

1 NOSSAMAN LLP
2 CHRISTOPHER D. HUGHES (SBN 254864)
3 chughes@nossaman.com
4 ALEX VAN ROEKEL (SBN 342478)
5 avanroekel@nossaman.com
6 621 Capitol Mall, Suite 2500
Sacramento, CA 95814
Telephone: 916.442.8888
Facsimile: 916.442.0382

7 ASIAN LAW CAUCUS
8 EVELYN WIESE (SBN #338419)
9 evelynw@asianlawcaucus.com
10 55 Columbus Avenue
11 San Francisco, CA 9411
12 Telephone: 415.896.1701
13 Facsimile: 415-896-1702

14 Pro Bono Attorneys for Petitioner,
15 OUSIN SAEPHANH

16 UNITED STATES DISTRICT COURT

17 EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION

18 OUSIN SAEPHANH,

19 Petitioner,

20 vs.

21 TONYA ANDREWS, in her official capacity,
22 Facility Administrator, Golden State Annex;
23 SERGIO ALBARRAN, in his official capacity,
24 Field Office Director for the San Francisco Field
25 Office, U.S. Immigration and Customs
26 Enforcement;
27 TODD LYONS, in his official capacity, Acting
28 Director, U.S. Immigration and Customs
Enforcement;
KRISTI NOEM, in her official capacity,
Secretary, U.S. Department of Homeland
Security; and
PAM BONDI, in her official capacity, Attorney
General of the United States,

Respondents.

Case No.:

**VERIFIED PETITION FOR
WRIT OF HABEAS CORPUS**

Case No.

1 **INTRODUCTION**

2 1. Petitioner Ousin Saephanh is a 59-year-old citizen of Laos. After spending his
3 childhood in a series of refugee camps in Thailand, he came to the United States in 1987 when
4 he was 21 years old and was admitted into the country as a Lawful Permanent Resident. He has
5 lived in U.S. since 1987, and is married to a U.S. citizen.

6 2. In 1995, an immigration judge ordered Mr. Saephanh removed to Laos, due to
7 two related criminal convictions he sustained on the same date in 1990.

8 3. Mr. Saephanh was released from ICE custody shortly after being ordered
9 removed, presumably due to an inability to secure travel documents his historically recalcitrant
10 country of origin (see Factual Allegations, *infra*). As such, for more than 28 years, Mr.
11 Saephanh has been living in the United States pursuant to an Order of Supervision (“OSUP”).
12 Because his removal was not reasonably foreseeable and he was neither a flight risk nor a danger
13 to the community, the OSUP allowed Mr. Saephanh to remain in the United States, building his
14 life in his community, free from U.S. Immigration and Customs Enforcement (“ICE”) custody.

15 4. On the morning of August 6, 2025, as Mr. Saephanh left his home to commute to
16 work, ICE agents in an unmarked car accosted him and detained him in immigration custody.
17 They provided him no notice or reasons for re-detaining him and revoking his OSUP, in
18 violation of the Department of Homeland Security’s (“DHS”) own regulations and the
19 Constitution. Mr. Saephanh’s continued detention infringes on his constitutionally protected
20 liberty interest in his physical freedom and is unlawful pursuant to the agency’s own regulations.
21 The Court should enjoin ICE from continuing this course of conduct.

22 **CUSTODY**

23 5. Mr. Saephanh is currently detained in ICE custody at the Golden State Annex
24 located at 611 Frontage Road, McFarland, California, 94111. He was arrested on August 6,
25 2025, at approximately 7:00 a.m. and has been in ICE custody ever since. See Declaration of
26 Ousin Saephanh (“Saephanh Decl.”) ¶¶ 1-6.

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1 **JURISDICTION**

2 6. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331,
3 general federal question jurisdiction; 5 U.S.C. § 701, *et seq.*, All Writs Act; 28 U.S.C. § 2241, *et*
4 *seq.*, habeas corpus; 28 U.S.C. § 2201, the Declaratory Judgment Act; Art. 1, § 9, Cl. 2 of the
5 United States Constitution (Suspension Clause); Art. 3 of the United States Constitution, and the
6 common law.

7 7. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory
8 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651 to protect
9 Petitioner’s rights under the Due Process Clause of the Fifth Amendment to the United States
10 Constitution, the Excessive Bail Clause of the Eighth Amendment, and under applicable Federal
11 law, and to issue a writ of habeas corpus for her immediate release. *See generally INS v. St. Cyr*,
12 533 U.S. 289 (2001); *Zadvydas v. Davis*, 533 U.S. 678 (2001).

13 **REQUIREMENTS OF 28 U.S.C. § 2243**

14 8. The Court must grant the petition for writ of habeas corpus or issue an order to
15 show cause (OSC) to Respondents “forthwith,” unless the petitioner is not entitled to relief. 28
16 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return “within
17 *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed.” *Id.*
18 (emphasis added).

19 9. Courts have long recognized the significance of the habeas statute in protecting
20 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most
21 important writ known to the constitutional law of England, affording as it does a *swift* and
22 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391,
23 400 (1963) (emphasis added) (overruled on other grounds in *Wainwright v. Sykes*, 433 U.S. 72
24 (1977)).

