

District Judge Robert S. Lasnik
Magistrate Judge Brian A. Tsuchida

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SIENG KIM KHIM,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

Case No. 2:25-cv-02383-RSL-BAT

FEDERAL RESPONDENTS'
RETURN MEMORANDUM

Noted for Consideration:
December 16, 2025.

I. INTRODUCTION

This Court should deny Petitioner Sieng Kim Khim's Petition for Writ of Habeas Corpus. Dkt. 1 ("Pet."). Petitioner challenges his post-order detention at the Northwest ICE Processing Center ("NWIPC") as unconstitutional and unlawful while he awaits removal from the United States. Petitioner is a citizen of Cambodia, he was ordered removed to Cambodia, and Cambodia has increased cooperation with the United States this fiscal year.

Petitioner has no lawful status in the United States and an extensive criminal history spanning from 1993 to 2022, including gang involvement, violent crimes, and a drive-by shooting. On July 19, 1995, Petitioner was issued an Order to Show Cause (precursor to the Notice to Appear) as a result of his criminal activity from 1993-1998. In October of 1995, Petitioner was

1 ordered removed by an immigration judge, which has since become administratively final.
2 Petitioner was later released on an Order of Supervision on December 11, 1998, due to the
3 inability to obtain travel documents to Cambodia at that time.

4 Petitioner committed a series of crimes during his period of supervision. As far as the
5 government is now aware at this time, Petitioner was arrested for at least eleven crimes, five
6 arrests results in conviction, between 1998 and 2022 in Washington and California. Petitioner
7 was not taken back into custody because of ICE's inability to obtain travel documents at that time.

8 U.S. Immigration and Customs Enforcement ("ICE") took Petitioner into custody on
9 August 22, 2025. ICE revoked Petitioner's order of supervision on that day both because (1)
10 Cambodia has recently been cooperating with the United States to effectuate removal of its
11 citizens creating a strong likelihood of Petitioner's removal in the reasonably foreseeable future,
12 and (2) Petitioner's extensive criminal history constitutes violations of the terms of his order of
13 supervision. ICE is working to effectuate Petitioner's removal to Cambodia. ICE is in the process
14 of completing a travel document request for Petitioner.

15 While the vast majority of his Petition discusses removal to a third country, Petitioner
16 presents no evidence of any intention to do so. The facts here demonstrate that ICE is actively
17 working to complete the necessary travel documents request to Cambodia and ICE anticipates
18 that a travel document will be issued for Petitioner. As a result, ICE believes that Petitioner's
19 removal is reasonably foreseeable. If ICE seeks to remove Petitioner to a third country,
20 Petitioner's third country claim will become ripe at that time.

21 Petitioner's detention is lawful. He is a noncitizen subject to an administratively final
22 order of removal, and he is lawfully detained under Section 241 of the Immigration and
23 Nationality Act ("INA"). *See* 8 U.S.C. § 1231. Petitioner's detention also is not indefinite under
24 *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). The only necessary determination ICE must make

1 under the *Zadvydas* framework is whether there is a significant likelihood of removal in the
2 reasonably foreseeable future—which there is in this case.

3 Accordingly, Federal Respondents respectfully request the Court deny the Petition. This
4 return is supported by the pleadings and documents on file in this case, the Declaration of
5 Deportation Officer Cheng Liu (“Liu Decl.”) and the Declaration of Alixandria K. Morris
6 (“Morris Decl.”), with accompanying exhibits. Federal Respondents do not believe any hearing
7 is necessary.

8 II. FACTUAL AND PROCEDURAL BACKGROUND

9 A. Detention Authorities and Removal Procedures

10 The INA governs the detention and release of noncitizens during and following their
11 removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). The general
12 detention periods are generally referred to as “pre-order” (meaning before the entry of a final
13 order of removal) and, relevant here, “post-order” (meaning after the entry of a final order of
14 removal). *Compare* 8 U.S.C. § 1226 (authorizing pre-order detention) *with* § 1231(a) (authorizing
15 post-order detention).

