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14 **UNITED STATES DISTRICT COURT**

15 **DISTRICT OF ARIZONA**

16 Monnathy L. Nambounmy,

17 *Petitioner,*

18 v.

19 Gregory J. Archambeault, Enforcement
20 and Removal Operations, San Diego Field
21 Office Director, U.S. Immigration and
22 Customs Enforcement; Todd Lyons,
23 Acting Director of Immigration and
24 Customs Enforcement; Kristi Noem,
25 Secretary, U.S. Department of Homeland
26 Security; Christopher J. LaRose, senior
27 warden at Otay Mesa Detention Center;
28 U.S. Department of Homeland Security;
U.S. Immigration and Customs
Enforcement,

Respondents.

Civil Case No. '25CV3172 JO SBC

**COMPLAINT AND PETITION FOR
WRIT OF HABEAS CORPUS AND
INJUNCTIVE RELIEF**

1 INTRODUCTION

2 1. Petitioner Monnathy L. Nambounmy is a 46-year-old citizen of Laos, who
3 has lived in the United States since the age of one. Since 2001, Mr. Nambounmy has lived
4 under an order of removal to Laos that the U.S. government has been unable to execute
5 because Laos has historically not accepted U.S. deportees. Nonetheless, Mr. Nambounmy
6 has complied with an Immigration and Customs Enforcement (“ICE”) Order of
7 Supervision and proven over more than a decade that he is not a flight risk or a danger to
8 the community. To the contrary, he has dedicated the past decade of his life to raising his
9 children and caring for his ill wife. His wife recently received a kidney transplant and his
10 eleven-year-old son has serious medical needs, requiring 24-hour supervision and care.
11 Nonetheless, ICE suddenly and without notice detained Mr. Nambounmy at a check-in on
12 October 31, 2025. Mr. Nambounmy has been detained by ICE ever since.

13 2. Due to his wife and son’s medical conditions, Mr. Nambounmy requested a
14 stay of removal from ICE in June 2025, in advance of his scheduled check in. ICE granted
15 the request on July 3, 2025 for a six-month term and placed him on electronic monitoring.
16 Then, on July 7, 2025, ICE sent him a “call in” letter requesting that he appear again at its
17 office on July 30. When Mr. Nambounmy appeared, an ICE officer told him without
18 explanation that his stay of removal was being revoked and abruptly detained him.

19 3. On September 10, 2025, Petitioner filed a petition for a writ of habeas corpus and
20 a motion for a temporary restraining order (TRO) in the District of Arizona. On October 2, 2025,
21 Judge Humetewa granted Petitioner’s TRO as to his due process claim under *Zadvyas v. Davis*,
22 533 U.S. 678 (2001) and ordered his immediate release from detention under the conditions that
23 existed prior to his re-detention.

24 4. On October 3, 2025, ICE released Petitioner from custody.

25 5. On October 20, 2025, Petitioner filed a motion to enforce the October 2, 2025 order
26 to remove the GPS ankle monitor that ICE subjected Petitioner to upon his release from San Luis
27 Detention and Support Center. In opposition, the Government notified the court in a vague
28 declaration that “[o]n October 15, 2025, [the Government] received a travel document for Laos for

1 the Petitioner,” however the Government did not, and at the time of filing has not, provided any
2 court or Petitioner a copy of the reported Laos travel documents. On October 24, 2025, the court
3 denied Petitioner’s request to remove the ankle monitor.

4 6. On October 31, 2025, ICE re-detained Petition in the same manner as in July 2025.
5 As of the date of this filing, the Government has not executed Petitioner’s removal.

6 7. Immigration officials have held Mr. Nambounmy in custody cumulatively
7 more than nine months and counting since an immigration court ordered him removed in
8 2001 without the ability to remove him. ICE re-detained Mr. Nambounmy on July 30
9 without first obtaining a travel document to Laos or demonstrating a significant likelihood
10 that they could now remove him to Laos in the reasonably foreseeable future.

11 8. Removal to Laos is not reasonably foreseeable. ICE has not obtained a travel
12 document from Laos, nor has Laos agreed to accept Mr. Nambounmy.

13 9. For 24 years, since his removal order, the United States has generally been
14 unable to deport any Laotian national to Laos. As a result, over recent months, the United
15 States has begun carrying out removals of Laos nationals to third countries under an
16 agency-wide policy that violates constitutional, statutory and regulatory procedures for
17 third country removals, and bedrock law prohibiting punitive banishment practices. It has
18 also succeeded in persuading Laos to accept some U.S. deportees for repatriation, but who
19 they accept and under what conditions is irregular and unclear.

20 10. Mr. Nambounmy files this habeas petition to seek his release from custody
21 because ICE unlawfully arrested and detained Mr. Nambounmy without providing any
22 constitutionally mandated notice and a hearing; without complying with regulatory
23 standards and procedures for re-detention and revocation of release; and in violation of the
24 detention statute and substantive due process. Mr. Nambounmy also seeks to enjoin
25 Respondents from removing him to a third country without the notice and opportunity to
26 be heard that is required by the Constitution and the immigration statute in reopened
27 removal proceedings, and to enjoin Respondents from removing him to a third country for
28 a punitive purpose and effect.

