

THE HONORABLE ROBERT S. LASNIK
THE HONORABLE BRIAN A. TSUCHIDA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SIENG KIM KHIM,

Petitioner,

v.

PAMELA BONDI, Attorney General of
the United States; *et al.*,

Respondents.

No. CV25-2383-RSL-BAT

**PETITIONER'S REPLY
MEMORANDUM**

Noted on Motion Calendar:
December 16, 2025

**I. MR. KHIM'S DETENTION HAS BECOME UNCONSTITUTIONALLY
PROLONGED UNDER *ZADVYDAS*.**

A. The *Zadvydas* presumptively reasonable period has long expired.

Mr. Khim has been detained for nearly three and one half years awaiting removal to Cambodia. He was initially detained for over three years and one month, from his order of removal in October 1995 until he was released in December 1998. Dkt. 12 ¶¶ 7, 8. He has been detained almost four months more since being re-detained in August 2025. *Id.* ¶ 10.

Respondents state that they do "not concede that Petitioner's presumptively reasonable period has ended[.]" Dkt. 11 at 9. But they dispute only the contention that "the presumptively reasonable period expires six months after a final order, regardless of detention." Dkt. 11 at 9 n.7. Mr. Khim is not basing his claim on the time elapsed since the final order. Instead, he bases it on the total period of his detention. Respondents do not dispute that time in detention is aggregated, as Mr. Khim

1 contended, dkt. 2 at 7-8, so they have waived that issue. In any event, the courts have
 2 consistently recognized that the relevant period of detention for *Zadvydas* purposes is
 3 the total amount, not just the most recent. *Nguyen v. Scott*, 796 F.Supp.3d 703, 721
 4 (W.D. Wash. Aug. 21, 2025) (“*Nguyen*”) (aggregating original and current periods of
 5 incarceration); *Abubaka v. Bondi*, No. C25-1889RSL, 2025 WL 3204369, at *3 (W.D.
 6 Wash. Nov. 17, 2025) (“the ‘clock’ on *Zadvydas*’s six-month period of presumptive
 7 reasonability does not re-start with each successive detention”). Outside of this district,
 8 too, “[c]ourts . . . broadly agree” that looking only to the most recent detention is not
 9 correct. *Diaz-Ortega v. Lund*, No. 1:19-CV-670-P, 2019 WL 6003485, at *7 n.6 (W.D.
 10 La. Oct. 15, 2019), *report and recommendation adopted*, 2019 WL 6037220 (W.D. La.
 11 Nov. 13, 2019); *see also Sied v. Nielsen*, No. 17-CV-06785-LB, 2018 WL 1876907, at
 12 *6 (N.D. Cal. Apr. 19, 2018) (collecting cases).

13 Thus, it is beyond dispute that Mr. Khim’s detention, for purposes of *Zadvydas*
 14 analysis, is approximately three and one half years.

15 Respondents do concede that “as the period of post-removal confinement grows,
 16 what counts as the ‘reasonably foreseeable future’ conversely would have to shrink[.]”
 17 Dkt. 11 at 4 (quoting *Zadvydas*, 533 U.S. at 701). With Mr. Khim’s detention now over
 18 *seven times* the presumptively reasonable period, “what counts as the ‘reasonably
 19 foreseeable future’” should be extremely short. Nevertheless, Respondents contend that
 20 Mr. Khim’s detention is lawful even though, as demonstrated below, they cannot show
 21 that removal is likely in that short reasonably foreseeable future.

22 **B. There is no reason to believe either that Mr. Khim is likely to be**
 23 **removed to Cambodia or that any such removal would occur in the**
 24 **reasonably foreseeable future.**

25 Respondents’ submission says it all: They assure the Court that “[b]ased on
 26 current experience, ICE believes that the government of Cambodia will *ultimately* issue
 a TDR for Petitioner. ICE *may* also be able to obtain a TDR for Thailand.” Dkt. 12 ¶ 14

1 (emphasis added). But whether a detainee “will ultimately” be removed is far from the
2 test under *Zadvydas*. Rather, the test is whether there is a significant likelihood of
3 removal in the reasonably foreseeable future. *Zadvydas v. Davis*, 533 U.S. 678, 701
4 (2001). While Respondents state that they believe that test has been met, their facts
5 show nothing more than what they attest, that removal may “ultimately” occur. Nor is
6 the test met as to Thailand, where Respondents can only say that they “may” be able to
7 obtain travel documents (with no facts supporting even that insufficient conclusion).