16 When a final order of removal has been entered, a noncitizen enters a 90-day “removal
17 period.” 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security
18 “shall remove the [noncitizen] from the United States.” *Id.* To ensure a noncitizen’s presence for
19 removal and to protect the community from noncitizens who may present a danger, Congress has
20 mandated detention while removal is being effectuated:

21 During the removal period, the [Secretary of Homeland Security]¹ shall detain the
22 [noncitizen]. Under no circumstance during the removal period shall the

23 ¹ Although 8 U.S.C. § 1231(a)(2) refers to the “Attorney General” as having responsibility for detaining noncitizens,
24 the Homeland Security Act of 2002, Pub. L. No. 107-296 § 441(2), 116 Stat. 2135, 2192 (2002), transferred this
authority to the Secretary of the Department of Homeland Security (“DHS”), of which ICE is a component. *See also*
6 U.S.C. § 251.

[Secretary] release [a noncitizen] who has been found inadmissible under section 1182(a)(2) or 1182(a)(3)(B) of this title or deportable under section 1227(a)(2) or 1227(a)(4)(B) of this title.

8 U.S.C. § 1231(a)(2).

Section 1231(a)(6) authorizes ICE to continue detention of noncitizens after the expiration of the removal period. Unlike Section 1231(a)(2), Section 1231(a)(6) does not mandate detention and does not place any temporal limit on the length of detention under that provision:

[A noncitizen] ordered removed who is inadmissible under section 1182, removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or who has been determined by the [the Secretary of Homeland Security] to be a risk to the community or unlikely to comply with the order of removal, *may* be detained *beyond the removal period* and, if released, shall be subject to the terms of supervision in paragraph (3).

8 U.S.C. § 1231(a)(6) (emphasis added).

During the removal period, ICE² is charged with attempting to effect removal of a noncitizen from the United States. 8 U.S.C. § 1231(a)(1). Although there is no statutory time limit on detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen may be detained only “for a period reasonably necessary to bring about that [noncitizen’s] removal from the United States.” *Zadvydas*, 533 U.S. at 689. The Supreme Court has further identified six months as a presumptively reasonable time to bring about a noncitizen’s removal. *Id.* at 701. The *Zadvydas* Court recognized that as the length of detention grows, a sliding scale of burdens is applied to assess the continuing lawfulness of a noncitizen’s post-order detention. *Id.* (stating that “for detention to remain reasonable, as the period of post-removal confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink”). Thus, the Supreme Court implicitly recognized that six months is the *earliest* point at which a noncitizen’s

² Under 8 C.F.R. § 241.2(b), ICE deportation officers are delegated the Secretary of Homeland Security’s authority to execute removal orders.

1 detention could raise constitutional issues. *Id.*

2 **B. Petitioner Sieng Kim Khim**

3 Petitioner is a native and citizen of Cambodia. *See* Pet., pg. 5; Liu Decl. ¶ 3. He entered
4 the United States in 1984 as a refugee. Liu Decl. ¶ 4.

5 On May 25, 1993, Petitioner was arrested for taking a vehicle without the owner's consent
6 and vehicle theft in California. *Id.* ¶ 5(c).³ On October 12, 1993, Petitioner was convicted of
7 possession of an illegal firearm, possession of a sawed-off shotgun, and unlawful possession of
8 an unregistered firearm and sentenced to 33 months prison in federal court. *Id.* ¶ 5(a). On
9 November 24, 1993, Petitioner was convicted of felony failure to appear in the first degree in
10 Oregon and sentenced to 60 custody units, suspended. *Id.* ¶ 5(b). Petitioner was also charged with
11 unauthorized use of a motor vehicle and possession of a prohibited firearm in Oregon, with
12 charges dismissed on November 24, 1993. *Id.* ¶ 5(b).

13 As a result of this criminal activity, Petitioner was placed in removal proceedings and
14 issued an [REDACTED] (the precursor to a Notice to Appear) on July 19, 1995. Morris
15 Decl., Exs. 1, 2 ([REDACTED]). On October 26, 1995, Petitioner was ordered
16 removed to Cambodia by an immigration judge, which is now administratively final. Liu Decl. ¶
17 7; Morris Decl. Ex. 3 ([REDACTED]). On December 11, 1998, ICE released Petitioner on an
18 [REDACTED] because there was not a significant likelihood of removal at that time.⁴ Liu
19 Decl. ¶ 8; Morris Decl. Ex. 4 ([REDACTED]).