JURISDICTION AND VENUE

1
2 11. This case arises under the Constitution of the United States, the Immigration
3 and Nationality Act (“INA”), 8 U.S.C. § 1101, *et seq.*, and the Administrative Procedures
4 Act (“APA”), 5 U.S.C. §§ 500-596, 701-706.

5 12. This Court has subject matter jurisdiction under 28 U.S.C. § 2241, *et seq.*
6 (habeas corpus), U.S. Const. art. I, § 9, cl. 2 (Suspension Clause), 28 U.S.C. § 1331 (federal
7 question), 28 U.S.C. § 1346 (United States as Respondent), and 28 U.S.C. § 1651 (All
8 Writs Act). Respondents have waived sovereign immunity for purposes of this suit. 5
9 U.S.C. §§ 702, 706.

10 13. The Court may grant relief under the habeas corpus statutes, 28 U.S.C. §
11 2241, *et seq.*; the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*; the All Writs Act,
12 28 U.S.C. § 1651; and the Court’s inherent equitable powers.

13 14. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e)(1) because
14 Respondents are agencies or officers of agencies of the United States, Respondents and
15 Petitioner reside in this District, Petitioner is detained in this District, and a substantial part
16 of the events or omissions giving rise to Petitioner’s claims occurred in this District.

PARTIES

17 15. Petitioner Monnathy L. Nambounmy is a citizen of Laos. He has a final order
18 of removal, with Laos as the country designated for removal. Mr. Nambounmy is detained
19 in the control and custody of Respondents at the San Luis Regional Detention and Support
20 Center (“SLRDSC”) in San Luis, Arizona. He is a resident of San Diego, California.

21 16. Respondent Gregory J. Archambeault is the Field Office Director for ICE
22 Enforcement and Removal Operations (“ERO”) in San Diego. As the ERO San Diego
23 Field Office Director, he is Mr. Nambounmy’s immediate custodian, responsible for his
24 detention at Otay Mesa Detention Center, and the person with the authority to authorize
25 detention or release. Respondent Archambeault is sued in his official capacity.

26 17. Respondent Kristi Noem is the Secretary of the Department of Homeland
27 Security (“DHS”). In this capacity, Respondent Noem is the legal custodian of Mr.
28

1 Nambounmy. Respondent Noem is sued in her official capacity.

2 18. Respondent Todd Lyons is Acting Director and Senior Official Performing
3 the Duties of the Director of ICE. Respondent Lyons is responsible for ICE's policies,
4 practices, and procedures, including those relating to removal procedures and the detention
5 of immigrants during their removal procedures. Respondent Lyons is a legal custodian of
6 Mr. Nambounmy. Respondent Lyons is sued in his official capacity.


7 19. Respondent Christopher J. LaRose is the senior warden at Otay Mesa
8 Detention Center where Petitioner is currently held.

9 20. Respondent DHS is a federal executive agency responsible for, among other
10 things, enforcing federal immigration laws and overseeing lawful immigration to the
11 United States. Respondent DHS is a legal custodian of Mr. Nambounmy.

12 21. Respondent ICE is the federal executive agency responsible for the
13 enforcement of immigration laws, including the arrest, detention, and removal of
14 noncitizens. Respondent ICE is a legal custodian of Mr. Nambounmy.

15 STATEMENT OF FACTS

16 Petitioner's Facts

17 22. Mr. Nambounmy was born on  in Vientiane, Laos. Petitioner
18 entered the United States on January 27, 1981, at the age of one, as a refugee from Laos.
19 He entered along with his parents and five older siblings.

20 23. Mr. Nambounmy and his family settled in the San Diego area.

21 24. Mr. Nambounmy's family continues to live in the San Diego area. His
22 parents and four of his five siblings are naturalized citizens.

23 25. On November 30, 2017, Mr. Nambounmy married his United States citizen
24 wife, Stacy Lin Imgrund. They have two young children together, an 11-year-old boy and
25 an 8-year-old daughter, both born in the United States.

26 26. Until his detention, Mr. Nambounmy lived with his family and cared for his
27 terminally sick wife and chronically ill son. Mr. Nambounmy's wife, Ms. Imgrund, is
28

1 legally blind and suffering from several debilitating illnesses including Diabetes Mellitus
2 Type 1 with chronic kidney disease warranting ongoing and chronic dialysis,
3 hyperphosphatemia, hypertension, hypothyroidism, anemia, ITP- a rare blood disorder, and
4 most recently, End Stage Renal Disease. She requires round the clock care, which Mr.
5 Nambounmy was providing in addition to being the primary household earner.

6 27. Mr. Nambounmy has an insulin-dependent son with Diabetes Mellitus Type
7 1, Attention Hyperactive Deficit Disorder (“ADHD”), and an Auditory Process Disorder.
8 His son’s illnesses are associated with a combination of medical, physical, and behavioral
9 challenges.

10 28. Mr. Nambounmy’s son cannot be left alone for extended periods of time,
11 particularly at night when his glucose levels are unpredictable. His son is extremely
12 difficult to wake up. Prior to his detention, Mr. Nambounmy monitored his son at night to
13 ensure his glucose levels did not drop, to wake him when they did, and administer
14 medications when needed.

