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

11 CHUNY TOUCH,

12  
13 Petitioner,

14 v.

15 KRISTI NOEM, Secretary of the  
16 Department of Homeland Security, et al.,

17  
18 Respondents.  
19

Case No.: 25-cv-03118-RBM-AHG

**RESPONSE IN OPPOSITION TO  
PETITIONER'S HABEAS PETITION  
AND APPLICATION FOR  
TEMPORARY RESTRAINING  
ORDER**

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**I. INTRODUCTION**

None of Petitioner’s three claims for habeas relief entitle him to release.<sup>1</sup> First, when Immigration and Customs Enforcement (ICE) detained Petitioner on October 21, 2025, it had satisfied the notice and grace period to which Petitioner was entitled under a class settlement and provided Petitioner a Notice of Revocation of Release and informal interview under the regulations. Thus, Petitioner’s regulatory violation claim fails. Second, Cambodia issued Petitioner a travel document on October 13, 2025, and Petitioner was booked on a flight to Cambodia that was scheduled to depart on November 19, 2025. After learning of the Court’s order staying removal in this case, ICE canceled Petitioner’s flight, re-scheduled it for December 3, 2025, and will execute removal once the stay is lifted. As such, Petitioner’s *Zadvdas* claim also fails. And because ICE is not (nor is there any evidence that it is) seeking to remove Petitioner to a third country, Petitioner’s third country claim fails, too. Accordingly, Respondents respectfully ask the Court to deny Petitioner’s habeas petition and motion for temporary restraining order.

**II. FACTUAL AND PROCEDURAL BACKGROUND**

Petitioner is a national of Cambodia, who entered the United States in 1985 and ten years later was convicted of murder and sentenced to fifteen years in prison. *See* ECF No. 1 at 24; Declaration of Elvira K. La Pierre (“Decl.”) at ¶ 4. Following his incarceration, state officials transferred Petitioner to immigration custody, and the Department of Homeland Security (DHS) initiated removal proceedings. *See* Decl. at ¶ 5. Based on Petitioner’s criminal history, an Immigration Judge ordered him removed to Cambodia on June 16, 2020. *See* ECF No. 1 at 24; Exh. 1.<sup>2</sup> On September 2, 2020, ICE released Petitioner from custody on an Order of Supervision. *See* Decl. at ¶ 7.

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<sup>1</sup> As the petition and motion assert the same claims and relief, Respondents herein respond to both for the sake of judicial efficiency.

<sup>2</sup> The attached exhibits are true copies, with redactions of private information, of documents obtained from ICE counsel.

1 ICE had initially re-detained Petitioner on August 21, 2025, but after realizing  
2 that Petitioner was entitled to a specific notice and 14-day grace period under a class  
3 action settlement, released him from detention under an Order of Supervision on  
4 October 7, 2025. *See* ECF. No. 1 at 24; Decl. at ¶ 13; Exh. 2.

5 That same day, ICE provided Petitioner and class counsel the notice and other  
6 documents required under the class settlement. *See* Exh. 3. Per the settlement, the notice  
7 informed Petitioner that ICE would be re-detaining him to execute his final order of  
8 removal to Cambodia no earlier than fourteen days of the notice. *See id.*

9 On October 13, 2025, the Cambodian government issued a travel document to  
10 allow Petitioner to be returned to Cambodia. Decl. at ¶ 14.

11 On October 21, 2025, fourteen days of serving Petitioner the notice and  
12 information required for his class, ICE re-detained him and provided him a Notice of  
13 Revocation of Release. *See* Exh. 4; Decl. at ¶ 15. At that time, ICE informed Petitioner  
14 that it obtained his travel document and would be executing his removal to Cambodia.  
15 *See* ECF No. 1 at 24; Decl. at ¶ 15. Petitioner stated that he is not opposed to detention  
16 so long as his flight is coordinated. *See* Exh. 5 at 2; Decl. at ¶ 15.

