

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

ALOUNSY KHAMMANIVONG,

Petitioner,

v.

JOSEPH B. EDLOW, Director, Immigration
And Customs Enforcement;

GARRET RIPA, Director, Miami Field office,
Enforcement and Removal Operations,
Immigrations and Customs Enforcement; and

KRISTI NOEM, Secretary, United States
Department of Homeland Security,

Respondents.

**HEARING REQUESTED
TEMPORARY RESTRAINING
ORDER REQUESTED**

Case No.:

**EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS,
PURSUANT TO 28 U.S.C. § 2241**

COMES NOW, Petitioner herein, by and through his undersigned Counsel of record, and submits this Complaint challenging his ongoing detention at the Everglades Detention Facility.

I. INTRODUCTION

1. Petitioner is a 48-year-old native of Laos. He was lawfully admitted to the United States at Tampa, Florida, on July 25, 1986, as an RE-6 refugee pursuant to then applicable INA § 209(a). *See* Exhibit A, attached hereto and incorporated herein by reference.

2. An Immigration Judge ordered Petitioner removed on March 10, 2009. That order became administratively final on that date as both parties stipulated to the Order and no appeal was filed. *See* Exhibit B, attached hereto and incorporated herein by reference.

3. In February 2009, ICE sought to obtain travel documents for the purpose of

repatriating Petitioner to Laos. No documents were obtained. *See* Exhibit C, attached hereto and incorporated herein by reference.

4. In June 2009, after determining that removal was not significantly likely in the reasonably foreseeable future, DHS released Petitioner under an Order of Supervision. *See* Exhibit D, attached hereto and incorporated herein by reference.

5. Petitioner has at all times fully complied with that Order of Supervision for more than sixteen years.

6. On or about October 21, 2025, ICE re-detained Petitioner. Respondents have provided no evidence of any change in circumstances that would make removal to Laos significantly likely in the reasonably foreseeable future.

7. Petitioner's current detention is governed exclusively by INA § 241, 8 U.S.C. § 1231, as construed by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and *Clark v. Martinez*, 543 U.S. 371 (2005). Because there is no significant likelihood of removal in the reasonably foreseeable future, continued detention violates both the statute and the Due Process Clause of the Fifth Amendment.

II. JURISDICTION

7. Petitioner is in the physical custody of Respondents, United States Immigration and Customs Enforcement ("ICE") through its division Enforcement and Removal Operations ("ERO"), both divisions of the Department of Homeland Security (DHS). This chain will be referred to herein as "ICE-ERO[.]"

8. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA) 8 U.S.C. § 1101 *et seq.*

9. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. § 2241, 28 U.S.C.

§ 1331, Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and its inherent equitable powers.

10. Nothing in 8 U.S.C. § 1252 strips this Court of jurisdiction to hear constitutional or legal challenges to prolonged immigration detention. *Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018); *Demore v. Kim*, 538 U.S. 510, 517 (2003).

III. VENUE

11. Petitioner is detained by ICE-ERO at the Everglades Detention Facility, located at 54575 Tamiami Trail, E, Ochopee, FL, 34141.

IV. PARTIES

12. Petitioner is currently detained at Everglades Detention Facility, located at 54575 Tamiami Trail, E, Ochopee, FL, 34141.


13. Respondent **Kristi Noem** is the Secretary of the Department of Homeland Security (DHS) and is sued in her official capacity as a legal custodian of Petitioner.

14. Respondent **Todd Lyons** is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity as a legal custodian of Petitioner.

15. Respondent **Garrett Ripa** is the Field Office Director of the Miami Field Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement. He is Petitioner's immediate custodian and is sued in his official capacity.

16. Respondents Department of Homeland Security and U.S. Immigration and Customs Enforcement are the federal agencies responsible for Petitioner's detention.

V. FACTUAL ALLEGATIONS

17. Petitioner was born in the country of Laos on  Respondent has no legal status in Laos. *See* Exhibit C.

18. Petitioner was admitted to the United States as a RE-6 refugee on July 25, 1986. Petitioner was admitted via the Tampa, Florida port of entry. *See* Exhibit A.

19. Upon admission Petitioner was provided Lawful Permanent Resident Status. *See* Exhibit A.

20. Petitioner was subsequently charged with violations of 18 U.S.C. § 846 and 21 U.S.C. § 841, Conspiracy to possess with intent to distribute Cocaine and MDMA, in the Middle District of Florida. Pursuant to a plea agreement, Respondent pled guilty and was sentenced to a term of 41 months incarceration in the Bureau of Prisons (“BOP”) by a Judgement and Commitment Order filed July 5, 2006. *See* Exhibit E, attached hereto and incorporated herein by reference.

21. Upon release from BOP custody, Petitioner was immediately detained by ICE-ERO. *See* Exhibit F, attached hereto and incorporated herein by reference.

22. Petitioner was charged with being removable from the United States, by a Notice to Appear (“NTA”) dated February 25, 2009. Petitioner sought no relief from removal and a stipulated removal order was issued by the Immigration Judge at the Cleveland, Ohio Immigration Court, on March 10, 2009. *See* Exhibit G, attached hereto and incorporated herein by reference.