25 10. Habeas corpus must remain a swift remedy. Importantly, “the statute itself directs
26 courts to give petitions for habeas corpus ‘special, preferential consideration to insure
27 expeditious hearing and determination.’” *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000)
28 (internal citations omitted). The Ninth Circuit warned against any action creating the perception

1 “that courts are more concerned with efficient trial management than with the vindication of
2 constitutional rights.” *Id.*

3 **REQUIREMENTS OF LOCAL RULES**

4 11. Appendix A of the Local Rules of Practice for the United States District Court,
5 Eastern District of California (“Local Rules” or “L.R.”), made applicable via L.R. 120(e), sets
6 forth the procedures for assignment of habeas corpus actions. L.R. Appendix, subpart (k).

7 12. Mr. Saephanh has not previously sought relief arising out of the same matter from
8 the Court or any other federal court. L.R. 190(e)(2).

9 **VENUE**

10 13. Venue is proper in the Eastern District of California under 28 U.S.C. § 1391(e)
11 because Respondents are federal officers or employees sued in their official capacities; one or
12 more Respondents reside in this District; Mr. Saephanh resides in this District; Mr. Saephanh is
13 detained in this District; and a substantial part of the events or omissions giving rise to Mr.
14 Saephanh’s claims occurred in this District.

15 **INTRADISTRICT ASSIGNMENT**

16 14. Mr. Saephanh is being detained at the Golden State Annex located at 611
17 Frontage Road, McFarland, California, 94111. Therefore, it appears the assignment to the Fresno
18 Division of this Court is proper. L.R. 120(d).

19 **PARTIES**

20 15. Petitioner, Mr. Saephanh is a citizen of Laos and resident of the United States
21 who is currently detained by Respondents at the Golden State Annex detention center located at
22 611 Frontage Road, McFarland, California 93250.

23 16. Respondent Tonya Andrews, in her official capacity as the Facility Administrator
24 for the Golden State Annex, a detention center located in McFarland, California run by GEO
25 Group Inc., a private, for-profit company. Pursuant to the Ninth Circuit’s recent decision in *Doe*
26 *v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024), Tonya Andrews is a proper respondent
27 because she is the de facto warden of the facility at which Mr. Saephanh is detained. She is sued
28 in her official capacity.

1 17. Respondent Sergio Albarran is the Field Office Director for the San Francisco
2 Field Office of ICE Enforcement and Removal Operations, which has immediate physical
3 custody of Mr. Saepanh. He is sued in his official capacity.

4 18. Respondent Todd Lyons is the Acting Director of ICE. As the head of ICE, an
5 agency within the U.S. Department of Homeland Security that detains and removes certain
6 noncitizens, Respondent Lyons is a legal custodian of Mr. Saepanh. He is sued in his official
7 capacity.

8 19. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland
9 Security. She is responsible for the administration of immigration laws. 8 U.S.C. § 1103(a).
10 Secretary Noem is a legal custodian of Mr. Saepanh. She is sued in her official capacity.

11 20. Respondent Pam Bondi is the Attorney General of the United States. She is
12 responsible for overseeing the implementation and enforcement of the federal immigration laws.
13 She has the authority to interpret immigration law and adjudicate removal cases. The Attorney
14 General delegates this responsibility to the Executive Office for Immigration Review ("EOIR"),
15 which administers the immigration courts and the Board of Immigration Appeals. In her official
16 capacity, Attorney General Bondi is the ultimate legal custodian of Mr. Saepanh.

17 **FACTUAL ALLEGATIONS**

18 **Mr. Saepanh's Background and Other Related Facts**

19 21. Petitioner, Ousin Saepanh is a 59-year-old citizen of Laos. He was admitted to
20 the United States as a Lawful Permanent Resident on September 10, 1987. He and his family
21 fled Laos for their lives in 1976 when he was 10 years old because they faced persecution in their
22 home country. After being persecuted several times, they escaped to a refugee camp in
23 Thailand; for eleven years, they were constantly forced to move from one camp to another. They
24 then came to the United States on September 10, 1987 when Mr. Saepanh was 21 years old.

25 22. 35 years ago, as a young man, Mr. Saepanh made a serious mistake, which he
26 deeply regrets. He was convicted on November 29, 1990, of offenses under 21 U.S.C. §
27 841(a)(1) and 21 U.S.C. § 952. He acknowledged his wrongdoing and became committed to
28 rehabilitating himself. Mr. Saepanh served fifty-three months for these offenses. After being

1 released from criminal custody, Mr. Saephanh was transferred to immigration custody, and on
2 August 15, 1994, an Order to Show Cause was issued charging Mr. Saephanh as deportable
3 under Title 8 of the United States Code, as amended (“Immigration and Naturalization Act” or
4 “INA”) section 241(a)(2)(A)(iii), due to his two criminal convictions under 21 U.S.C. §
5 841(a)(1) and 21 U.S.C. § 952. See Declaration of Kamalpreet Chohan (“Chohan Decl.”) ¶ 2,
6 Exh. 1, pp. 61-64 (Exh. D). Mr. Saephanh was issued a removal order on March 27, 1995. See
7 Chohan Decl. ¶ 2, Exh. 1, pp. 58-59 (Exh. C). Mr. Saephanh applied for a 212(c) waiver and had
8 a hearing on March 27, 1995 where the immigration judge found that, while he met all the
9 statutory elements of 212(c) relief, Mr. Saephanh did not warrant a favorable exercise of
10 discretion, and therefore his application for a waiver was denied. Specifically, the judge said that
11 Mr. Saephanh had been separated from his family for five years due to being in criminal custody
12 and, at the time, they did not depend on him for financial support. In addition, he had limited
13 employment history at the time, and lacked a business or property in the country.