8 Contrary to Respondents’ contention, dkt. 11 at 9, they never show that the facts
9 in Mr. Khim’s petition fail to initially raise a “good reason” to believe removal is not
10 reasonably foreseeable. Respondents instead present new evidence supposedly rebutting
11 those facts. However, their rebuttal evidence goes not to whether Mr. Khim has met his
12 burden, but to a different question, namely whether, *if* Mr. Khim has met his burden,
13 they have satisfactorily rebutted it. Those are two quite different questions. *See, e.g.,*
14 *Deqa M. Y. v. Barr*, No. 20-CV-1091 (ECT/DTS), 2020 WL 4928321, at *4 (D. Minn.
15 June 16, 2020), *report and recommendation adopted*, No. 20-CV-1091 (ECT/DTS),
16 2020 WL 4926618 (D. Minn. Aug. 21, 2020) (concluding that, “[a]lthough Deqa has
17 made a sufficient showing that her removal is not significantly likely to occur in the
18 reasonably foreseeable future, Respondents have now rebutted that showing”).

19 Thus, Respondents’ argument about whether Mr. Khim’s initial burden has been
20 met misses the mark. The fact that he has no documentation pertaining to his birth or
21 citizenship, dkt. 1 at 5, and that Respondents have been unable to previously obtain
22 travel documents in the 30 years since his final order of removal, combine to meet Mr.
23 Khim’s initial burden.

24 As to Respondents’ burden to rebut that showing, their pleading and supporting
25 declaration are full of conclusory assertions that Mr. Khim’s removal is reasonably
26 foreseeable. Dkt. 11 at 2, 3, 7, 8, 9, 11, 12; dkt. 12 ¶ 14. But of course it is this Court’s

1 task to make that determination itself, based on the facts that the parties have submitted,
2 not just rely on Respondents' conclusion. *See Zadvydas*, 533 U.S. 678 at 701
3 (government's burden is to "respond with evidence" sufficient to show likelihood of
4 removal in reasonably foreseeable future).

5 Respondents' burden comprises two showings: can Respondents demonstrate
6 that Mr. Khim is reasonably likely to be removed to Cambodia at all, and can they show
7 that any such removal is likely in the reasonably foreseeable future. Respondents must
8 show both to prevail. They show neither.

9 In fact, Respondents fail to offer any evidence at all showing that Mr. Khim is
10 reasonably likely to be removed. They present no evidence as to what criteria
11 Cambodia applies in deciding whether to issue travel documents to individuals who
12 they suspect are citizens, but, as is the case with Mr. Khim (dkt. 2 at 5), who lack any
13 paperwork pertaining to their citizenship. There are no facts showing that Cambodia
14 even considers Mr. Khim a citizen.¹ While Respondents aver that there has been
15 "increased cooperation" between the United States and Cambodia, dkt. 11 at 1, that tells
16 this Court nothing about whether Cambodia is likely to issue travel documents *for Mr.*
17 *Khim*. *See also Nguyen*, 796 F.Supp.3d at 724-25 (finding a claim of increased
18 cooperation between Vietnam and United States insufficient to meet Respondents'
19 burden), and *Abubaka v. Bondi*, No. C25-1889RSL, 2025 WL 3204369, *5 (W.D.
20 Wash. Nov. 17, 2025) (same). And Respondents' aspirational statements regarding the
21 issuance of travel documents have tended to be unduly optimistic. *See, e.g., Tang v.*
22 *Bondi*, No. 2:25-CV-01473-RAJ, 2025 WL 3551381, at *1 (W.D. Wash. Dec. 11,

23
24
25 ¹ Although Respondents include paperwork referencing Mr. Khim's supposed statement
26 that *he* considers himself a Cambodian citizen, dkt. 13-2 at 4, they present no evidence
that Mr. Khim had any legal knowledge of what satisfies *Cambodia's* determination of
citizenship.