23. On June 11, 2009, following a 90-day detention review, ICE determined that Petitioner was due to be released from their custody. He was provided with an Order of Supervision and released, on June 12, 2009. *See* Exhibit D.

24. Petitioner has remained in the United States, under this Order of Supervision until on or about October 21, 2025, when ICE-ERO decided to re-detain him.

VI. LEGAL ARGUMENT

29. INA § 241(a)(1)(B)(i), 8 U.S.C. § 1231(a)(1)(B)(i), provides that the removal

period begins on “the date the order of removal becomes administratively final.” The order became final on March 10, 2009 as it was a stipulated entry, agreed to by all parties. Neither party pursued any appeal of the order of the Immigration Judge.

30. The mandatory 90-day removal period and the presumptively reasonable six-month period recognized in *Zadvydas* expired in September, 2009.

31. DHS’s June 11, 2009 factual finding that removal was not significantly likely in the reasonably foreseeable future is entitled to issue-preclusion effect in this habeas proceeding. *United States v. Valdiviez-Garza*, 669 F.3d 1199 (11th Cir. 2012).

32. INA § 236(c) mandatory detention applies only “when the alien is released” from criminal custody. 8 U.S.C. § 1226(c)(1). That trigger expired when Respondent was released from BOP custody in 2009 and DHS custody just a few months later. *Jennings v. Rodriguez*, 138 S. Ct. 830, 847 (2018).

33. Respondents cannot revive expired § 1226(c) authority sixteen years later.

34. *Zadvydas v. Davis*, 533 U.S. 678, 699–701 (2001), holds that detention under INA § 241(a)(6) is presumptively unreasonable after six months if there is no significant likelihood of removal in the reasonably foreseeable future.

35. *Clark v. Martinez*, 543 U.S. 371, 378 (2005), extended *Zadvydas* to aggravated felons whose removal is impossible in fact.

36. The Eleventh Circuit enforces this framework. *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002) (per curiam)(burden shifts to government after petitioner shows no significant likelihood of removal); *see also Farah v. U.S. Att’y Gen.*, 12 F.4th 1312, 1319–20 (11th Cir. 2021) (applying *Akinwale* to require government’s evidentiary rebuttal).

37. Petitioner can easily meet his initial burden. Respondents have produced no

evidence of any repatriation agreement with Laos or any change in circumstances since 2009.

38. Civil detention that serves no legitimate civil purpose and is punitive in effect violates substantive due process. *Kansas v. Hendricks*, 521 U.S. 346, 368 (1997); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

39. Re-incarcerating a fully compliant supervisee sixteen years after DHS conceded removal is impossible serves no civil immigration purpose and is purely punitive.

40. Petitioner incorporates all prior paragraphs and moves for a temporary restraining order pursuant to Fed. R. Civ. P. 65(b) ordering his immediate release pending adjudication of this petition.

41. Petitioner satisfies every factor: (1) overwhelming likelihood of success on the merits under *Zadvydas*, *Clark*, and *Benitez*; (2) irreparable injury each day he remains detained; (3) the balance of equities and public interest strongly favor liberty over indefinite detention when removal is impossible.

VII. RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests that this Court:

A. Issue the writ of *habeas corpus* and order Petitioner's **immediate release** under the same or equivalent conditions as his 2009 Order of Supervision;

B. In the alternative, order an individualized bond hearing within seven (7) days at which Respondents bear the burden of proving by clear and convincing evidence that Petitioner poses a danger or flight risk justifying continued detention, or that there is a significant likelihood of removal in the reasonably foreseeable future;

C. Grant the Emergency Motion for Temporary Restraining Order and order Petitioner's immediate release pending full adjudication;

D. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and

E. Grant such other relief as the Court deems just and proper.

Dated: November 20, 2025.

Respectfully submitted,

BRENNAN, MANNA AND DIAMOND, PL

/s/ Jessica K. Hew

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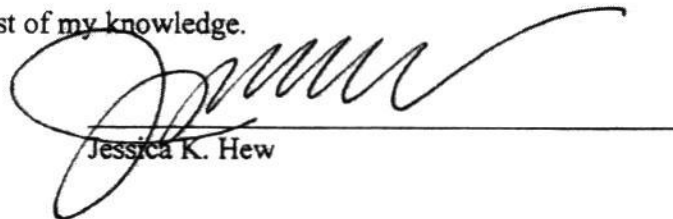
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VERIFICATION

I, Jessica K. Hew, Counsel for Petitioner, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Date: November 20, 2025



Jessica K. Hew

CERTIFICATE OF SERVICE

I hereby certify that on this, the 20th day of November, 2025, I have caused to be served via email and first class, United States Mail a copy of this pleading with all exhibits to the United States Attorney's office for the Southern District of Florida, Miami Division at U.S. Attorney's Office, 99 N.E. 4th Street, Miami, Fl. 33132, together with a copy emailed to Jason A. Reding Quiñones, U.S. Attorney for the Southern District of Florida at: USAFLS.CitizenComplaints@usdoj.gov (pursuant to the information contained at <https://www.justice.gov/usao-sdfl>).

/s/ Jessica K. Hew

Jessica K. Hew