17 Shortly after receiving the original, physical version of Petitioner's travel  
18 document on October 31, 2025, ICE proceeded to coordinate a flight for Petitioner and  
19 the necessary personnel to accompany him. Decl. at ¶ 16. On November 12, 2025, ICE  
20 booked Petitioner on a flight to Cambodia scheduled to depart on November 19, 2025.  
21 *Id.* at ¶ 17. Petitioner filed the instant habeas petition and corresponding motion for  
22 temporary restraining order that same day. *See* ECF Nos. 1, 3.

23 On November 14, 2025, the Court issued an Order to Show Cause in this matter  
24 and ordered Respondents not to transfer Petitioner outside of this District pending its  
25 resolution of the habeas petition. *See* ECF No. 4 at 3. To comply with the Court's order,  
26 ICE canceled Petitioner's November 19, 2025 flight. *See* Decl. at ¶¶ 18–19. ICE  
27 re-booked Petitioner for a flight to Cambodia scheduled to depart on December 3, 2025.  
28 *See id.* at ¶ 20. ICE intends to execute removal on that date should the Court's stay of

1 removal as to Cambodia be lifted by that time. *See id.*

2 **III. ARGUMENT**

3 Petitioner’s habeas petition raises three claims: (1) regulatory violations, (2)  
4 *Zadvydas* violations, and (3) third-country removal violations. *See* ECF No. 1 at 2–3.  
5 As more fully explained below, the evidence in this case reveals no such violations.

6 **A. Respondents satisfied both the class notice-and-grace-period requirements**  
7 **and the agency regulations when it detained Petitioner on October 21, 2025.**

8 Petitioner argues that Respondents violated their agency regulations because he  
9 was not provided notice under 8 C.F.R. § 241.13 and ICE did not tell him why it was  
10 revoking his supervision when it detained him on August 21, 2025. *See* ECF No. 1 at 8.  
11 There are two problems with this argument. One, whether Petitioner was lawfully  
12 detained on August 21, 2025, is a moot issue. As noted earlier, ICE released Petitioner  
13 on October 7, 2025, after realizing that he belonged to a class of noncitizens entitled to  
14 a specific notice and grace period under a settlement. *See* Decl. at ¶ 14; ECF No. 1 at  
15 24 (Petitioner’s declaration confirming he was released after the August 21, 2025  
16 detention). Thus, the operative detention for purposes of this habeas petition is the  
17 October 21, 2025 re-detention (the one giving rise to his current detention).

18 Two, the evidence establishes that ICE complied with the agency’s regulations  
19 when it re-detained Petitioner on October 21, 2025.<sup>3</sup> Nowhere in Petitioner’s declaration  
20 does he state that he did not receive a Notice of Revocation of Release or that he was  
21 not provided an opportunity to contest the reason for his October 21, 2025 detention.  
22 *See* ECF No. 1 at 24–25. Indeed, Petitioner’s brief does not mention the October 21,  
23 2025 detention at all.

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26 <sup>3</sup> Though not challenged by Petitioner, Respondents make clear that they have also  
27 satisfied the more demanding notice and grace period required under the class  
28 settlement, which arguably takes the place of the regulations in this case. That notice  
explained to Petitioner that ICE would be re-detaining him to execute his final order of  
removal to Cambodia on October 21, 2025, at the earliest. *See* Exh. 3.

1 Even if Petitioner’s regulatory violation claim was generously construed to  
2 pertain to the operative detention, it still fails. At the time of Petitioner’s arrest and  
3 detention, ICE provided him a Notice of Revocation of Release, informing him that he  
4 was being detained due to changed circumstances in his case. *See* Exh. 4. ICE further  
5 explained to Petitioner that he was being re-detained because it obtained his travel  
6 document and would be executing his removal to Cambodia. *See* Decl. at ¶ 15; ECF  
7 No. 1 at 24 (“They told me they have a ‘temporary travel document’ for me . . .”).  
8 Petitioner told ICE officers that “he is not opposed to being detained as long as his travel  
9 document is available and removal flight is coordinated.” Exh. 6 at 2. Petitioner’s  
10 assertion that he “does not believe he received an informal interview where an officer  
11 explained the purported ‘changed circumstances’ underlying his revocation,” ECF No.  
12 1 at 8, is thus belied by the record. Because ICE satisfied the notice and informal  
13 interview provisions of 8 C.F.R. § 241.13, Petitioner’s regulatory violation claim should  
14 be denied.