15 29. Mr. Nambounmy has been a consistent and vital caregiver for his son since
16 his diagnoses, knows all his care routines, behavior patterns, and dietary restrictions. He
17 plays an essential role in supervising meals and snacks; managing strict portion control;
18 administering his insulin; and managing his behavioral and emotional challenges. Mr.
19 Nambounmy plays a critical role in his son’s survival and his removal would drastically
20 increase the risk of medical emergencies, emotional trauma, and long-term harm. In fact,
21 since Mr. Nambounmy’s detention, his son had a severe medical emergency that almost
22 resulted in the amputation of his toe.

23 30. Mr. Nambounmy plays an equally vital role in the care of his wife. Doctors
24 recently performed a kidney transplant for Mrs. Imgrund. Prior to his detention, Mr.
25 Nambounmy was Mrs. Imgrund’s caregiver. He administered her numerous medications;
26 drove her to all her doctor’s appointments; assisted with the challenges of her daily dialysis
27 treatments; and cared for their children. As of this filing, Ms. Imgrund is struggling with
28 internal bleedings that may also require surgical intervention. Mr. Nambounmy’s absence

1 has caused extreme turmoil and pain to his already struggling family. He was, and remains,
2 entirely devoted to the care of his family.

3 31. On October 23, 1997, Mr. Nambounmy was convicted of attempted murder
4 in the second degree for driving the getaway car during a drive by shooting. He was
5 sentenced to five years in prison. Mr. Nambounmy was seventeen at the time of the offense
6 and had just turned eighteen when he pled guilty. Nobody was injured during the
7 commission of the crime.

8 32. Upon his release from prison on June 20, 2001, Mr. Nambounmy was taken
9 into ICE custody. The INS charged him with being removable under 8 U.S.C. §
10 1227(a)(2)(A)(iii) for having an aggravated felony due to the second-degree attempted
11 murder conviction.

12 33. An immigration judge ordered Mr. Nambounmy removed on August 9, 2001.
13 He did not appeal.

14 34. Mr. Nambounmy was not removed because Laos would not accept him.

15 35. After more than three months of detention in immigration custody, in
16 November 2001, Mr. Nambounmy was released on an order of supervision.

17 36. On March 15, 2005, immigration officials took Mr. Nambounmy into
18 custody after he was convicted of attempted burglary. After three additional months of
19 immigration custody, Mr. Nambounmy was again released from immigration custody on
20 June 14, 2005, under an order of supervision.

21 37. ICE took Mr. Nambounmy into custody again from August 2, 2011 to
22 October 26, 2011. Again, the agency was unable to remove him to Laos and he was
23 released on an order of supervision.

24 38. Mr. Nambounmy's last criminal conviction was in 2014, 11 years ago. He
25 is a hardworking and productive member of society and closely connected to his family.

26 39. His last Order of Supervision was issued on February 19, 2016. Mr.
27 Nambounmy has been dutifully complying with his supervision requirements ever since,
28 including appearing for all his scheduled check-ins.

1 40. Mr. Nambounmy appeared for his annual check-in on July 3, 2025. Prior to
2 that check-in, Mr. Nambounmy, alongside his pro bono counsel, had applied for a Stay of
3 Deportation or Removal (“I-246”). This was submitted in consideration of his wife’s
4 serious health issues and due to an aggressive change in ICE detention practices. At that
5 July ICE check-in, an ICE officer verbally approved Mr. Nambounmy’s application for a
6 Stay of Removal in the presence of his counsel, Crystal Felix, Esq.

7 41. However, shortly thereafter, Mr. Nambounmy received a letter to his home
8 requesting that he appear at another ICE check-in on July 30, 2025. The request from ICE
9 demanded that Mr. Nambounmy bring his passport or any travel documents, a task that
10 was not feasible since they do not exist.

11 42. Mr. Nambounmy attempted to comply with the request as best he could. He
12 contacted the Laos embassy, and they confirmed they would not issue a passport to him.
13 Mr. Nambounmy appeared for his ICE check-in on July 30, 2025, alongside his wife and
14 mother-in-law. At that time, officers informed him his approved I-246 was revoked. They
15 instructed him to say goodbye to his wife. Mr. Nambounmy was handcuffed and detained.

16 43. On September 10, 2025, Petitioner filed a petition for a writ of habeas corpus and
17 a motion for a temporary restraining order (TRO) in the District of Arizona. On October 2, 2025,
18 Judge Humetewa granted Petitioner’s TRO as to his due process claim under *Zadvyas v. Davis*,
19 533 U.S. 678 (2001) and ordered his immediate release from detention under the conditions that
20 existed prior to his re-detention. On October 3, 2025, ICE released Petitioner from custody.

21 44. On October 20, 2025, Petitioner filed a motion to enforce the October 2, 2025 order
22 to remove the GPS ankle monitor that ICE subjected Petitioner to upon his release from San Luis
23 Detention and Support Center. In opposition, the Government notified the court in a vague
24 declaration that “[o]n October 15, 2025, [the Government] received a travel document for Laos for
25 the Petitioner,” however the Government did not, and at the time of filing has not, provided any
26 court or Petitioner a copy of the reported Laos travel documents. On October 24, 2025, the court
27 denied Petitioner’s request to remove the ankle monitor.