2025). (“Indeed, the Federal Respondents’ assertions that a travel document will issue ‘expeditiously’ and ‘within 30 days’ have clearly proven false in this case.”).

Respondents also state that “[t]here have been 55 removals to Cambodia in fiscal year (“FY”) 2025 as of September 2, 2025.” Dkt. 12 at ¶ 13. But they do not identify how many requests for travel documents the United States made to Cambodia that resulted in those 55 removals. A “numerator alone [is] meaningless without the denominator[.]” *Emigra Grp., LLC v. Fragomen, Del Rey, Bernsen & Loewy, LLP*, 612 F. Supp. 2d 330, 367–68 (S.D.N.Y. 2009). And even if there were a denominator, this would tell this Court nothing about the potential for removal of an individual such as Mr. Khim. Those 55 may well have all been individuals with clear evidence of Cambodian citizenship (or whatever other criteria Cambodia applies, which, again, we do not know). *Nguyen*, 796 F.Supp.3d at 726 (stating increase in total number of removals to Vietnam, including those in same category as petitioner [those who entered pre-1995], fails to establish removal of an individual in the reasonably foreseeable future).

These are the only facts Respondents have presented that relate to whether Cambodia is reasonably likely to issue travel documents for Mr. Khim at all, let alone in the reasonably foreseeable future. Combining meaningless data with vague assurances is insufficient to meet Respondents’ burden.

As to Respondents’ showing regarding the timing of removal, Respondents present even less information. For example, they give no data about how quickly removal occurred in those 55 instances during the past year. Then, they concede that “[t]here is no definitive timeframe for TDR’s for Cambodian citizens.” Dkt. 12 ¶ 12. But in fact there is no timeframe at all. At least with some other countries, Respondents have been able to assert an expectation, or at least a hope, that the country involved will respond to requests within a particular time period. *See, e.g., Nguyen*, 796 F. Supp. 3d

1 712–13 (quoting government representation that “Vietnam has agreed to increase
2 cooperation with the United States and issue travel documents in less than 30 days.”).
3 But here they offer nothing other than their belief that, because of increased
4 cooperation, Cambodia will “ultimately” issue travel documents for Mr. Khim.
5 Meanwhile, under Respondents’ view, he must indefinitely in the detention center for a
6 removal that may never come.

7 The additional statement that “[t]he embassy is actively coordinating interviews
8 once the TDR reaches the government of Cambodia,” asserts nothing to show that such
9 interviews would occur within a reasonable timeframe. Nor is there any indication of
10 how long travel documents might take to issue (*if* they issue) after interviews occur.

11 In sum, Respondents have shown neither that Mr. Khim is reasonably likely to
12 be removed to Cambodia at nor that any such removal would occur in the reasonably
13 foreseeable future (and again, given the length of his detention to date, that period is
14 shorter than in the ordinary case). A failure as to either would be enough to validate Mr.
15 Khim’s *Zadvydas* claim; here, there is failure as to both.

16 Respondents’ showing as to Thailand is even weaker. There is a total lack of any
17 facts suggesting that Thailand would ever issue travel documents for Mr. Khim, let
18 alone that it would do so in the reasonably foreseeable future.

19 Respondents’ only other response is to suggest, almost as an afterthought, that
20 removal is *always* reasonably foreseeable, unless removal to the specified country is
21 *impossible*. Dkt 9 at 8 (citing to *Diouf v. Mukasey*, 542 F. 3d 1222, 1233 (9th Cir.
22 2008)). But *Diouf* involved a pending judicial review of the removal order itself, and
23 the petitioner’s detention was prolonged solely because the Ninth Circuit had issued a
24 stay.