14 23. After being released from criminal custody, Mr. Saephanh was transferred to
15 immigration custody, and on August 15, 1994, an Order to Show Cause was issued charging Mr.
16 Saephanh as deportable under INA section 241(a)(2)(A)(iii), due to his two criminal convictions
17 under 21 U.S.C. § 841(a)(1) and 21 U.S.C. § 952. Mr. Saephanh was later issued a removal order
18 on March 27, 1995. Mr. Saephanh was released from ICE custody shortly after being ordered
19 removed, presumably due to an inability to secure travel documents from his historically
20 recalcitrant country of origin.¹ As such, for more than 28 years, Mr. Saephanh has been living in
21 the United States pursuant to an Order of Supervision (“OSUP”). Chohan Decl. ¶ 3, Exh. 2
22 (OSUP). Because his removal was not reasonably foreseeable and he was neither a flight risk
23 nor a danger to the community, the OSUP allowed Mr. Saephanh to remain in the United States,
24 building his life in his community, free from ICE custody.

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27 ¹ See Congressional Research Service, Immigration: “Recalcitrant” Countries and the Use of Visa
28 Sanctions to Encourage Cooperation with Alien Removals (July 10, 2020), available at:
<https://www.congress.gov/crs-product/IF11025>.

1 24. Since his release from immigration custody in 1997, Mr. Saephanh has lived in
2 the United States with his family. From 1997 until 2014, he lived in Seattle, Washington with
3 his parents and siblings. More than nine years ago, on July 14, 2016, he married his wife, who is
4 a United States citizen. Prior to marrying, in 2014 he moved to California; he has lived in Elk
5 Grove, California since 2014. He has not been re-arrested since his convictions in 1990 (over 35
6 years), and he has positively contributed to his community and family. Chohan Decl. ¶ 2, Exh.
7 1, pp. 22-56 (See Ex. A-B).

8 25. Mr. Saephanh helped raise his wife's three United States citizen children with her.
9 His stepchildren attest to the emotional and financial support he has provided them and the
10 meaningful relationships he created with them. Chohan Decl. ¶ 2, Exh. 1, pp. 24-56 (See Ex. B).
11 They state how he has emotionally and financially supported them and their family. *Id.* Mr.
12 Saephanh is currently a caregiver for his 91-year-old mother-in-law, who lives near him in
13 Sacramento, California. *Id.* Mr. Saephanh assists her by picking up her prescriptions, driving
14 her to her medical appointments, and helping her with chores and maintenance work around the
15 house. *Id.* He visits her often. *Id.* As stated in her letter, she would suffer great hardship if he
16 was not able to take care of her. She relies on him for financial, medical, physical, and emotional
17 support. *Id.*

18 26. Mr. Saephanh is very involved in his community. Since his convictions and
19 removal order in 1995, Mr. Saephanh has mentored and guided youth and community members
20 facing poverty, language barriers and cultural challenges. *Id.* The President of the Iu Mien
21 Association of Oregon stated in their support letter how Mr. Saephanh has strength the Mien
22 communities in Washington and California. *Id.* The Interim President of Iu Mien American
23 National Coalition additionally speaks about Mr. Saephanh commitment and dedication to the Iu
24 Mien community. *Id.* Mr. Saephanh has been a community member since 1988 and was
25 appointed the Vice President from 2005 through 2008 at Iu-Mien American Association, a non-
26 profit organization based in Seattle, WA, where he has volunteered hundreds of hours. *Id.* Mr.
27 Saephanh has volunteered at The Mien Advancement Center, a non-profit organization in Elk
28 Grove, CA in many ways. He has helped to establish a Mien Community Center for seniors and

1 youth to gather to learn the Mien language, culture and traditions. *Id.* He has helped remodel the
2 center and served as a cultural resource teacher. There are over 70 signatures of community
3 members attesting to Mr. Saephanh's rehabilitation, commitment, and dedication to his
4 community. *Id.* Mr. Saephanh has built a strong family and community network in both
5 Washington and California, and his deportation would cause significant hardship to many who
6 rely on his presence and support. *Id.*

7 27. On September 17, 2025, Mr. Saephanh, through his *pro bono* counsel, filed with
8 the United States Department of Justice Executive Office for Immigration Review Board of
9 Immigration Appeals, Falls Church, Virginia ("Board") a motion to reopen his removal
10 proceedings and remand the matter to the Immigration Court for further proceedings. ("Motion
11 to Reopen"). The Motion to Reopen asserts that Mr. Saephanh seeks to reopen his removal
12 proceedings on the grounds that he remains eligible for relief under former INA § 212(c) due to a
13 change in the law that occurred after the initial § 212 denial in 1995 and that he now has newly
14 available evidence that goes to his relief from removal under former section 212(c). The Motion
15 to Reopen also requests that the Board consider *sua sponte* reopening the removal proceedings
16 on the basis that Mr. Saephanh greatly regrets his actions and has not suffered any arrest or
17 charge or conviction since his release from criminal custody in 1994. Chohan Decl. ¶ 2, Exh. 1,
18 pp. 22-56 (See Exhs. A-B). Mr. Saephanh has demonstrated himself to be a pillar in his
19 community who cares deeply for his family, all of whom are United States Citizens. *Id.*

