

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

**Bouakham PHAKOUSONH**

*Petitioner,*

v.

**KRISTI NOEM**, Secretary  
of the U.S. Department of Homeland  
Security; **PAMELA BONDI**, Attorney General  
the United States; **ROBERT CERNA**,  
Deputy Director of the Dallas Field Office of  
U.S. Immigration and Customs Enforcement;  
and **SCARLET GRANT, Ed.D.**, Warden,  
Cimarron Correctional Facility,  
in their official capacities.

*Respondents.*

Case No. \_\_\_\_\_

Immigration File No.

A 

**PETITION FOR WRIT OF HABEAS  
CORPUS**

**ORAL ARGUMENT REQUESTED**

**INTRODUCTION**

1. Petitioner, Bouakham PHAKOUSONH, ("Petitioner"), by and through his undersigned counsel, hereby petitions this Court for a writ of habeas corpus to review the lawfulness of his detention and revocation of his Order of Supervision by the Department of Homeland Security. Petitioner is currently being held in detention by Immigration and Customs Enforcement (ICE), a part of the Department of Homeland Security. Respondents violated their procedures by not properly giving notice of revocation of his Order of Supervision, thereby illegally detaining him. Respondent further argues that his removal from the United States is not reasonably foreseeable. Accordingly, to vindicate Petitioner's statutory and constitutional rights and to put an end to his continued arbitrary detention, this Court should grant the instant petition for a writ of

habeas corpus.

2. Petitioner's removal is not reasonably foreseeable because he is a citizen of Laos and does not have travel documents. He and Respondents have not been able to obtain them.

### **JURISDICTION**

3. Petitioner is detained in civil immigration custody at the Cimarron Correctional Facility in Cushing, Oklahoma. ICE has contracted with the Cimarron Correctional Facility to house immigration detainees such as Petitioner. Petitioner is under the direct control of Respondents and their agents.

4. This action arises under the Constitution, the Immigration & Nationality Act of 1952, as amended (the "INA"), 8 U.S.C. §§1101 *et seq.*

5. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (*habeas corpus*), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause). This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

### **VENUE**

6. Venue is proper because Petitioner is detained at the Cimarron Correctional Facility in Cushing, Oklahoma, which is within the jurisdiction of this district.

7. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Western District of Oklahoma.

### **PARTIES**

8. Petitioner is detained at the Cimarron Correctional Facility in Cushing, Oklahoma.

He is in custody, and under the direct control, of Respondents and their agents.

9. Respondent Dr. Scarlet Grant is the Warden of Cimarron Correctional Facility, and she has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent Grant is a legal custodian of Petitioner.

10. Respondent Robert Cerna is sued in his official capacity as the Acting Director of the Dallas Field Office and Oklahoma City Sub-Office of U.S. Immigration and Customs Enforcement (ICE). Respondent Johnson is a legal custodian of Petitioner and has authority to release him.

11. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement. Respondent Noem is a legal custodian of Petitioner.

12. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

#### **STATEMENT OF FACTS**

13. Petitioner is a citizen of Laos.

14. Petitioner immigrated to the United States and became a permanent resident.

15. Due to criminal convictions, he was ordered removed by the Immigration Judge on August 24, 2011.

16. He was released in December 2011 after the 90-day post removal period, and he was placed on an Order of Supervision, requiring him to comply with periodic check-ins, for which he complied.

17. At his check-in in October 2025, he was told to return in February 2026. On October 30, 2025, he was with a friend who was arrested and the authorities also took Petitioner into custody. He states that the officer called ICE and drove him to the ICE facility in Oklahoma City, OK and he was subsequently detained. He states that he was not provided with notice of the reason for his re-detention or an opportunity to rebut any reason for re-detention. Petitioner has not been notified of any criminal charges or any changed circumstances as to why he is currently detained.

#### **LEGAL FRAMEWORK**

18. Pursuant to 28 U.S.C. § 2243, the Court either must grant the instant petition for writ of habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not entitled to relief. If the Court issues an order to show cause, Respondents must file a response “within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed.” 28 U.S.C. § 2243 (emphasis added).

19. “It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the

Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

20. This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious.”). It also protects noncitizens who have been ordered removed from the United States and who face continuing detention. *Id.* at 690.

21. Furthermore, 8 U.S.C. § 1231(a)(1)-(2) authorizes detention of noncitizens during “the removal period,” which is defined as the 90-day period beginning on “the latest” of either “[t]he date the order of removal becomes administratively final”; “[i]f the removal order is judicially reviewed and if a court orders a stay of the removal of the [noncitizen], the date of the court’s final order”; or “[i]f the [noncitizen] is detained or confined (except under an immigration process), the date the [noncitizen] is released from detention or confinement.”

22. Although 8 U.S.C. § 1231(a)(6) permits detention “beyond the removal period” of noncitizens who have been ordered removed and are deemed to be a risk of flight or danger, the Supreme Court has recognized limits to such continued detention. In *Zadvydas*, the Supreme Court held that “the statute, read in light of the Constitution’s demands, limits [a noncitizen’s] post-removal-period detention to a period reasonably necessary to bring about that [noncitizen’s] removal from the United States.” 533 U.S. at 689. “[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699.