25 In *Diouf*, ICE arrested the petitioner after he failed to depart voluntarily. 542
26 F.3d at 1226. ICE then “made arrangements for Diouf to depart for Senegal on May 26,

1 2005, but, after Diouf refused to leave on that date, continued to detain him.” *Id.* Diouf
2 fought off deportation by filing two motions to reopen and by obtaining a series of stays
3 of removal from the Ninth Circuit. *Id.*

4 The reason for Diouf’s prolonged detention, therefore, and the only obstacle to
5 his removal, was his own actions, including his pending petition before the Ninth
6 Circuit and the attendant stay order. Diouf’s detention was thus not open-ended (or
7 indefinite), since it would terminate upon his withdrawal of legal challenges to the
8 removal order or a decision by the Ninth Circuit. The import of *Diouf*, therefore, is that
9 a petitioner cannot obtain release under *Zadvydas* if the reason for his detention is his
10 own attempt to obtain review of the removal order. The court’s holding is that he could
11 not obtain *Zadvydas* relief unless he shows he would be “unremovable even if the
12 government defeated his petition for review.” *Id.* at 1233. Since Mr. Khim is not
13 challenging his removal order, *Diouf* has no application here.

14 The court also cited to *Prieto-Romero v. Clark*, 534 F.3d 1053, 1063 (9th Cir.
15 2008), where, similarly, “repatriations to Prieto–Romero’s country of origin, Mexico,
16 are routine and . . . the government stands ready to remove Prieto–Romero as soon as
17 judicial review is complete.” It is in situations such as those, when the delay is caused
18 only by a petitioner’s seeking judicial review, that removal is deemed unforeseeable
19 only when “he would be unremovable even if the government defeated his petition for
20 review.” *Diouf*, 542 F. 3d at 1233.

21 There is no basis for reading these cases as applying to situations such as Mr.
22 Khim’s, where the delay is Respondents’ inability to remove him in the reasonably
23 foreseeable future, not a challenge to removal. If the government’s position were
24 accepted, it would mean that the numerous recent decisions in this district granting
25 *Zadvydas* petitions, and the scores or hundreds of decisions elsewhere throughout the
26

1 Circuit, all erred in finding a *Zadvydas* violation based on delay of removal, without
2 also requiring a showing that removal was impossible.²

3 Since Respondents have not met their burden of showing that removal will occur
4 in the reasonably foreseeable future, and their brief citation to *Diouf* is inapplicable, it is
5 clear Mr. Khim's rights under *Zadvydas* have been violated, requiring his immediate
6 release.

7 **C. Mr. Khim's criminal history is irrelevant to the *Zadvydas* issue.**

8 No question, Mr. Khim has a significant criminal history. Almost all of it
9 decades ago. Respondents show that Mr. Khim has convictions for 1) a gun offense
10 from 32 years ago; 2) a failure to appear from that same time frame; 3) DUI, 23 years
11 ago; 4) attempting to elude, 21 years ago, with a sentence of 60 days in jail; 5) inflicting
12 corporal injury, 19 years ago, for which he received probation; 6) violation of a
13 domestic violence order, 18 years ago; 7) reckless driving three years ago, and 8) DUI
14 two years ago. Every other incident Respondents lists was an arrest without a
15 conviction. And except for two recent driving violations, Mr. Khim has no convictions
16 in the past 19 years. Also, notably, Respondents do not contend that Mr. Khim has ever
17 failed to report as required by ICE.