20 28. On August 6, 2025, at approximately 7:00 a.m., several individuals, only one of
21 whom identified himself as an ICE agent, arrested Mr. Saephanh. Saephanh Decl. ¶¶ 1-6.
22 Shortly before the arrest, Mr. Saephanh had left his house around 7:00 a.m. and was headed to
23 work at Murphy's Magic Supplies in Rancho Cordova, a store that sells magic-related books,
24 playing cards and supplies, where he has worked for the past 11 years. *Id.*; Chohan Decl. ¶ 2,
25 Exh. 1, pp. 24-56 (Exh. B). After pulling out of his driveway, Mr. Saephanh saw an unmarked
26 black Sports Utility Vehicle ("SUV") with no license plate parked around the corner from his
27 house. *Id.* It appeared to Mr. Saephanh that the individual was waiting for him. *Id.* The SUV
28 made an immediate U-turn and started to follow Mr. Saephanh. *Id.* After Mr. Saephanh passed

1 through a second stoplight, the SUV turned on its lights, and two other nearby vehicles also
2 activated their lights. *Id.* The SUV cut Mr. Saephanh off, and a total of three to four cars boxed
3 him in. About seven to eight people got out of the vehicles. *Id.* One of the people said he was an
4 ICE agent. *Id.* They handcuffed Mr. Saephanh and put him into a small car. *Id.* No one told
5 Mr. Saephanh why he was being detained. *Id.* He was taken to the Sacramento Field Office of
6 ICE Enforcement and Removal Operations and kept there for three days. *Id.* On the third day,
7 he was taken to the Golden State Annex where he remains today. *Id.* Mr. Saephanh has not been
8 provided with any explanation from the government about why his OSUP was revoked. *Id.* He
9 has not been provided with a notice of revocation of the OSUP, in violation of 8 CFR
10 § 241.13(i)(2) and 8 CFR § 241.13(i)(3).

11 29. Mr. Saephanh has attended numerous check-ins with ICE in the 28 years since he
12 was first ordered removed. See Chohan Decl. ¶¶ 3, 6, Exh. 2; Exh. 3. Mr. Saephanh's last ICE
13 check-in was on March 31, 2025. Chohan Decl. ¶ 6, Exh. 3. At that time, he was given a card
14 indicating that his next ICE check-in would not be until March 28, 2026 – approximately 1 year
15 later. *Id.*

16 30. Prior to August 6, 2025, he could not recall ever being instructed to request travel
17 documents from Laos. Based on the information currently available, however, Mr. Saephanh's
18 counsel has no reason to believe that the circumstances have changed such that his removal to
19 Laos is now reasonably foreseeable. See Chohan Decl. ¶ 7.

20 31. Mr. Saephanh's continued detention infringes on his constitutionally protected
21 liberty interest in his physical freedom and is unlawful pursuant to the agency's own regulations.
22 The Court should enjoin ICE from continuing this course of conduct.

23 Facts Related to Increased DHS Re-Detentions

24 32. On information and belief, on January 25, 2025, officials in the new Trump
25 administration directed senior ICE officials to increase arrests to meet daily quotas. Specifically,
26 each field office was instructed to make seventy-five arrests per day.²

27 ///

28 ² See "Trump officials issue quotas to ICE officers to ramp up arrests," *Washington Post* (Jan. 26, 2025),

1 33. Multiple credible reports demonstrate that, in recent weeks, numerous noncitizens
2 in the Sacramento Area, San Francisco Bay Area, Los Angeles, and across the country who have
3 appeared as instructed at ICE check-ins have been incarcerated or re-incarcerated by ICE.³

4 34. In recent months, ICE has engaged in highly publicized arrests of individuals who
5 presented no flight risk or danger, often with no prior notice that anything regarding their status
6 was amiss or problematic, whisking them away to faraway detention centers without warning.⁴

7 35. Decisions issued by other courts in this District and the Eastern of District of
8 California further corroborate that ICE is re-arresting and re-incarcerating individuals who are
9 not flight risks or dangers to the community, including when their removals from the United
10 States are not reasonably foreseeable. *See, e.g., Guillermo M. R. v. Kaiser*, No. 25-CV-05436-

11
12 available at: <https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/>.

13
14 ³ See Nidia Cavazos, “Immigrants at ICE check-ins detained, held in basement of federal building in Los
15 Angeles, some overnight,” CBS News (June 7, 2025), <https://www.cbsnews.com/news/immigrants-at-ice-check-ins-detained-and-held-in-basement-of-federal-building-in-los-angeles/>; Mark Betancourt and Julia
16 Barajas, “They followed the government’s rules. ICE held them anyway,” LAist (June 11, 2025),
17 <https://laist.com/news/politics/ice-raids-los-angeles-family-detained>; Carolina Estrada, “ICE arrests at
18 Sacramento immigration courts raises fear among immigrant community,” KCRA (June 3, 2025),
19 <https://www.kcra.com/article/ice-arrests-sacramento-immigration-courts-lawyers-advocacy-groups/64951405>; “ICE confirms arrests made in South San Jose,” NBC Bay Area (June 4, 2025),
20 <https://www.nbcbayarea.com/news/local/ice-agents-san-jose-market/3884432/> (“The Rapid
21 Response Network, an immigrant watchdog group, said immigrants are being called for meetings at ISAP
22 – Intensive Supervision Appearance Program – for what are usually routine appointments to check on
23 their immigration status. But the immigrants who show up are taken from ISAP to a holding area behind
24 Chavez Supermarket for processing and apparently to be taken to a detention center, the Rapid Response
25 Network said.”); “ICE arrests 15 people, including 3-year-old child, in San Francisco, advocates say,”
26 San Francisco Chronicle (June 5, 2025), Doc Louallen, “Cincinnati high school graduate faces
27 deportation after routine ICE check-in,” ABC News (June 9, 2025),
28 <https://abcnews.go.com/US/cincinnati-high-school-graduate-faces-deportation-after-routine/story?id=122652262>.

