
418  
419  
420  
421  
422  
423  
424  
425  
426  
427  
428  
429  
430  
431  
432  
433  
434  
435  
436  
437  
438  
439  
440  
441  
442  
443  
444  
445  
446  
447  
448  
449  
450  
451  
452  
453  
454  
455  
456  
457  
458  
459  
460  
461  
462  
463  
464  
465  
466  
467  
468  
469  
470  
471  
472  
473  
474  
475  
476  
477  
478  
479  
480  
481  
482  
483  
484  
485  
486  
487  
488  
489  
490  
491  
492  
493  
494  
495  
496  
497  
498  
499  
500  
501  
502  
503  
504  
505  
506  
507  
508  
509  
510  
511  
512  
513  
514  
515  
516  
517  
518  
519  
520  
521  
522  
523  
524  
525  
526  
527  
528  
529  
530  
531  
532  
533  
534  
535  
536  
537  
538  
539  
540  
541  
542  
543  
544  
545  
546  
547  
548  
549  
550  
551  
552  
553  
554  
555  
556  
557  
558  
559  
560  
561  
562  
563  
564  
565  
566  
567  
568  
569  
570  
571  
572  
573  
574  
575  
576  
577  
578  
579  
580  
581  
582  
583  
584  
585  
586  
587  
588  
589  
590  
591  
592  
593  
594  
595  
596  
597  
598  
599  
600  
601  
602  
603  
604  
605  
606  
607  
608  
609  
610  
611  
612  
613  
614  
615  
616  
617  
618  
619  
620  
621  
622  
623  
624  
625  
626  
627  
628  
629  
630  
631  
632  
633  
634  
635  
636  
637  
638  
639  
640  
641  
642  
643  
644  
645  
646  
647  
648  
649  
650  
651  
652  
653  
654  
655  
656  
657  
658  
659  
660  
661  
662  
663  
664  
665  
666  
667  
668  
669  
670  
671  
672  
673  
674  
675  
676  
677  
678  
679  
680  
681  
682  
683  
684  
685  
686  
687  
688  
689  
690  
691  
692  
693  
694  
695  
696  
697  
698  
699  
700  
701  
702  
703  
704  
705  
706  
707  
708  
709  
710  
711  
712  
713  
714  
715  
716  
717  
718  
719  
720  
721  
722  
723  
724  
725  
726  
727  
728  
729  
730  
731  
732  
733  
734  
735  
736  
737  
738  
739  
740  
741  
742  
743  
744  
745  
746  
747  
748  
749  
750  
751  
752  
753  
754  
755  
756  
757  
758  
759  
760  
761  
762  
763  
764  
765  
766  
767  
768  
769  
770  
771  
772  
773  
774  
775  
776  
777  
778  
779  
780  
781  
782  
783  
784  
785  
786  
787  
788  
789  
790  
791  
792  
793  
794  
795  
796  
797  
798  
799  
800  
801  
802  
803  
804  
805  
806  
807  
808  
809  
810  
811  
812  
813  
814  
815  
816  
817  
818  
819  
820  
821  
822  
823  
824  
825  
826  
827  
828  
829  
830  
831  
832  
833  
834  
835  
836  
837  
838  
839  
840  
841  
842  
843  
844  
845  
846  
847  
848  
849  
850  
851  
852  
853  
854  
855  
856  
857  
858  
859  
860  
861  
862  
863  
864  
865  
866  
867  
868  
869  
870  
871  
872  
873  
874  
875  
876  
877  
878  
879  
880  
881  
882  
883  
884  
885  
886  
887  
888  
889  
890  
891  
892  
893  
894  
895  
896  
897  
898  
899  
900  
901  
902  
903  
904  
905  
906  
907  
908  
909  
910  
911  
912  
913  
914  
915  
916  
917  
918  
919  
920  
921  
922  
923  
924  
925  
926  
927  
928  
929  
930  
931  
932  
933  
934  
935  
936  
937  
938  
939  
940  
941  
942  
943  
944  
945  
946  
947  
948  
949  
950  
951  
952  
953  
954  
955  
956  
957  
958  
959  
960  
961  
962  
963  
964  
965  
966  
967  
968  
969  
970  
971  
972  
973  
974  
975  
976  
977  
978  
979  
980  
981  
982  
983  
984  
985  
986  
987  
988  
989  
990  
991  
992  
993  
994  
995  
996  
997  
998  
999  
1000

<sup>1</sup> Mr. Saengphet is filing this motion with the assistance of the Federal Defenders of San Diego, Inc., who also drafted it. Federal Defenders has consistently used this procedure in seeking appointment for immigration habeas cases. The Declaration of Kara Hartzler in Support of Appointment Motion attaches case examples.