20 As part of his agreement and signature to the [REDACTED], Petitioner affirmed
21 that he would comply with check-in procedures with ICE, that he would assist ICE in obtaining
22 a travel document if removal to Cambodia became foreseeable, and he would not commit any
23

24 ³ The final disposition of this crime is unknown but is listed as bench warrant as of June 14, 1993.

⁴ Petitioner's 1995-1998 detention and release pre-dated the United States Supreme Court's holding in *Zadvydas*.

1 federal, state, or local crimes—all as express conditions which Petitioner assented to by his signed
2 agreement. Morris Decl., Ex. 4.

3 However, following his release in 1998, Petitioner was arrested for at least eleven more
4 crimes between 1998 and 2022 in Washington and California. Liu Decl. ¶ 5. On October 8, 1999,
5 Petitioner was arrested for robbery in California and released on October 12, 1999, due to
6 insufficient evidence. *Id.* ¶ 5(c). On November 24, 2002, Petitioner was arrested for harassment,
7 threatening to kill and rape with an enhancing factor of domestic violence in Washington State.
8 *Id.* ¶ 5(d).⁵ On December 19, 2002, Petitioner was convicted of driving under the influence
9 (“DUI”) in Washington and sentenced to 364 days suspension. *Id.* ¶ 5(d).

10 On January 23, 2003, Petitioner was convicted for violation of a domestic violence order
11 in Washington. *Id.* ¶ 5(d). On February 28, 2004, Petitioner was arrested for taking a motor
12 vehicle without permission and felony attempting to elude in Washington⁶. *Id.* ¶ 5(d). On January
13 22, 2005, Petitioner was arrested for driving under the influence (“DUI”) in California. *Id.* ¶ 5(c).
14 No disposition is listed but it states that arrest relief was granted on July 11, 2022. *Id.* ¶ 5(c). On
15 January 18, 2006, Petitioner was convicted of inflicting corporal injury on a spouse or cohabitant
16 in California and sentenced to three years’ probation. *Id.* ¶ 5(c).

17 On March 2, 2016, Petitioner was arrested for “license, driver, susp./revoked third degree”
18 in Washington, but no charges were filed as of March 3, 2016. *Id.* ¶ 5(d). Petitioner was arrested
19 on August 16, 2019, for domestic violence, which was dismissed on October 25, 2019. *Id.* ¶ 5(d).
20 On March 21, 2022, Petitioner was arrested for felony DUI with more than 3 prior offenses within
21 the last ten years in Washington. *Id.* ¶ 5(d). Petitioner was convicted of reckless driving on June
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23 ⁵ No charges were filed as of September 2, 2003. *Id.* ¶ 5(d).

24 ⁶ Petitioner was convicted on November 5, 2004 of felony attempting to elude and the taking of a motor vehicle
without permission was dismissed. *Id.* ¶ 5(d). Petitioner was sentenced to 60 days in jail. *Id.* ¶ 5(d).

1 2, 2022. *Id.* ¶ 5(d). On April 8, 2022, Petitioner was again arrested for a DUI and was convicted
2 on May 10, 2023. *Id.* ¶ 5(d).

3 Despite Petitioner's criminal activity while on supervised release, ICE did not take
4 Petitioner back into ICE custody due to the inability to obtain travel documents to Cambodia at
5 that time. *Id.* ¶ 9. The Government of Cambodia has increased cooperation with the United States
6 and issued more travel documents for its citizens in recent years. *Id.* ¶¶ 10, 13. Due to this
7 increased cooperation, ICE determined that there was now a significant likelihood of removal in
8 the reasonably foreseeable future for Petitioner. *Id.* ¶ 10. Given this material change in
9 circumstance, ICE revoked Petitioner's OSUP and detained Petitioner on August 22, 2025. *Id.*

10 ICE is currently in the process of completing a travel document request for Petitioner at
11 this time. *Id.* ¶ 11. Cambodia has repatriated double the number of citizens in fiscal year 2025
12 than it did in fiscal year 2024. *Id.* ¶ 13. And the embassy is actively coordinating interviews once
13 the travel document request reaches the government of Cambodia. *Id.* ¶ 12. For these reasons,
14 ICE believes that once Petitioner's travel document request is submitted to Cambodia, the
15 government of Cambodia will ultimately issue a travel document for Petitioner. *Id.* ¶ 14.