⁴ See, e.g., McKinnon de Kuyper, “Mahmoud Khalil’s Lawyers Release Video of His Arrest,” N.Y. Times (Mar. 15, 2025), available at <https://www.nytimes.com/video/us/politics/100000010054472/mahmoud-khalils-arrest.html> (Mahmoud Khalil, arrested in New York and transferred to Louisiana); Gloria Pazmino, “What we know about the Tufts University PhD student detained by federal agents,” CNN (Mar. 28, 2025), <https://www.cnn.com/2025/03/27/us/rumeysa-ozturk-detained-what-we-know/index.html> (Rumeysa Ozturk, arrested in Boston and transferred to Louisiana); Kyle Cheney & Josh Gerstein, “Trump is seeking to deport another academic who is legally in the country, lawsuit says,” Politico (Mar. 19, 2025), available at <https://www.politico.com/news/2025/03/19/trump-deportationgeorgetown-graduate-student-00239754> (Badar Khan Suri, arrested in Arlington, Virginia and transferred to Texas).

1 RFL, 2025 WL 1983677, at *3 (N.D. Cal. July 17, 2025); *Pinchi v. Noem*, No. 5:25-CV-05632-
2 PCP, 2025 WL 2084921, at *2 (N.D. Cal. July 24, 2025); *Doe v. Becerra*, 2025 WL 691664, *8
3 (E.D. Cal. Mar. 3, 2025); *Ortega v. Kaiser*, No. 25-CV-05259-JST, 2025 WL 1771438 (N.D.
4 Cal. June 26, 2025); *Singh v. Andrews*, No. 1:25-cv-801-KES-SKO, 2025 WL 1918679 (E.D.
5 Cal. July 11, 2025); *Garcia v. Andrews*, No. 2:25-CV-01884-TLN-SCR, 2025 WL 1927596, at
6 *6 (E.D. Cal. July 14, 2025); *Hashemi v. Noem*, No. 2:25-cv-10335-HDV-SR, Order Granting
7 Preliminary Injunction (C.D. Cal. Nov. 19, 2025).

8 36. Furthermore, since early 2025, ICE has escalated efforts to remove noncitizens
9 with final orders of removals to “third countries,” *i.e.*, countries that the immigration judge never
10 designated as potential countries for removal during the noncitizen’s removal proceedings. *See*
11 *Zakzouk v. Becerra*, No. 25-CV-06254 (RFL), 2025 WL 2097470, at *2 (N.D. Cal. July 26,
12 2025) (“Although Petitioner-Plaintiff informed the ICE officer that he has no right to return to
13 either country because he is stateless, the officer told Petitioner-Plaintiff that “things are different
14 now.”); *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *7 (E.D. Cal. July
15 16, 2025); *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *6 (E.D. Cal.
16 July 16, 2025).

17 37. Because the “third country” was not at issue during the original removal
18 proceedings, a noncitizen who is threatened with removal to the third country has never had an
19 opportunity to seek legal protection from removal to that country.

20 38. The U.S. government has conducted negotiations with at least 58 countries to
21 accept deportees who are not citizens of those countries.⁵

22 39. On July 9, 2025, ICE issued a memo to staff that represents the agency’s current
23 policy with respect to third country removals.⁶ The memo provides that if the United States has
24

25 ⁵ *See* Edward Wong *et al.*, “Inside the Global Deal-Making Behind Trump’s Mass Deportations,” N.Y.
26 Times (Jun. 25, 2025), available at: <https://www.nytimes.com/2025/06/25/us/politics/trump-immigrants-deportations.html>.

27 ⁶ *See* Nate Raymond and Ted Hesson, “ICE May Deport Migrants to Countries Other Than Their Own
28 With Just Six Hours Notice, Memo Says, Reuters” (July 14, 2025), available at:
<https://www.reuters.com/world/us/ice-may-deport-migrants-countries-other-than-their-own-with-just-six-hours-2025-07-13/>; Maria Sacchetti, Carol D. Leonnig and Marianne LeVine, “ICE memo outlines plan

1 received “diplomatic assurances” from a third country, deemed credible by the State Department,
2 that deportees will not be persecuted or tortured, ICE may deport a noncitizen to that third
3 country without notice or an opportunity to be heard.

4 40. The memo provides that if the United States has not received such diplomatic
5 assurances, ICE officers must serve on the noncitizen a “Notice of Removal” stating the intended
6 country of removal, but need not ask whether the noncitizen fears removal to that country. *Id.*
7 Although officers should “generally wait at least 24 hours following service of the Notice of
8 Removal before effectuating removal,” they may under certain conditions effectuate removal six
9 hours after service of the Notice of Removal. *Id.*

10 41. Under the memo, if the noncitizen “does not affirmatively state a fear of
11 persecution or torture if removed” to the third country, ICE may proceed with removal. *Id.* Only
12 if the noncitizen “does affirmatively state a fear” will they be screened for eligibility for
13 withholding of removal and protection under the Convention Against Torture (“CAT”). *Id.*

14 42. There have been multiple credible reports of Laotian citizens, in particular, being
15 subjected to these third country removals.⁷

16 43. This Court’s intervention is needed to ensure that Mr. Saepanh’s due process
17 rights are protected, that his unjust detention does not become prolonged and indefinite, and that
18 he is not unjustly removed to a third country.

19 ICE’s Failure to Comply with Procedural Laws

20 44. As noted above, Mr. Saepanh was released under an OSUP on April 22, 1997.
21 Chohan Decl. ¶ 3, Exh. 2 (OSUP).