1 regulations, and the Fifth Amendment. But these issues are complex, implicating  
2 constitutional, statutory, regulatory, and immigration law. Additionally, an  
3 evidentiary hearing is sometimes required to resolve *Zadvydas* petitions. For these  
4 reasons, **Federal Defenders of San Diego, Inc. is routinely appointed to**  
5 **represent immigrants in bringing regulatory and *Zadvydas* claims.** *See*  
6 Exhibit A, Declaration of Kara Hartzler in Support of Appointment Motion  
7 (“Hartzler Dec.”), ¶¶ 2–3. This Court should follow that practice and appoint  
8 Federal Defenders of San Diego, Inc. to represent Mr. Saengphet in this habeas  
9 case.

#### 10 STATEMENT OF FACTS

##### 11 I. Mr. Saengphet is detained indefinitely.

12 Mr. Saengphet was born in a refugee camp in Thailand and came to the  
13 United States with his family in 1989. Declaration of Mr. Saengphet attached to  
14 habeas petition as Exhibit A (“Saengphet Dec.”), at ¶ 1. When they arrived in the  
15 U.S., they became lawful permanent residents. *Id.*

16 In 2002, Mr. Saengphet was ordered removed on the basis of a conviction  
17 for assault. *Id.* at ¶ 2, 3. ICE detained him for about two-and-a-half months while  
18 attempting to remove him. *Id.* at ¶ 4. But when the Laotian consulate did not issue  
19 travel documents for him, ICE released him on an order of supervision. *Id.*

20 Since his release from ICE custody, Mr. Saengphet has had no supervised  
21 release violations. *Id.* at ¶ 5. But when his probation officer told him to come in  
22 for a check in on October 15, 2025, ICE arrested him. *Id.* at ¶ 6.

23 ICE’s inability to remove Mr. Saengphet over the last 23 years reflects  
24 Laos’s reticence to accept deportees. As detailed in Mr. Saengphet’s habeas  
25 petition, no repatriation agreement exists between Laos and the United States.  
26 Laos has also been historically unwilling to accept deportees from the United  
27 States through informal negotiations. As a result, there are around 4,800 nationals  
28 of Laos living in the United States with final removal orders who have not been

1 removed. Asian Law Caucus, *Status of Ice Deportations to Southeast Asian*  
2 *Countries: Laos* (July 29, 2025).

3 **II. Mr. Saengphet is indigent and lacks the education, experience,**  
4 **and language skills needed to litigate this habeas petition.**

5 Mr. Saengphet does not have the legal education or training needed to  
6 litigate a complex habeas petition and lacks the money to hire a lawyer.  
7 Saengphet Dec. at ¶ 7, 8. Accordingly, Mr. Saengphet requests that this Court  
8 appoint the Federal Defenders of San Diego, Inc., to represent him in the instant  
9 habeas action. That office stands ready and able to assist him in this Petition.

10 **ARGUMENT**

11 “Habeas corpus proceedings are of fundamental importance . . . in our  
12 constitutional scheme because they directly protect our most valued rights.”  
13 *Brown v. Vasquez*, 952 F.2d 1164, 1169 (9th Cir. 1991) (quoting *Bounds v. Smith*,  
14 430 U.S. 817, 827 (1977)) (citations and internal quotations omitted).  
15 Consequently, federal law permits a district court to appoint counsel in a habeas  
16 proceeding under 28 U.S.C. § 2241 when the “interests of justice so require,” if a  
17 Petitioner has shown that he is unable to afford an attorney. 18 U.S.C.  
18 § 3006A(a)(2)(B). To make this decision, this Court must “evaluate [1] the  
19 likelihood of success on the merits as well as [2] the ability of the Petitioner to  
20 articulate his claims pro se in light of the complexity of the legal issues involved.”  
21 *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983); accord *Rand v. Rowland*,  
22 113 F.3d 1520, 1525 (9th Cir. 1997).

23 Mr. Saengphet is likely to succeed on the merits of his claim, but he will be  
24 unable to effectively articulate his claims without assistance. And he cannot  
25 afford to retain paid counsel to litigate his petition for a writ of habeas corpus  
26 under 28 U.S.C. § 2241. Thus, the appointment of counsel is appropriate.  
27  
28

**I. Mr. Saengphet will likely succeed on the merits.**

The regulations do not permit Mr. Saengphet's re-detention. ICE may revoke a noncitizen's release and return them to ICE custody due to failure to comply with conditions of release, 8 C.F.R. § 241.13(i)(1), or if, "on account of changed circumstances, the Service determines that there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future." *Id.* § 241.13(i)(2). The regulations further provide noncitizens with a chance to contest a re-detention decision. 8 C.F.R. § 241.13(i)(3).