16 Though Petitioner stated in his petition that he believes ICE may be trying to remove him
17 to a third country, that is not the case at this time and Petitioner provides no evidence ICE is
18 seeking to remove him to a third country. *See* Pet., pgs. 15-19. Petitioner is a citizen of Cambodia,
19 and he was ordered removed to Cambodia in 1995. At this time, Petitioner's requests for travel
20 documents have only been completed for the country of Cambodia, Cambodia has been
21 cooperating in removal proceedings and has issued travel documents for its citizens. Liu Decl.
22 ¶¶ 3, 7, 11-14. Any attempt to remove Petitioner to a third country is speculative at this time and
23 therefore not ripe for review. There is no case or controversy because there is no concrete
24 indication that such removal to a third country will occur. ICE will only seek to remove Petitioner

1 to a third country if Petitioner's travel document request is rejected by Cambodia. ICE anticipates
2 Petitioner's removal to Cambodia will occur in the reasonably foreseeable future due to
3 Cambodia's increased cooperation. *Id.* ¶ 14. Accordingly, this claim should be dismissed as
4 premature.

5 III. ARGUMENT

6 A. Petitioner's detention is not indefinite or unconstitutionally prolonged

7 Petitioner has not demonstrated that his detention has become "indefinite" or
8 unconstitutional. In *Zadvydas*, the Supreme Court analyzed whether the potentially open-ended
9 duration of detention pursuant to 8 U.S.C. § 1231(a)(6) is constitutional. The Court read an
10 implicit limitation of post-removal detention "to a period reasonably necessary to bring about that
11 alien's removal from the United States." *Zadvydas*, 533 U.S. at 689. It was further specified that
12 Section 1231(a)(6) does not permit indefinite detention. *Id.* Thus, "once removal is no longer
13 reasonably foreseeable, continued detention is no longer authorized by statute." *Id.* at 699.

14 The *Zadvydas* Court recognized that as the length of detention grows, a sliding scale of
15 burdens is applied to assess the continuing lawfulness of a noncitizen's post-order detention. *Id.*
16 (stating that "for detention to remain reasonable, as the period of post-removal confinement
17 grows, what counts as the 'reasonably foreseeable future' conversely would have to shrink").
18 However, the Supreme Court determined that it is "presumptively reasonable" for the
19 Government to detain a noncitizen for six months following entry of a final removal order, while
20 it worked to remove the noncitizen from the United States. *Id.* at 701. Thus, the Supreme Court
21 implicitly recognized that six months is the *earliest* point at which a noncitizen's detention could
22 raise constitutional issues. *Id.* Moreover, the Supreme Court noted the six-month presumption
23 "does not mean that every [noncitizen] not removed must be released after six months. To the
24 contrary, [a noncitizen] may be held in confinement until it has been determined that there is no

1 significant likelihood of removal in the reasonably foreseeable future.” *Id.*

2 While the Government does not concede that Petitioner’s presumptively reasonable period
3 has ended⁷, even assuming arguendo that it has, Petitioner fails to demonstrate that there is good
4 reason to believe that there is no significant likelihood of removal in the reasonably foreseeable
5 future. Although he is correct that Cambodia has not yet issued him a travel document, ICE is
6 working to obtain a travel document to remove him to Cambodia. Liu Decl., ¶¶ 11-14. Cambodia
7 has engaged in issuing travel documents for its citizens, which demonstrate a good faith basis to
8 believe it will issue Petitioner a travel document in this case. *Id.* Further, Cambodia is increasing
9 the number of citizens it is accepting for removal from the United States and ICE believes there
10 is a significant likelihood of Petitioner’s removal to Cambodia in the reasonably foreseeable
11 future. *Id.* ¶¶ 13-14.

12 The fact that Petitioner does not yet have a specific date of anticipated removal does not
13 make his detention indefinite. *Diouf v. Mukasey*, 542 F. 3d 1222, 1233 (9th Cir. 2008). Detention
14 becomes indefinite in situations where the country of removal refuses to accept the noncitizen or
15 if removal is legally barred. *Id.* There is no reason at this time to believe that is the situation here.
16 Consequently, Petitioner has failed to demonstrate a good reason to believe that there is no
17 significant likelihood of his removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at
18 701.