28 45. On October 31, 2025, ICE re-detained Petitioner in the same manner as in July 2025.

1 As of the date of this filing, the Government has not executed Petitioner's removal.

2 46. ICE never provided Mr. Nambounmy any written notice that the conditions
3 of his release were being revoked and that he would again be detained.

4 47. At no point has any ICE officer provided Mr. Nambounmy an interview to
5 explain the reasons why his release was revoked, nor have they provided him an
6 opportunity to respond with evidence explaining the reasons why he does not believe Laos
7 will accept him for removal or conducted a custody revocation review

8 48. Mr. Nambounmy's removal to Laos is not reasonably foreseeable. He does
9 not have a Laos passport. ICE did not obtain travel documents from Laos for Mr.
10 Nambounmy before again detaining him.

11 49. Upon information and believe, ICE still has not sought a travel document
12 from Laos. Approximately two weeks ago, an ICE officer pulled Mr. Nambounmy from
13 his dorm and asked him for information needed to complete a travel document request to
14 Laos. Mr. Nambounmy complied.

15 50. The Department of Homeland Security has brandished Mr. Nambounmy's
16 photo and profile on its website, calling him the "Worst of the Worst."

17 **Repatriation to Laos History**

18 51. No repatriation agreement exists between Laos and the United States.

19 52. Historically, Laos has refused to accept deportees from the United States.

20 53. Until this year, Laos had accepted very few people for repatriation from the
21 United States. Laos did not accept anyone for deportation between October 2023 and
22 September 2024.

23 54. Upon information and belief, Laos will not accept a person for repatriation
24 from the United States without first processing a request from ICE and issuing a travel
25 document.

26 55. There are an estimated nearly 5,000 individuals in the United States
27 considered by ICE to be nationals of Laos with removal orders that the U.S. government
28 has been unable to execute.

1 56. In June 2025, the U.S. placed a partial travel ban on Laos and cut off visas
2 for certain Laotian individuals citing visa overstays and failure to cooperate with U.S.
3 deportation efforts. The Laos government has slowly began issuing travel documents in
4 response. Dozens of individuals have reportedly been deported to Laos in recent months.

5 **Punitive Banishment to Third Countries**

6 57. Since January 2025, Respondents have developed and implemented a policy
7 and practice of removing individuals to third countries, without first following the
8 procedures in the INA for designation and removal to a third country and without providing
9 fair notice and an opportunity to contest the removal in immigration court.

10 58. Respondents reportedly have negotiated with at least 58 countries to accept
11 deportees from other nations. On June 25, 2025, the *New York Times* reported that seven
12 countries—Costa Rica, El Salvador, Guatemala, Kosovo, Mexico, Panama, and Rwanda—
13 had agreed to accept deportees who are not their own citizens.¹ Since then, ICE has carried
14 out highly publicized third country deportations to South Sudan, Eswatini, and Rwanda.

15 59. Punishment and deterrence appear to be the point of the Administration’s
16 third country removal scheme. The Administration has reportedly negotiated with
17 countries to have deportees imprisoned in prisons, camps, or other facilities. The
18 government paid El Salvador about \$5 million to arbitrarily and indefinitely imprison more
19 than 200 deported Venezuelans in a maximum-security prison notorious for gross human
20 rights abuses, known as CECOT. In February, Panama and Costa Rica took in hundreds
21 of deportees from countries in Africa and Central Asia and imprisoned them in hotels, a
22 jungle camp, and a detention center. On July 4, 2025, ICE deported eight men, including
23 one Laotian man, to South Sudan. The men have been detained incommunicado ever since.
24 On July 15, ICE deported five men to the African nation of Eswatini, including one man
25 from Laos, where they are reportedly being held in solitary confinement.

26
27
28 ¹ Edward Wong et al, *Inside the Global Deal-Making Behind Trump’s Mass
Deportations*, N.Y. Times, June 25, 2025.

1 60. The Administration has hand selected countries known for human rights
2 abuses and instability for these third country deportation agreements to frighten people in
3 the United States into self-deporting or to accept removal to their home countries. Indeed,
4 conditions in South Sudan are so extreme that the U.S. State Department website warns
5 Americans not to travel there, and if they do, to prepare their will, make funeral
6 arrangements, and appoint a hostage-taker negotiator first.

7 61. On July 9, 2025, ICE issued a new memo to staff instructing that when
8 seeking to remove an individual to a country not designated on that person’s removal order,
9 that ICE may deport that person without any procedures for notice or an opportunity to be
10 heard if the State Department confirms that it has received diplomatic assurances that
11 individuals will not be persecuted or tortured. If no diplomatic assurances are received,
12 the ICE memo instructs officers to serve on the individual a Notice of Removal that
13 includes the intended country of removal. It instructs officers not to ask whether the
14 individual is afraid of removal to that country. It states that officers should “generally wait
15 at least 24 hours following service of the Notice of Removal before effectuating removal,”
16 but that “[i]n exigent circumstances, [ICE] may execute a removal order six (6) or more
17 hours after service of the Notice of Removal as long as the [noncitizen] is provided
18 reasonable means and opportunity to speak with an attorney prior to removal.”