18 Although Respondents do not explicitly contend that this criminal history should
19 factor into this Court's *Zadvydas* analysis, it is worth noting that, in other litigation in
20 this district, they concede that "[w]hether [petitioner] poses a flight risk or a danger to
21 the community [is] completely irrelevant. The only proper consideration under
22 *Zadvydas* is whether there is a significant likelihood of removal in the reasonably

23
24 ² Counsel is aware of one decision in this district accepting Respondents' view of
25 *Diouf, Revenko v. Bondi*, No. 2:25-CV-00549-TL, 2025 WL 2592243, at *3 (W.D.
26 Wash. Sept. 8, 2025). But in that case, "Petitioner [did] not address *Diouf* at all in his
objections" to the Report and Recommendation, effectively waiving the issue. And the
court thus did not have the benefit of briefing such as Mr. Khim has submitted, *supra*.

foreseeable future[.]” Federal Respondents’ Return Memorandum, *Kuot v. Bondi*, No. 2:25-cv-02313-RAJ-BAT, dkt. 14 at 10 n.5 (W.D. Wash. Dec. 3, 2025). *See also Hieu Tri Nguyen*, No. 2:25-CV-02024-TL, 2025 WL 3534168, at *5 (W.D. Wash. Dec. 10, 2025) (“*Hieu Tri Nguyen*”) (showing how *Zadvydas* requires court to reject argument that petitioner’s criminal history is relevant to *Zadvydas* issue).

Mr. Khim does not seek to minimize the seriousness of his offenses, but he “has paid his debt to society for his prior crimes through his prison sentences.” *Hieu Tri Nguyen*, 2025 WL 3534168, at *5. Those offenses have no bearing on the *Zadvydas* issue.

II. MR. KHIM WAS CONSTITUTIONALLY ENTITLED TO A HEARING PRIOR TO BEING RE-DETAINED.

Respondents seek to justify Mr. Khim’s re-detention both on the “the increased cooperation between Cambodia and the United States in repatriating Cambodian citizens” and his violations of law. Dkt. 11 at 10. Mr. Khim will first address the issue of removal to Cambodia.

Respondents rely on the fact that they claim to have concluded that removal to Cambodia is now reasonably foreseeable, making this a changed circumstance justifying re-detention. *Id.* But what the cases cited in Mr. Khim’s petition and below, along with numerous other decisions, all hold that there has to be notice, a hearing before a neutral decision maker, and an opportunity to respond before someone can be re-detained. Thus, Respondents don’t get to make that decision about foreseeability on their own, with no hearing and no requirement for evidence.

They point out that none of the cases cited in the constitutional due process portion of Mr. Khim’s petition, dkt. 2 at 8-11, involved a detainee with a final order of removal. Dkt. 11 at 10. While that is correct, it is irrelevant. Numerous other cases, ones involving re-detention of petitioners with final orders of removal, have applied the

1 same due process analysis as the cases Mr. Khim cited. *See, e.g., Jimenez v. Bondi*, No.
 2 C25-2167RSM, 2025 WL 3466925, at *2 (W.D. Wash. Dec. 3, 2025) (“Based on this
 3 review of the *Mathews* factors, the Court finds that Petitioner has a protected liberty
 4 interest in his continuing release from custody, and that due process requires that
 5 Petitioner receive proper notice and an opportunity to respond before he can be re-
 6 detained.”). *See also, e.g., P.T. v. Hermosillo*, No. C25-2249-KKE, 2025 WL 3294988,
 7 at *3 (W.D. Wash. Nov. 26, 2025); *Perez v. Mordant*, No. 2:25-CV-00947-SPC-DNF,
 8 2025 WL 3466956, at *5 (M.D. Fla. Dec. 3, 2025); *S-M-J v. Bostock*, No. 6:25-CV-
 9 01425-MTK, 2025 WL 3137296, at *5 (D. Or. Nov. 10, 2025). There are literally
 10 scores of decisions so holding.