Neither of these regulations were followed here. Mr. Saengphet has not violated the conditions of his release, and there are no changed circumstances that justify re-detaining him. Thus, he is likely to succeed on the merits of this claim.

Additionally, *Zadvydas* held that federal law does not authorize the government to detain an immigrant indefinitely pending removal. Rather, 8 U.S.C. § 1231(a)(6) presumptively permits the government to detain an immigrant for 180 days after his or her removal order becomes final. After those 180 days have passed, the immigrant must be released unless his or her removal is reasonably foreseeable. *Zadvydas*, 533 U.S. at 701.

Thus, 180 days after a removal order becomes final, an immigrant facing indefinite detention may come forward with "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* If the immigrant meets their initial burden, "the Government must respond with evidence sufficient to rebut that showing." *Id.* Otherwise, the immigrant must be released. *See id.*

Here, Mr. Saengphet was detained for about two-and-a-half months after he was ordered removed, and he has been detained for more than a month this year. Exh. A at ¶¶ 4, 6. By the time this Court resolves this case, Mr. Saengphet may have been detained for a total of six months, if not more; ICE will also, of course,

1 have had 23 years since his removal order issued to remove him. Thus, the six-  
2 month grace period has expired.

3 There is good reason to believe that he will not be removed in the  
4 reasonably foreseeable future. ICE has proved unable to remove him for 23 years.  
5 The Laotian consulate rejected a travel documents request. Thus, this Court will  
6 likely grant *Zadvydas* relief, just like other courts. *See Nguyen v. Scott*, No. 2:25-  
7 CV-01398, 2025 WL 2419288, at \*17 (W.D. Wash. Aug. 21, 2025); *Hoac v.*  
8 *Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at \*4 (E.D. Cal. July  
9 16, 2025); *Nguyen v. Hyde*, No. 25-CV-11470-MJJ, 2025 WL 1725791, at \*5 (D.  
10 Mass. June 20, 2025). Thus, he is likely to succeed on the merits of his petition.

11 **II. Mr. Saengphet cannot adequately articulate his claims in the absence**  
12 **of counsel, in light of the complexity of the legal issues involved in his**  
13 **habeas petition.**

14 In deciding whether a petitioner needs a lawyer's assistance to effectively  
15 litigate his habeas petition, a court must measure "the [petitioner]'s ability to  
16 articulate his claims against the relative complexity of the matter." *Rand*, 113  
17 F.3d at 1525. In addition, counsel may be appointed during federal habeas  
18 proceedings if the appointment of an attorney is "necessary for the effective  
19 utilization of discovery procedures . . . [or] if an evidentiary hearing is required."  
20 *Weygandt*, 718 F.2d at 954 (cleaned up).

21 *Zadvydas* cases involve complex legal issues grounded in constitutional  
22 law, statutory interpretation, administrative procedure, and habeas law. *See*  
23 *Hartzler Dec*, attached orders (describing complexities in appointing counsel).  
24 They also implicate immigration law. The Ninth Circuit has declared that "[w]ith  
25 only a small degree of hyperbole, the immigration laws have been deemed second  
26 only to the Internal Revenue Code in complexity." *United States v. Ahumada-*  
27 *Aguilar*, 295 F.3d 943, 950 (9th Cir. 2002) (citations and internal quotations  
28 omitted). "A lawyer is often the only person who could thread the labyrinth." *Id.*



1 Mr. Saengphet lacks experience and legal training to contend with this  
2 complicated area of law. Saengphet Dec. at ¶ 8. Accordingly, he would likely be  
3 unable to litigate his habeas petition effectively.

4 Additionally, professional assistance may be “necessary for the effective  
5 utilization of discovery procedures” in this case. *Weygandt*, 718 F.2d at 954. In  
6 order to prove his eligibility for *Zadvydas* relief, Mr. Saengphet may well need to  
7 view evidence in the government’s possession—for example, communications  
8 between ICE and the Laotian government or internal paperwork documenting  
9 ICE’s removal efforts. *See, e.g., Lopez-Cacerez v. McAleenan*, No. 19-CV-1952-  
10 AJB-AGS, 2020 WL 3058096, at \*4 n.1 (S.D. Cal. June 9, 2020) (relying on  
11 ICE’s “internal documentation” to reject ICE’s noncooperation defense and find  
12 that the petitioner was fully cooperating with ICE’s efforts to remove him).  
13 Mr. Saengphet would likely have to litigate his entitlement to any such discovery,  
14 because at least some courts have required immigrants to show good cause before  
15 obtaining discovery in a habeas case. *See Toolasprashad v. Tryon*, No. 12CV734,  
16 2013 WL 1560176, at \*2 (W.D.N.Y. Apr. 11, 2013) (collecting cases). Moreover,  
17 Mr. Saengphet is entitled to an evidentiary hearing on any material factual  
18 disputes, *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009), meaning that  
19 “an evidentiary hearing [may be] required.” *Weygandt*, 718 F.2d at 954. Those  
20 considerations also support the need for appointment of counsel. *See id.*