19 62. The memo further instructs that if the noncitizen “does not affirmatively state
20 a fear of persecution or torture if removed to the country of removal listed on the Notice of
21 Removal within 24 hours, [ICE] may proceed with removal to the country identified on the
22 notice.” If the noncitizen “does affirmatively state a fear if removed to the country of
23 removal” then ICE will refer the case to U.S. Citizenship and Immigration Services
24 (“USCIS”) for a screening for eligibility for withholding of removal and protection under
25 the Convention Against Torture (“CAT”). “USCIS will generally screen within 24 hours.”
26 If USCIS determines that the noncitizen does not meet the standard, the individual will be
27 removed. If USCIS determines that the noncitizen has met the standard, then the policy
28 directs ICE to either move to reopen removal proceedings “for the sole purpose of

1 determining eligibility for [withholding of removal protection] and CAT” or designate
2 another country for removal.

3 63. The eight men who were ultimately deported to South Sudan all claimed fear
4 of removal to South Sudan. None of those men were provided a fear screening by a USCIS
5 officer or otherwise, despite the fact that they were held by ICE for six weeks on a U.S.
6 military base in Djibouti before their final removal to South Sudan.

7 LEGAL FRAMEWORK

8 Post-Removal Order Detention and Re-Detention

9 64. The INA provides that after a removal order becomes final, the government
10 “shall remove the alien from the United States within a period of 90 days.” 8 U.S.C. §
11 1231(a)(1)(A). This 90-day period is often referred to as the “initial removal period,” and
12 during it, the government “shall detain the alien.” *Id.* § 1231(a)(2). In some circumstances,
13 federal immigration authorities can continue to detain an alien beyond the initial removal
14 period. Specifically, section 1231(a)(6) allows the government to detain certain
15 enumerated classes of immigrants—including those ordered removed due to criminal
16 convictions—for more than 90 days. *Id.* § 1231(a)(6). In *Zadvydas v. David*, 533 U.S. 678
17 (2001), the Court addressed the question of how long the government can detain an
18 immigrant pursuant to section 1231(a)(6).

19 65. The *Zadvydas* Court began by rejecting the government’s position that
20 section 1231(a)(6) permitted indefinite detention following the initial removal period. *See*
21 *id.* It held that “[a] statute [that] permit[ed] indefinite detention of an alien would raise a
22 serious constitutional problem,” *id.* at 690, and instead determined that section 1231(a)(6)
23 “implicitly limits an alien’s detention to a period reasonably necessary to bring about that
24 alien’s removal,” *id.* at 679. Thus, “once removal is no longer reasonably foreseeable,
25 continued detention is no longer authorized by [section 1231(a)(6)].” *Id.* at 699.

26 66. The Court went on to institute a framework that would govern future
27 challenges to section 1231(a)(6) detention. “[F]or the sake of uniform administration in
28 the federal courts,” the Court found that post-removal detention was “presumptively

1 reasonable” for the first six months. *Id.* at 700-01. When that “presumptively reasonable”
2 six-month period ends, aliens seeking release from custody bear the initial burden of
3 providing “good reason to believe that there is no significant likelihood of removal in the
4 reasonably foreseeable future.” *Id.* at 701. Once that initial showing is made, the burden
5 shifts to the government to respond with evidence sufficient to rebut it. *See id.*

6 67. Upon release from custody, a noncitizen subject to a final order of removal
7 must comply with certain conditions of release. 8 U.S.C. § 1231(a)(3), (6). The revocation
8 of that release is governed by 8 C.F.R. § 241.13(i), which authorizes ICE to revoke a
9 noncitizen’s release for purposes of removal.

10 68. ICE may revoke a noncitizen’s release and return them to ICE custody due
11 to failure to comply with any of the conditions of release, 8 C.F.R. § 241.13(i)(1), or if,
12 “on account of changed circumstances, the Service determines that there is a significant
13 likelihood that the [noncitizen] may be removed in the reasonably foreseeable future,” *id.*
14 § 241.13(i)(2).

15 69. Upon such a determination by ICE to re-detain, “the alien will be notified of
16 the reasons for revocation of his or her release. [ICE] will conduct an initial informal
17 interview promptly after his or her return to [ICE] custody to afford the alien an opportunity
18 to respond to the reasons for revocation stated in the notification. The [noncitizen] may
19 submit any evidence or information that he or she believes shows there is no significant
20 likelihood he or she be removed in the reasonably foreseeable future, or that he or she has
21 not violated the order of supervision. The revocation custody review will include an
22 evaluation of any contested facts relevant to the revocation and a determination whether
23 the facts as determined warrant revocation and further denial of release.” *Id.* § 241.13(i)(3).