11 Respondents’ discussion of the third *Mathews* factor relies on an irrelevancy,
 12 their interest in enforcing the immigration laws. Dkt. 11 at 8. That is not the
 13 governmental interest at issue. As stated in *P.T.*, 2025 WL 3294988, at *3, “In the final
 14 *Mathews* factor, the Court considers the Government’s interest in arresting and
 15 detaining Petitioner without a hearing.” *Accord, Perera v. Jennings*, No. 21-CV-04136-
 16 BLF, 2021 WL 2400981, at *5 (N.D. Cal. June 11, 2021) (“the interest at stake is not
 17 whether the government may detain [a noncitizen after releasing him], but whether they
 18 may do so without providing him an individualized bond hearing.”) And “the
 19 Government’s interest in re-detaining non-citizens previously released without a
 20 hearing is low[.]” *P.T.*, 2025 WL 3294988, at *3. That is because, “[I]n immigration
 21 court, custody hearings are routine and impose a minimal cost.” *Carballo v. Andrews*,
 22 No. 1:25-CV-00978-KES-EPG (HC), 2025 WL 2381464, *8 (E.D. Cal. Aug. 15, 2025).

23 Thus, Mr. Khim had a right to a hearing on whether in fact removal was
 24 reasonably foreseeable before being re-detained, yet none occurred. Because he was
 25 denied that hearing, he must be released on this ground as well.
 26

1 Respondents' reliance on Mr. Khim's violations of law also do not support his
 2 re-detention. First, his last conviction was two years ago, yet Respondents made no
 3 attempt to re-detain him. More importantly, as discussed above, if removal is not
 4 reasonably foreseeable, then there is no basis for detention.

5 **III. RESPONDENTS HAVE NOT SHOWN COMPLIANCE WITH THEIR**
 6 **REGULATIONS REGARDING RE-DETENTION.**

7 As discussed in Mr. Khim's petition, dkt. 2 at 11-12, various regulations also
 8 govern re-detention. Respondents have not addressed that requirement at all in their
 9 Response. Those "regulations appear to require an individualized determination about
 10 the likelihood of removal based on changed circumstances, followed by notice and an
 11 opportunity to respond." *Phetsadakone v. Scott*, No. 2:25-CV-01678-JNW, 2025 WL
 12 2579569, at *3 (W.D. Wash. Sept. 5, 2025). Although Respondents assert they made
 13 the individualized determination, there is nothing in the record attesting that
 14 Respondents provided Mr. Khim with notice or an opportunity to respond.

15 These regulations also require Respondents to establish that, based on "changed
 16 circumstances," there is "a significant likelihood that the [noncitizen] may be removed
 17 in the reasonably foreseeable future," 8 C.F.R. § 241.13(i)(2); *see also, e.g.,*
 18 *Hernandez-Escalante v. Noem, et al.*, No. CV25-182-MJT, 2025 WL 2206113, at *3
 19 (E.D. Tex. Aug. 2, 2025) ("These regulations clearly indicate, upon revocation of
 20 supervised release, it is the [Government's] burden to show a significant likelihood that
 21 the [noncitizen] may be removed.") (collecting cases). As discussed in Part I,
 22 Respondents have not met that burden. *See Tran v. Bondi*, No. C25-01897-JLR, 2025
 23 WL 3140462, at *3 (W.D. Wash. Nov. 10, 2025) (finding that Respondents had "not
 24 met [their] burden to present evidence supporting" their claim of removal within
 25 reasonably foreseeable future and therefore did "not comply with the requirements set
 26 forth by 8 C.F.R. § 241.13(i) and 8 C.F.R. § 241.13(f)").

1 On two separate regulatory grounds then (failure to provide notice and
 2 opportunity to respond; failure to meet Respondents' burden), Mr. Khim's re-detention
 3 was unlawful, providing a third ground requiring his release, in addition to his
 4 *Zadvydas* and due process claims.

5 **IV. AS NUMEROUS COURTS HAVE HELD, AND CONTRARY TO THE**
 6 **GOVERNMENT'S CONTENTION (WHICH IS UNSUPPORTED BY**
 7 **ANY AUTHORITY), MR. KHIM'S CLAIMS REGARDING REMOVAL**
 8 **TO A THIRD COUNTRY ARE RIPE; THEY ARE ALSO**
 9 **MERITORIOUS.**