23. Further 8 CFR § 241.4 and § 241.13 proscribe rules on re-detention after release on an Order of Supervision after the 90-day removal period has passed. Section 241.4 defines

rules when an individual has been released and the government has not previously determined that there is no significant likelihood of removal. Section 241.13 governs when the government has determined that there is no significant likelihood of removal. Note that Petitioner, nor counsel, know whether Petitioner's release in 2011 was due to a determination that there is no significant likelihood of removal or for another reason. Either way, Petitioner argues, *infra*, that Respondents did not comply with the procedural requirements of re-detention.

24. Under 8 CFR §241.4, an order of Supervision may be revoked if the noncitizen violates its conditions. *See* 8 CFR §§ 241.3(1)(1), (1)(2)(ii). Otherwise, it may be revoked when it is appropriate to enforce a removal order or when the conduct of the individual, or other circumstance, indicates that release would not be appropriate. 8 CFR §§ 241.4(1)(2)(iii), (1)(2)(iv).

25. Under 8 CFR §241.13, after an individual has been released on an order of supervision, the government may revoke the release and return the individual to custody on account of *changed circumstances* if the government determines that there is a significant likelihood that the individual be removed in the reasonably foreseeable future. 8 CFR §241.13(i)(2) (emphasis added).

26. Under either section, revoking the order of supervision and returning the individual to custody comes with procedures. First, the government must notify the individual of the reasons for revocation. Then, the individual must be given an opportunity to contest the facts of revocation. 8 CFR §§241.4(1)(1) and §241.13(i)(3).

27. The Court's ruling in *Zadvydas* is rooted in due process's requirement that there be "adequate procedural protections" to ensure that the government's asserted justification for

a noncitizen’s physical confinement “outweighs the ‘individual’s constitutionally protected interest in avoiding physical restraint.’” *Id.* at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)). In the immigration context, the Supreme Court only recognizes two purposes for civil detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. The government may not detain a noncitizen based on any other justification.

28. The first justification of preventing flight, however, is “by definition . . . weak or nonexistent where removal seems a remote possibility.” *Zadvydas*, 533 U.S. at 690. Thus, where removal is not reasonably foreseeable and the flight prevention justification for detention accordingly is “no longer practically attainable, detention no longer ‘bears [a] reasonable relation to the purpose for which the individual [was] committed.’” *Id.* (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). As for the second justification of protecting the community, “preventive detention based on dangerousness” is permitted “only when limited to specially dangerous individuals and subject to strong procedural protections.” *Zadvydas*, 533 U.S. at 690–91.

29. Thus, under *Zadvydas*, “if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute.” *Id.* at 699–700. If removal is reasonably foreseeable, “the habeas court should consider the risk of the [noncitizen’s] committing further crimes as a factor potentially justifying the confinement within that reasonable removal period.” *Id.* at 700.

## **CLAIMS FOR RELIEF**

### **COUNT ONE**

**Violation of Fifth Amendment Right to Due Process**

30. Petitioner re-alleges and incorporates by reference the paragraphs above as though fully set forth herein.

31. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V.

32. Petitioner has been detained by Respondents without proper notice of the revocation of his Order of Supervision.

33. Petitioner’s removal order became administratively final on August 24, 2011. The removal period began on that day and Respondent’s have not been able to effectuate removal. He has been out of custody since December 2011 without incident.

34. Respondents revoked his order of supervision in violation of the regulations because they did not provide him proper notice, which violates due process.

35. For these reasons, Petitioner’s ongoing detention violates the Due Process Clause of the Fifth Amendment.

**COUNT TWO**

**Violation of 8 CFR §§ 241.4 or 241.13**

36. Petitioner re-alleges and incorporates by reference the paragraphs above as though fully set forth herein.

37. Petitioner alleges that Respondents did not comply with the notice requirements under the relevant regulations. While it is currently not clear if he was previously released on the basis that there was not a significant likelihood of removal, under either scenario, he did not receive notification.

38. For these reasons, Petitioner should be released because his ongoing detention is

in violation of the regulations.

**PRAYER FOR RELIEF**

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Prohibit Respondents from moving Petitioner outside the Court's jurisdiction;
- (3) Declare that Respondents failed to comply with the procedural requirements of revocation and re-detention;
- (4) Declare that Petitioner's ongoing detention violates the Due Process Clause of the Fifth Amendment;
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- (6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (7) Grant any further relief this Court deems just and proper.

Respectfully submitted,

s/Kelli J. Stump  
Kelli J. Stump  
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Attorney for the Petitioner

*Counsel for Petitioner*

Dated: November 21, 2025

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT  
TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am the attorney for Petitioner. I or my co-counsel have discussed with the Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 21<sup>st</sup> day of November 2025, in Oklahoma City, Oklahoma.

Respectfully submitted,

s/Kelli J. Stump  
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**CERTIFICATE OF SERVICE**

I hereby certify that on November 21, 2025, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

Robert J. Troester, U.S. Attorney  
Western District of Oklahoma  
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s/Kelli Stump  
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