24 70. In addition to the regulatory framework, procedural due process does not
25 permit ICE to re-detain an individual it has released on an order of supervision without
26 providing a pre-deprivation hearing on the reasons for redetention. Individuals released on
27 orders of supervision have a protected liberty interest in remaining in the community on
28 supervision that cannot be taken away without notice and a pre-deprivation hearing. *See,*

1 e.g., *Zakzouk v. Becerra*, No. 25-cv-06254, 2025 WL 2097470, at *3 (N.D. Cal. July 26,
2 2025) (“Courts have previously found that individuals released from immigration custody.
3 . . . have a protectable liberty interest in remaining out of custody.”) (citing cases); *Romero*
4 *v. Kaiser*, No. 22-cv-02508-TSH, 2022 WL 1443250, at *2 (N.D. Cal. May 6, 2022).

5 71. “[C]ivil immigration detention is permissible only to prevent flight or protect
6 against danger to the community.” *Zadvydas*, 533 U.S. at 690. Once a person has been
7 ordered released and is complying with the conditions of supervision, ICE has no legitimate
8 interest in re-detaining the individual. In the event a travel document is obtained, ICE can
9 notify the individual and facilitate their orderly departure without detention, consistent with
10 ICE’s standard notice of release and order of supervision. The language of ICE’s standard
11 “Release Notification” reads “Once a travel document is obtained, you will be required to
12 surrender to the ICE for removal. You will, at that time, be given an opportunity to prepare
13 for an orderly departure.”

14 **Third Country Removals**

15 72. The immigration laws delineate the proper procedures by which a country
16 may be designated for removal. *See* 8 U.S.C. § 1231(b). These procedures move in
17 incremental steps.

18 73. First, an individual with a removal order may designate the country to which
19 they want to be removed, and the government *shall* remove the alien to that country. *Id.* §
20 1231(b)(2)(A). The government may disregard that designation if (1) the individual fails
21 to designate a country promptly; (2) the government of that country does not inform the
22 U.S. government finally, within 30 days after the date the U.S. government first inquires,
23 whether the government will accept the individual into that country; (3) the government of
24 the country is not willing to accept the alien into the country; or (4) the government decides
25 that removing the individual to that country is prejudicial to the United States. *Id.* §
26 1231(b)(2)(C).

27 74. Second, if the individual is not removed to the country they designated under
28 Section 1231(b)(2)(A), the government shall remove the individual to the country of which

1 the individual is a “subject, national, or citizen” unless the government of that country does
2 not inform the U.S. government or the individual within 30 days after first inquiry or within
3 another reasonable period of time whether the government will accept the individual into
4 the country or the country is not willing to accept the individual into the country. *Id.* §
5 1231(b)(2)(D).

6 75. Third, if the individual is not removed to either the country of their
7 designation or the country of which they are a subject, national, or citizen then the
8 government shall remove them to any of the following options: (1) the country from which
9 the individual was admitted to the United States; (2) the country in which is located the
10 foreign port from which the individual left for the United States or for a foreign territory
11 contiguous to the United States; (3) the country in which the individual resided before the
12 individual entered the United States and from which the individual entered the United
13 States; (4) the country in which the individual was born; or (5) the country in which the
14 individual’s birthplace is located when the individual was ordered removed. *Id.* §
15 1231(b)(2)(E). Only “[i]f impracticable, inadvisable, or impossible” to remove the
16 individual to any of these countries may the government remove the individual to “another
17 country whose government will accept [them] into that country.” *Id.* § 1231(b)(2)(E)(vii).

18 76. Notwithstanding any of these procedures, the statute prohibits removal to a
19 third country where a person may be persecuted or tortured, a form of protection known as
20 withholding of removal. *See id.* § 1231(b)(3)(A). The government “may not remove [a
21 noncitizen] to a country if the Attorney General decides that the [noncitizen’s] life or
22 freedom would be threatened in that country because of the [noncitizen’s] race, religion,
23 nationality, membership in a particular social group, or political opinion.” *Id.*; *see also* 8
24 C.F.R. §§ 208.16, 1208.16. Withholding of removal is a mandatory protection.

25 77. Similarly, Congress codified protections enshrined in the CAT prohibiting
26 the government from removing a person to a country where they would be tortured. *See*
27 FARRA 2681-822 (codified as 8 U.S.C. § 1231 note) (“It shall be the policy of the United
28 States not to expel, extradite, or otherwise effect the involuntary return of any person to a

1 country in which there are substantial grounds for believing the person would be in danger
2 of being subjected to torture, regardless of whether the person is physically present in the
3 United States.”); 28 C.F.R. § 200.1; *id.* §§ 208.16-208.18, 1208.16-1208.18. CAT
4 protection is also mandatory.