15 **B. Petitioner is lawfully detained under 8 U.S.C. § 1231(a)(6) and *Zadvydas*.**

16 “Section 241(a) of the Immigration and Nationality Act (INA), codified at 8  
17 U.S.C. § 1231(a), authorizes the detention of noncitizens who have been ordered  
18 removed from the United States.” *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 575  
19 (2022). The INA provides that an alien ordered removed must be detained for 90 days  
20 pending the government’s efforts to secure the alien’s removal through negotiations  
21 with foreign governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General “shall  
22 detain” the alien during the 90-day removal period under subsection (a)(1)). Section  
23 1231(a)(6) “authorizes further detention if the Government fails to remove the alien  
24 during those 90 days.” *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001). The statute,  
25 however, is limited to “a period reasonably necessary to bring about the alien’s removal  
26 from the United States” and “does not permit indefinite detention.” *Id.* at 689. The  
27 Supreme Court has held that a six-month period of post-removal detention constitutes  
28 a “presumptively reasonable period of detention.” *Id.* at 701. Release is not mandated

1 after the expiration of the six-month period unless “there is no significant likelihood of  
2 removal in the reasonably foreseeable future.” *Id.*

3 Even assuming Petitioner’s post-final order detention is past the six-month  
4 presumptively reasonable period, the evidence shows that Petitioner’s removal is not  
5 only significantly likely in the reasonably foreseeable future—it is imminent. ICE has  
6 a travel document for Petitioner and could have executed his removal to Cambodia on  
7 November 19, 2025. *See Decl.* at ¶¶ 14, 17. To comply with the Court’s order, ICE  
8 canceled Petitioner’s November 19 booking. *See id.* at ¶ 19. ICE has rescheduled  
9 Petitioner’s flight to Cambodia for December 3, 2025, and will execute the removal on  
10 that date, should the Court lift the stay of removal by that time. *See id.* at ¶ 20. On this  
11 record, the Court cannot find that “there is no significant likelihood of removal in the  
12 reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701.

13 **C. Petitioner’s third-country removal claim is not supported by the record and**  
14 **will be moot when ICE executes his removal to Cambodia.**

15 Lastly, Petitioner raises a general claim that ICE might remove him to a third  
16 country without adequate notice and opportunity to be heard. The assertion is untethered  
17 to the facts of this case. As the record shows, ICE is seeking to remove Petitioner to  
18 Cambodia and can do so as early as December 3, 2025, at which point the third country  
19 claim would be rendered moot. To the extent the Court is not inclined to deny  
20 Petitioner’s third-country claim at this time, it should stay adjudication of that claim,  
21 lift the stay of removal as to Cambodia to allow Respondents to execute Petitioner’s  
22 administratively final order of removal to Cambodia. *See, e.g., Tran v. Noem et al.*, Case  
23 No. 25-cv-2334-JES-MSB, ECF No. 15 at 8 (S.D. Cal. Sept. 29, 2025) (district court  
24 lifting its prior stay of the petitioner’s removal as to the country designated in the  
25 removal order such that the petitioner may be removed to that country during the  
26 pendency of the action); *see also Rauda v. Jennings*, 55 F.4th 773, 777 (9th Cir. 2022)  
27 (holding that 8 U.S.C. § 1252(g) divests the court of jurisdiction to issue the requested  
28 temporary restraining order to enjoin removal to the petitioner’s home country).

1 **IV. CONCLUSION**

2 For the reasons stated herein, Respondents respectfully request that the Court  
3 deny the habeas petition and motion for temporary restraining order.<sup>4</sup>

4 DATED: November 19, 2025

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8 Attorneys for Respondents  
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28 <sup>4</sup> Respondents have provided herein the information and evidence responsive to the Court's Order to Show Cause. An evidentiary hearing is not necessary.