22 ///

23 ///

24 _____
25 to deport migrants to countries where they are not citizens,” The Washington Post (July 13, 2025),
26 *available at:* <https://www.washingtonpost.com/immigration/2025/07/12/immigrants-deportations-trump-ice-memo/>.

27 ⁷ Rachel Savage, “Lawyers say men deported by US to Eswatini are being imprisoned illegally,” The
28 Guardian (Sept. 3, 2025), *available at:* <https://www.theguardian.com/us-news/2025/sep/02/lawyers-say-men-deported-by-us-to-eswatini-are-being-imprisoned-illegally>; “South Sudan says US deportees are in government’s care,” Reuters (July 8, 2025), *available at:* <https://www.reuters.com/world/africa/south-sudan-says-us-deportees-are-governments-care-2025-07-08/>.

1 45. Mr. Saepanh has complied with the requirements of his OSUP at all times since
2 its issuance.

3 46. Mr. Saepanh was taken into ICE custody on August 6, 2025.

4 47. Mr. Saepanh has complied with and assisted with all efforts related to his
5 removal since the issuance of the OSUP.

6 48. ICE has not provided Mr. Saepanh with any information on any changed
7 circumstances related to his removal.

8 49. ICE has not provided Mr. Saepanh with any information supporting the
9 conclusion that there is a significant likelihood that he will be removed in the reasonably
10 foreseeable future.

11 50. ICE has not provided Mr. Saepanh an informal interview since he was returned
12 to custody over three months ago regarding any reasons for the alleged revocation of his OSUP.

13 51. ICE has at not provided Mr. Saepanh with any reason for the alleged revocation
14 of his release provided by his OSUP.

15 52. ICE has not provided his counsel of record, Kamalpreet Chohan, with any notice
16 of the revocation of his release provided by his OSUP. See Chohan Decl. ¶ 9.

17 53. ICE has not provided Mr. Saepanh with any facts supporting the alleged
18 revocation of his release provided by his OSUP.

19 54. ICE has not provided Mr. Saepanh with the opportunity to submit evidence or
20 information that he believes shows there is no significant likelihood he will be removed in the
21 reasonably foreseeable future or that he has not violated his OSUP.

22 55. ICE has not provided Mr. Saepanh any opportunity to respond to the, currently
23 unstated, reasons for the revocation of his release provided by his OSUP.

24 56. ICE has not provided Mr. Saepanh with any evaluation of any contested facts
25 relevant to the revocation OSUP or a determination whether the facts as determined warrant
26 revocation and further denial of release.

27 57. ICE has not provided Mr. Saepanh with a revocation custody review or
28 evaluation of any contested facts related to the alleged revocation of his release.

1 58. ICE has not provided any facts or arguments to demonstrate that unless Mr.
2 Saephanh is re-detained, he would be unwilling or unable to provide the information needed to
3 pursue his removal.

4 **LEGAL FRAMEWORK**

5 **Post-Removal Order Re-Detentions Must Comport with the INA, Governing Regulations**
6 **and the Constitution**

7 **The INA and Governing Regulations**

8 59. The Immigration and Nationality Act directs ICE to remove a noncitizen “within
9 a period of 90 days” following a final order of removal, known as the “removal period.” 8 U.S.C.
10 § 1231(a)(1)(A).

11 60. ICE “shall detain” the noncitizen during the 90-day removal period. 8 U.S.C. §
12 1231(a)(2)(A).

13 61. If ICE does not effectuate removal during the removal period, the noncitizen is
14 released “subject to supervision,” 8 U.S.C. § 1231(a)(3), except that certain categories of
15 noncitizens “may be detained” beyond the removal period. 8 U.S.C. § 1231(a)(6). In light of the
16 due process concerns that indefinite detention would raise, the Supreme Court has construed
17 section 1231(a)(6) to limit a noncitizen’s “post-removal period detention to a period reasonably
18 necessary to bring about that [noncitizen’s] removal from the United States.” *Zadvydas v. Davis*,
19 533 U.S. 678, 689 (2001).

20 62. Two regulations, 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13, govern release and re-
21 detention following a final order of removal.

22 63. 8 C.F.R. § 241.4 creates a system of custody reviews for noncitizens whom ICE
23 detains beyond the 90-day removal period. ICE may grant release if the noncitizen demonstrates
24 that “his or her release will not pose a danger to the community or to the safety of other persons
25 or to property or a significant risk of flight pending such [noncitizen’s] removal from the United
26 States.” 8 C.F.R. § 241.4(d)(1).

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1 64. The regulation provides that ICE may re-detain a noncitizen who was released
2 under section 241.4 for specified reasons and following specified procedures. *See* 8 C.F.R. §
3 241.4(l).

4 65. Specifically, a noncitizen may be detained for the following reasons: violating the
5 conditions of the order of supervision under which they were released (section 241.4(l)(1));
6 “revocation is in the public interest and circumstances do not reasonably permit referral of the
7 case to the Executive Associate Commissioner” (section 241.4(l)(2)); “The purposes of release
8 have been served;” (section 241.4(l)(2)(i)); the noncitizen violates any condition of release;
9 (section 241.4(l)(2)(ii); “It is appropriate to enforce a removal order or to commence removal
10 proceedings against” a noncitizen (section 241.4(l)(2)(iii)); or “The conduct of the alien, or any
11 other circumstance, indicates that release would no longer be appropriate” (section
12 241.4(l)(2)(iv)).