5 78. To comport with the requirements of due process, the government must
6 provide notice of the third country removal and an opportunity to respond. Due process
7 requires “written notice of the country being designated” and “the statutory basis for the
8 designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v. Nielsen*, 409 F. Supp.
9 3d 998, 1019 (W.D. Wash. 2019); *see also D.V.D. v. U.S. Dep’t of Homeland Sec.*, No. 25-
10 cv-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025) (“All removals to third
11 countries, *i.e.*, removal to a country other than the country or countries designated during
12 immigration proceedings as the country of removal on the non-citizen’s order of removal,
13 must be preceded by written notice to both the non-citizen and the non-citizen’s counsel in
14 a language the non-citizen can understand.” (citation omitted)); *see Andriasian v. INS*, 180
15 F.3d 1033, 1041 (9th Cir. 1999) (due process requires notice to the noncitizen of the right
16 to apply for asylum and withholding to the country where they will be removed). The
17 government must be able to show evidence that the third country will accept the individual
18 into that country. *See Himri v. Ashcroft*, 378 F.3d 932, 939 (9th Cir. 2004) (when “at the
19 time the government proposes a country of removal pursuant to § 1231(b)(2)(E)(vii), the
20 government must be able to show that the proposed country *will* accept the [individual]”).

21 79. Due process also demands that the government “ask the noncitizen whether
22 he or she fears persecution or harm upon removal to the designated country and
23 memorialize in writing the noncitizen’s response. This requirement ensures DHS will
24 obtain the necessary information from the noncitizen to comply with Section 1231(b)(3)
25 and avoids [a dispute about what the officer and noncitizen said].” *Aden*, 409 F. Supp. 3d
26 at 1019; *cf. D.V.D.*, 2025 WL 1453640, at *1 (“Following notice, the individual must be
27 given a meaningful opportunity, and a minimum of ten days, to raise a fear-based claim for
28 CAT protection prior to removal.” (emphasis omitted)).

1 80. If the noncitizen claims fear, measures must be taken to ensure that the
2 noncitizen can seek asylum, withholding, and relief under CAT before an immigration
3 judge in reopened removal proceedings. *Cf. D.V.D.*, 2025 WL 1453640, at *1 (requiring
4 the government to move to reopen the noncitizen’s immigration proceedings if the
5 individual demonstrates “reasonable fear” and to provide “a meaningful opportunity, and
6 a minimum of fifteen days, for the non-citizen to seek reopening of their immigration
7 proceedings” if the noncitizen is found to not have demonstrated “reasonable fear”); *Aden*,
8 409 F. Supp. 3d at 1019 (requiring notice and time for a respondent to file a motion to
9 reopen and seek relief).

10 81. Finally, notice of the country to which the noncitizen will be removed must
11 not be “last minute” because that would deprive an individual of a meaningful opportunity
12 to apply for fear-based protection from removal. *Andriasian*, 180 F.3d at 1041. The
13 noncitizen must have time to prepare and present relevant arguments and evidence and to
14 seek reopening of their removal case.

15 **Punitive Removal Practices**

16 82. It is bedrock law that the U.S. government may not impose or inflict an
17 infamous punishment for violations of civil immigration law. In 1896, the Court ruled that
18 while deportation itself was not a punishment, the government could not attach punitive
19 conditions to deportation—in that case, imprisonment at hard labor—absent a criminal
20 charge, trial in a court of law, and the protections of the Fifth, Sixth, and Eighth
21 Amendments. *Wong Wing v. United States*, 163 U.S. 228, 237 (1896).

22 83. Importantly, the Court drew a distinction between deportation, which the
23 Court reasoned is “not a ‘banishment,’ in the sense in which that word is often applied to
24 the expulsion of a citizen from his country by way of punishment,” and government actions
25 aimed at punishment, such as imprisonment at hard labor in addition to deportation. *Id.* at
26 236. The Court explained that deportation “is but a method of enforcing the return to his
27 own country of an alien who has not complied with the conditions upon the performance
28 of which the government of the nation, acting within its constitutional authority and

1 through the proper departments, has determined that his continuing to reside here shall
2 depend.” *Id.* (quoting *Fong Yue Ting v. United States*, 149 U.S. 730 (1893)). But the Court
3 admonished that the government may not “declare unlawful residence within the country
4 to be an infamous crime, punishable by deprivation of liberty and property . . . unless
5 provision were made that the fact of guilt should first be established by a judicial trial.” *Id.*
6 at 237.

7 84. Deportation of individuals to third countries to be imprisoned or harmed is
8 unquestionably punishment.

9 **CLAIMS FOR RELIEF**

10 **COUNT ONE**

11 **Unlawful Re-Detention**

12 **Violation of the Fifth Amendment Due Process Clause, Immigration and Nationality**
13 **Act, 8 U.S.C. § 1231(a), 8 C.F.R. § 241.13, and the Administrative Procedures Act**

14 85. The allegations in the above paragraphs are realleged and incorporated
15 herein.

16 86. Respondents’ re-detention of Mr. Nambounmy violates his rights guaranteed
17 by the Due Process Clause of the Fifth Amendment of the U.S. Constitution; the INA, 8
18 U.S.C. § 1231(a); implementing regulations, 8 C.F.R. § 241.13; and the APA.

19 87. Neither the statute nor the Constitution authorized ICE’s sudden re-detention
20 of Mr. Nambounmy, nor does it authorize his continued detention.

21 88. Respondents were required to provide Mr. Nambounmy pre-deprivation
22 notice and a hearing before re-detaining him, given that he has remained fully compliant
23 with his order of supervision and release conditions.

24 89. Respondents arbitrarily and capriciously revoked his stay of removal, ATD
25 enrollment, and conditions of supervision in violation of the APA.