21 For these reasons, appointing Federal Defenders here would therefore  
22 accord with the Criminal Justice Act and decades-long practices. *See, e.g., Ho v.*  
23 *Noem et al*, 25-cv-02453-BAS-BLM, Dkt. No. 7 (S.D. Cal. Oct. 3, 2025); *Phan v.*  
24 *Warden*, 25-cv-02369-AJB-BLM, Dkt. No. 8 (S.D. Cal. Sept. 25, 2025); *Tran v.*  
25 *Noem*, 25-cv-02334-JES-MSB, Dkt. No. 4 (S.D. Cal. Sept. 17, 2025); *Rebenok v.*  
26 *Noem*, 25-cv-02171-TWR-AHG, Dkt. No. 6 (S.D. Cal. Sept. 19, 2025); *Lopez-*  
27 *Cacerez v. McAleenan*, 19-cv-01952-AJB-AGS, Dkt. No. 8 (Feb. 26, 2020);  
28 *Casas Castrillon v. DHS*, 06-cv-01552-BEN-NLS, Dkt. No. 3 (Jan. 31, 2006).

**Conclusion**

For those reasons, this Court should follow the regular practice of courts in this district and appoint Federal Defenders of San Diego, Inc. to represent Petitioner in litigating this habeas petition.

DATED: 10/25/2025

Respectfully submitted,



**SAENGPHEET NO**

Petitioner

**PROOF OF SERVICE**

I, the undersigned, caused to be served the within Motion for Appointment of

Counsel by email to:

U.S. Attorney's Office, Southern District of California  
Civil Division  
880 Front Street  
Suite 6253  
San Diego, CA 92101

Date: 10-28-25



Kara Hartzler



# EXHIBIT A

1 **Saengphet**  
2 **(a.k.a., Saengphet No Last Name, Saengphet NLN)**  
3 A# [REDACTED]  
4 Otay Mesa Detention Center  
5 P.O. Box 439049  
6 San Diego, CA 92143-9049  
7  
8 Pro Se

9 **UNITED STATES DISTRICT COURT**  
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 **SAENGPHEET**  
12 **(a.k.a., Saengphet No Last Name,**  
13 **Saengphet NLN),**

14 **Petitioner,**

15 **v.**

16 **KRISTI NOEM, Secretary of the**  
17 **Department of Homeland Security,**  
18 **PAMELA JO BONDI, Attorney General,**  
19 **TODD M. LYONS, Acting Director,**  
20 **Immigration and Customs Enforcement,**  
**JESUS ROCHA, Acting Field Office**  
**Director, San Diego Field Office,**  
**CHRISTOPHER LAROSE, Warden at**  
**Otay Mesa Detention Center,**

21 **Respondents.**

Civil Case No.:

**Declaration of Kara Hartzler**  
**in Support of Motion for**  
**Appointment of Counsel**

- 1  
2 1. My name is Kara Hartzler. I am an appellate attorney at Federal  
3 Defenders of San Diego, Inc. In that capacity, I was assigned to  
4 investigate Mr. Soryadvongsa's immigration habeas case to determine  
5 whether—in keeping with longstanding district practice—Federal  
6 Defenders should seek to be appointed as counsel.
- 7 2. In this district, Federal Defenders is regularly appointed to handle  
8 *Zadvydas* petitions for those who meet the six-month cutoff.  
9 Traditionally, Federal Defenders helps the detainee prepare an initial  
10 habeas petition and appointment motion, and the court formally appoints  
11 Federal Defenders in the course of reviewing the petition.
- 12 3. This declaration attaches several orders appointing Federal Defenders to  
13 habeas cases following this procedure. The oldest order is from 2006  
14 and the most recent is from 2024.
- 15 4. I have followed that procedure in this case by helping to prepare a  
16 habeas petition and appointment motion. I believe that granting  
17 appointment in this case would conform to longstanding district  
18 practice.

19  
20 I declare under penalty of perjury that the foregoing is true and correct,  
21  
22 executed on October 28, 2025, in San Diego, California.

23  
24 

25 **KARA HARTZLER**  
26 Declarant  
27  
28