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23 ⁷ Federal Respondents acknowledge that Courts in this district have found that the presumptively reasonable period
24 expires six months after a final order, regardless of detention. *See e.g., Tran v. Bondi*, No. CV-25-01897-JLR, 2025
WL 3140462 (W.D. Wash. Nov. 10, 2025). For the reasons set forth in their briefing in that case, Federal
Respondents do not agree with this decision and are still weighing their options on how to proceed. In any event,
Petitioner’s detention is still lawful even past the presumptively reasonable period for the reasons stated herein.

B. Increased cooperation with Cambodia and Petitioner's criminal history both independently support the timing of Petitioner's arrest

To the extent Petitioner challenges his detention because he believes ICE provided no lawful rationale for the decision to rearrest him, the record shows that ICE detained Petitioner because his removal is now foreseeable due to the increased cooperation between Cambodia and the United States in repatriating Cambodian citizens and based on his extensive criminal history. Liu Decl. ¶¶ 9-10. Furthermore, Petitioner's latest conviction in his multi-decade crime spree is a clear violation of the terms of his OSUP. While Petitioner may believe that ICE should have detained him at a later time or after a travel document was obtained from Cambodia, there is no question that ICE was within its authority to arrest him as a result of increased cooperation with Cambodia which constitutes a change of circumstances in his removal proceedings pursuant to his signed Order of Supervision – independent of his criminal convictions. Morris Decl., Ex. 4.

Petitioner was released on his express assent to the conditions of his Order of Supervision, and those provisions state his release was conditioned on his agreement to assist the Immigration Service in obtaining a travel document to return to his country and immediately surrender to an officer of the Service for deportation upon being ordered to do so. *Id.*, pg. 1. Petitioner does not allege any temporal limitation to this authority. Moreover, the timing of his rearrest is supported by the increased cooperation between the United States and Cambodia in the repatriation of Cambodian citizens. Liu Decl. ¶¶ 11-14.

The cases⁸ Petitioner invokes in urging application of the *Mathews* factors are inapposite. Each arises in the context of *pre-order* detention or under regulatory schemes wholly distinct

⁸ Petitioner cites *E.A. T.-B. v. Wamsley*, No. CV25-1192-KKE, 2025 WL 2402130, *Ledesma Gonzalez v. Bostock*, No. CV25-1404-JNW-GJL, 2025 WL 2841574, and other recent out-of-district cases, which are all not applicable under post-removal §1231 detention. *See* Pet., pgs. 9-12, 22. Petitioner does not dispute he is subject to an administratively final order of removal. Post-order detention is analyzed pursuant to the United States Supreme Court framework set forth in *Zadvydas*.

1 from the *post-order* detention framework at issue here. Petitioner does not challenge that he is
2 subject to an administratively final order of removal. As such, the authorities cited provide little
3 meaningful guidance and serve primarily as a distraction from the controlling standards under
4 *Zadvydas*. Petitioner's prior release in 1998 was based solely on Cambodia's then-refusal to
5 accept repatriation, which rendered removal not reasonably foreseeable. That circumstance has
6 changed in every material respect. Cambodia now cooperates with the United States in
7 effectuating removals, and Petitioner's removal is reasonably foreseeable satisfying the *Zadvydas*
8 standard and rendering his current detention lawful. None of Petitioner's authorities alter the
9 governing analysis, and none undermine the lawfulness of Petitioner's current detention. These
10 circumstances are further compounded here, where Petitioner has been convicted of multiple
11 criminal charges, constituting multiple violations of his order of supervised release. Petitioner's
12 misconduct underscores the government's legitimate interest in effectuating removal promptly.

13 With his removal pending, the government has significant legitimate interests in
14 Petitioner's continued detention to ensure he will appear for removal. Petitioner poses a risk of
15 flight because he alleges no avenue to seek relief from removal. Moreover, his detention has not
16 become "indefinite," and his removal is significantly likely in the reasonably foreseeable future.
17 This Court should not order that he be released.

18 IV. CONCLUSION

19 For the foregoing reasons, Federal Respondents respectfully request that this Court deny
20 the Petition and dismiss this matter.

21 Dated this 9th day of December 2025.

22 Respectfully submitted,

23 CHARLES NEIL FLOYD
24 United States Attorney

s/ Alixandria K. Morris

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I certify that this memorandum contains 3,408 words, in compliance with the Local Civil Rules.