26 90. Respondents violated governing regulations for revoking Mr. Nambounmy’s
27 conditions of release. Mr. Nambounmy has duly complied with the conditions of his
28 supervised release, including attending check-ins and providing the information and

1 documentation requested of him. His release may be revoked only if changed
2 circumstances make his removal significantly likely in the reasonably foreseeable future.
3 8 C.F.R. § 241.13(i)(2). Upon such a determination, several procedural steps are required
4 to revoke release, *id.* § 241.13(i)(3), none of which were followed here. Respondents are
5 required to follow their own regulations. *United States ex rel. Accardi v. Shaughnessy*, 347
6 U.S. 260, 268 (1954).

7 91. Mr. Nambounmy has already cycled through ICE custody four times, and
8 was released because Laos would not issue a travel document and his removal was not
9 foreseeable. This is now the fifth time ICE has re-detained him. He has been detained for
10 a cumulative period of more than nine months. As the reasonably presumptive period of
11 six months for post-order detention has long ago elapsed, ICE had no authority under the
12 detention statute or the Constitution to re-detain Mr. Nambounmy again without first
13 obtaining a travel document and a travel date. Civil immigration detention is only
14 authorized if a person is a flight risk or a danger to the community. Mr. Nambounmy is
15 neither.

16 92. Upon information and belief, Respondents do not have agreement from Laos
17 to repatriate Mr. Nambounmy and have not presented his travel documents. There is no
18 direct evidence that Laos has or will issue travel documents for Mr. Nambounmy, only a
19 vague statement in a declaration.

20 93. For all these violations, this Court should order Mr. Nambounmy's
21 immediate release.

22 COUNT TWO

23 Third Country Removal

24 Violation of the Fifth Amendment, 8 U.S.C. § 1231, Convention Against Torture, 25 Implementing Regulations, and the Administrative Procedure Act

26 94. The allegations in the above paragraphs are realleged and incorporated
27 herein.

28 95. The Fifth Amendment, the INA, the CAT, and implementing regulations

1 mandate meaningful notice and opportunity to respond to any attempt to remove Mr.
2 Nambounmy to a third country in reopened removal proceedings. They also require an
3 opportunity for Mr. Nambounmy to make a fear-based claim against removal to a third
4 country in reopened removal proceedings. Respondents' policy for third country removals
5 violates all of these laws because it directs ICE agents to remove individuals to third
6 countries without any notice or process *at all* where diplomatic assurances are received
7 and, where no diplomatic assurances are received, to provide flagrantly insufficient notice
8 (6-24 hours) and opportunity to respond, in violation of the statute, regulations, and Fifth
9 Amendment.

10 96. Prior to any third country removal, Mr. Nambounmy must be provided with
11 constitutionally and statutorily compliant notice and an opportunity to respond and contest
12 that removal if he has a fear of persecution or torture in that country in reopened removal
13 proceedings.

14 **COUNT THREE**

15 **Punitive Third Country Banishment**

16 **Violation of Fifth and Eighth Amendments**

17 97. The allegations in the above paragraphs are realleged and incorporated
18 herein.

19 98. Under the Fifth Amendment of the U.S. Constitution, no person shall "be
20 held to answer for a capital, or otherwise infamous crime, unless on a presentment or
21 indictment of a Grand Jury;" "be subject for the same offence to be twice put in jeopardy
22 of life or limb;" or "be deprived of life, liberty, or property, without due process of law."

23 99. The Eighth Amendment provides that no "cruel and unusual punishments"
24 may be inflicted.

25 100. The U.S. Supreme Court long ago held that the government may not inflict
26 upon individuals an "infamous punishment" in addition to deportation, as a penalty for an
27 immigration violation, absent criminal charges, a judicial trial, and attendant constitutional
28 protections. *Wong Wing*, 163 U.S. at 236-38.

1 repatriate him, presenting his travel documents, and securing a travel date;

2 d. Order that Respondents may not remove or seek to remove Mr. Nambounmy
3 to a third country without notice and meaningful opportunity to respond in compliance with
4 the statute and due process in reopened removal proceedings;

5 e. Order that Respondents may not remove Mr. Nambounmy to any third
6 country because Respondents' third country removal program seeks to impose
7 unconstitutional punishment on its subjects, including imprisonment and other forms of
8 harm;

9 f. Award costs and reasonable attorney fees under the Equal Access to Justice
10 Act, 28 U.S.C. § 2412; and

11 g. Order all other relief that the Court deems just and proper.

12
13 Respectfully submitted this 17th day of November, 2025.

14 By: /s/ Andres Holguin-Flores
15 Frederick Carroll
16 Andres Holguin-Flores
17 ACLU Foundation of San Diego and Imperial Counties

18 Geovanna Y. Medel
19 ABA Immigration Justice Project

20 *Attorneys for Petitioner*

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CERTIFICATE OF SERVICE

I hereby certify that on November 17, 2025, I caused a true and correct copy of the foregoing document to be filed with the Clerk of the Court for the United States District Court – Southern District of California by using the CM/ECF system. All participants in this case are registered CM/ECF users and will be served by the CM/ECF system.

/s/Andres Holguin-Flores