13 66. ICE must follow the following procedures when re-detaining a noncitizen: “Upon
14 revocation, the [noncitizen] will be notified of the reasons for revocation of his or her release or
15 parole” and “The [noncitizen] will be afforded an initial informal interview promptly after his or
16 her return to Service custody to afford the [noncitizen] an opportunity to respond to the reasons
17 for revocation stated in the notification.” 8 C.F.R. § 241.4(l)(1); *see also Hashemi, supra*, Order
18 Granting Preliminary Injunction at 8.

19 67. If the noncitizen is not released following the informal interview, “the HQPDU
20 Director shall schedule the review process in the case of [a noncitizen] whose previous release or
21 parole from immigration custody pursuant to a decision” of listed individuals “has been or is
22 subject to being revoked.” 8 C.F.R. § 241.4(l)(3). That review process “will commence with
23 notification to the [noncitizen] of a records review and scheduling of an interview, which will
24 ordinarily be expected to occur within approximately three months after release is revoked.” *Id.*
25 “That custody review will include a final evaluation of any contested facts relevant to the
26 revocation and a determination whether the facts as determined warrant revocation and further
27 denial of release.” *Id.* After that initial custody review, ICE will then conduct annual custody
28 review pursuant to listed provisions. *Id.*

1 68. 8 C.F.R. § 241.13 creates “special review procedures” where the noncitizen “has
2 provided good reason to believe there is no significant likelihood of removal . . . in the
3 reasonably foreseeable future.” § 241.13(a); *see also* § 241.13(b)(1) (providing that § 241.4
4 governs unless ICE “makes a determination under this section that there is no significant
5 likelihood of removal in the reasonably foreseeable future”).

6 69. The regulation provides that ICE may re-detain a noncitizen who was released
7 under section 241.13 for specified reasons and following specified procedures. *See* 8 C.F.R. §
8 241.13(i).

9 70. Pursuant to this regulation, a noncitizen may be re-detained if they were released
10 under an order of supervision and violates any of the conditions of that release (section 241.13 (i)
11 (1)) or “if, on account of changed circumstances, [ICE] determines that there is a significant
12 likelihood that the [noncitizen] may be removed in the reasonably foreseeable future” 8 C.F.R. §
13 241.13 (i) (2).

14 71. ICE must follow the following procedures upon revocation of a release: “notif[y]
15 ... the [noncitizen of the] reasons for revocation of his or her release”; “conduct an initial
16 informal interview promptly after his or her return to Service custody to afford the [noncitizen]
17 an opportunity to respond to the reasons for revocation stated in the notification”; allow the
18 noncitizen the opportunity to “submit any evidence or information that he or she believes shows
19 there is no significant likelihood he or she be removed in the reasonably foreseeable future, or
20 that he or she has not violated the order of supervision”; and conduct a “revocation custody
21 review”, which “will include an evaluation of any contested facts relevant to the revocation and a
22 determination whether the facts as determined warrant revocation and further denial of release”.
23 8 C.F.R. § 241.13(i)(3); *see also Hashemi, supra*, Order Granting Preliminary Injunction at 8.

24 72. If the non-citizen is not released “following the informal interview” after being
25 detained based on changed circumstances, “the provisions of § 241.4 shall govern the alien's
26 continued detention pending removal”. 8 C.F.R. § 241.13 (i) (2). If a noncitizen has their release
27 revoked for violating its conditions, they “may be continued in detention for an additional six
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1 months in order to effect [their] removal, if possible, and to effect the conditions under which
2 [they] had been released”. 8 C.F.R. § 241.13(i)(1).

3 Constitutional Due Process

4 73. The Due Process Clause of the United States Constitution further constrains ICE’s
5 ability to re-detain a noncitizen who was previously released on an order of supervision.
6 “Freedom from imprisonment—from government custody, detention, or other forms of physical
7 restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678,
8 690 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)).

9 74. Substantive due process requires that a noncitizen’s detention bear a reasonable
10 relationship to the purposes of immigration detention, to prevent flight and to protect the
11 community. *Id.* at 690-91; *see also Cty. of Sacramento v. Lewis*, 523 U.S. 833, 845 (1998)
12 (“[T]he touchstone of due process is protection of the individual against arbitrary action of
13 government.”) (citation omitted).

14 75. In addition, procedural due process requires that a noncitizen’s detention be
15 accompanied by strong “procedural protections,” *id.* at 691, 692, such as a hearing before a
16 neutral adjudicator. *See Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (“The fundamental
17 requirement of due process is the opportunity to be heard ‘at a meaningful time and in a
18 meaningful manner.’”). Courts in this district have determined that a noncitizen subject to
19 conditional release has a liberty interest in that release such that a pre-deprivation hearing before
20 a neutral adjudicator is required prior to any redetention. *See e.g. Guillermo M. R.*, 2025 WL
21 1983677, at *5 (“The fact that Petitioner is subject to discretionary conditions of release likewise
22 does not mean he lacks a protectable liberty interest and can be re-detained without process.”);
23 *Pinchi*, 2025 WL 2084921, at *3. That is because, generally the Due Process Clause “requires
24 some kind of a hearing *before* the State deprives a person of liberty or property.” *Zinerman v.*
25 *Burch*, 494 U.S. 113, 127 (1990) (emphasis in original).

26 Third Country Removals

27 76. Congress has established a multi-step process for designating countries to which
28 noncitizens may be removed. 8 U.S.C. § 1231(b).