10 Mr. Khim requested an order precluding ICE from removing him to a third
 11 country pursuant to its punitive removal policies and an order precluding removing him
 12 to a third country absent notice and a meaningful opportunity to respond. Respondents
 13 assert, without citation to any legal authority, that this Court should deny Mr. Khim's
 14 request as not being ripe. Dkt. 11 at 2. A similar argument was rejected in *Nguyen*.
 15 There, the government also represented that it was seeking only to remove the
 16 petitioner to his home country of Vietnam and even stipulated that it would not attempt
 17 to remove him to any other country unless Vietnam rejected him. The court was
 18 unpersuaded, explaining that "the Ninth Circuit has found such voluntary promises
 19 insufficient" to eliminate the potential irreparable injury that petitioner could face if the
 20 promise were withdrawn, particularly given the underlying allegations that third party
 21 removals were being conducted rapidly and without an opportunity for due process. 796
 22 F.Supp.3d at 737.

23 Respondents assert that ICE is not trying to remove Mr. Khim to a third country
 24 "at this time[.]" Dkt. 11 at 7. That limitation is identical to the assurance Respondents
 25 made in *Hieu Tri Nguyen*. 2025 WL 3534168, at *7. Judge Tana Lin stated,
 26 "considering [Respondent's] qualified assurance in light of current ICE policy,
 President Trump's support of and commitment to '*sudden deportation in a place and*
manner solely of our discretion,' and the undisputed actions of Respondents in carrying

1 out such sudden and discretionary removals, the Court finds the voluntary promise
2 insufficient.” *Id.* (citations omitted). Judge Lin continued, “Moreover, the fact that this
3 injury is directly traceable to a written policy suggests that there is an implicit
4 likelihood of its repetition in the immediate future.” *Id.* (cleaned up) (finding issues
5 ripe). *See also Hambarsonpour v. Bondi*, No. C25-1802-RSM, 2025 WL 3251155, at
6 *5 (W.D. Wash. Nov. 21, 2025) (rejecting government’s ripeness argument).

7 Mr. Khim’s petition sets forth similar facts to those on which Judge Lin relied,
8 which facts Respondents do not deny. Dkt. 2 at 16-18. These facts show that such an
9 impermissible third country removal against him is sufficiently likely to make the
10 matter ripe.

11 Respondents have provided no substantive response to Mr. Khim’s petition
12 regarding the illegality of their policies of third country removal and have therefore
13 waived the issue.

14 Just as these other courts have done after rejecting Respondents’ ripeness
15 contention and turning to the substantive issue, this Court should grant the two forms of
16 relief Mr. Khim requested regarding third country removal. *See Abubaka*, 2025 WL
17 3204369, at *7-8, 2025) (ruling in petitioner’s favor on merits third country removal as
18 to both due process and punitive nature of removal); *Hieu Tri Nguyen*, 2025 WL
19 3534168, at *10 (same).

20 **V. CONCLUSION**

21 The Court should grant Mr. Khim’s petition on all grounds and grant the
22 requested relief, including his immediate release. *See* dkt. 2 at 23-24. The Court should
23 also adopt the approach taken by Judge Robert S. Lasnik recently, and further order that
24 “Respondents may not re-detain petitioner unless:

25 //

1 a. [He] violates a condition of [his] Order of Supervision; or

2 b. The government

3 (1) obtains a valid travel document to [Cambodia or Thailand] for [him],

4 (2) provides the valid travel document to [him and his] counsel,

5 (3) offers petitioner the opportunity to leave on [his] own within two
6 months, and

7 (4) petitioner does not leave. Under such circumstances, the government
8 may be permitted to re-detain petitioner provided it has already made
9 concrete arrangements for [him] to be put on a flight to [Cambodia or
10 Thailand] in the reasonably foreseeable future.”

11 *See Do v. Scott*, No. C25-2187RSL, 2025 WL 3496909, at *6 (W.D. Wash. Dec. 5,
12 2025).

13 DATED this 15th day of December 2025.

14 Respectfully submitted,

15 s/ *Alan Zarky*

16 Staff Attorney

17 Attorney for Sieng Kim Khim
18
19
20
21
22
23
24
25
26