1 77. First, ICE shall remove the noncitizen to the country that the noncitizen chooses
2 to designate, with certain limitations on that choice. *Id.* §§ 1231(b)(2)(A)-(B). ICE may
3 disregard the noncitizen’s designation only under specified circumstances. *Id.* § 1231(b)(2)(C).

4 78. Second, if the noncitizen is not removed to the country they designated, ICE shall
5 remove the noncitizen to an “alternative country”—*i.e.*, “a country of which the [noncitizen] is a
6 subject, national, or citizen”—unless that country does not cooperate with ICE’s removal efforts.
7 *Id.* § 1231(b)(2)(D).

8 79. Third, if the noncitizen is not removed to the country they designated or to an
9 alternative country, then ICE may pursue a list of “[a]dditional removal countries,” including the
10 country from which the noncitizen was admitted to the United States and the country in which
11 the noncitizen was born. *Id.* § 1231(b)(2)(E). Only if “impracticable, inadvisable, or impossible”
12 to remove the noncitizen to any of the additional removal countries may ICE depart from the list
13 and pursue removal to any country willing to accept the noncitizen. *Id.* § 1231(b)(2)(E)(vii).

14 80. Importantly, the statute prohibits removal to any country where a person may be
15 persecuted or tortured, a form of protection known as withholding of removal. *Id.* §
16 1231(b)(3)(A) (providing that ICE “may not remove” a noncitizen to a country if “the
17 [noncitizen’s] life or freedom would be threatened in that country because of the [noncitizen’s]
18 race, religion, nationality, membership in a particular social group, or political opinion”).

19 81. Congress has also codified the protections of the Convention Against Torture
20 (“CAT”) prohibiting the government from removing a person to a country where they face
21 torture. See Foreign Affairs Reform and Restructuring Act of 1998 (“FARRA”), Pub. L. No.
22 105-277, div. G, Title XXII, § 2242(a), 112 Stat. 2681, 2681-822 (1998) (codified as Note to 8
23 U.S.C. § 1231) (“It shall be the policy of the United States not to expel, extradite, or otherwise
24 effect the involuntary return of any person to a country in which there are substantial grounds for
25 believing the person would be in danger of being subjected to torture, regardless of whether the
26 person is physically present in the United States.”).

27 82. Courts have held repeatedly that ICE may not remove a noncitizen to a country
28 that was not properly designated by an immigration judge if the noncitizen has a fear of

1 persecution or torture in that country. *See, e.g., Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir.
2 1999). Due process requires meaningful notice and an opportunity to present a fear-based claim
3 prior to deportation. *See id.* *See also Ortega v. Kaiser*, No. 25-CV-05259-JST, 2025 WL
4 2243616, at *8 (N.D. Cal. Aug. 6, 2025); *Y.T.D. v. Andrews*, No. 1:25-CV-01100 JLT SKO,
5 2025 WL 2675760, at *1 (E.D. Cal. Sept. 18, 2025); *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1004
6 (W.D. Wash. 2019); *D.V.D. v. U.S. Dep't of Homeland Sec.*, 778 F. Supp. 3d 355, 392-93 (D.
7 Mass. 2025) (in challenge to third country removal policy, requiring the government to provide
8 written notice and a “meaningful opportunity” to “raise a fear of return for eligibility for CAT
9 protections,” to move to reopen removal proceedings if the noncitizen demonstrates a reasonable
10 fear of return, and to provide a minimum of 15 days for the noncitizen to move to reopen
11 removal proceedings if not found to have demonstrated a reasonable fear). A “last minute”
12 designation of a country for removal, affording no meaningful opportunity to apply for
13 protection, “violate[s] a basic tenet of constitutional due process.” *Andriasian*, 180 F.3d at 1041.

14 **FIRST CLAIM FOR RELIEF**

15 **Procedural Due Process**

16 **U.S. Const. amend. V**

17 83. Mr. Saephanh re-alleges and incorporates herein by reference, as is set forth fully
18 herein, the allegations in all the preceding paragraphs.

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

21 85. Mr. Saephanh has a vested liberty interest in his conditional release. Due Process
22 does not permit the government to strip him of that liberty without a hearing before this Court.
23 *See Morrissey v. Brewer*, 408 U.S. 471, 482-483 (1972); *Young v. Harper*, 520 U.S. 143, 146-47
24 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973); *Pinchi*, 2025 WL 2084921, at *3
25 (“[E]ven when ICE has the initial discretion to detain or release a noncitizen pending removal
26 proceedings, after that individual is released from custody she has a protected liberty interest in
27 remaining out of custody”); *see also Hashemi, supra*, Order Granting Preliminary Injunction at
28 12 (“These procedures are not optional or discretionary; they must be followed and failure to do

1 so renders the detention unlawful” ... “Rules matter. Hearings matter.” [quoting *Delkash v.*
2 *Noem*, No. 5:25-cv-01675-HDV-AGR, 2025 WL 2683988, at *1, *6 (C.D. Cal. Aug. 28,
3 2025)].).

4 86. For these reasons, Mr. Saepanh’s re-arrest and detention without a hearing
5 violated the Constitution. The only remedy for this violation is his immediate release from
6 immigration detention until the government provides him with a hearing before a neutral
7 adjudicator.

8 87. At the hearing, the neutral adjudicator would evaluate, *inter alia*, whether clear
9 and convincing evidence demonstrates that his removal is reasonably foreseeable and that, taking
10 into consideration alternatives to detention, Mr. Saepanh is a danger to the community or a
11 flight risk, such that his re-incarceration is warranted.

12 **SECOND CLAIM FOR RELIEF**

13 **Substantive Due Process**

14 **U.S. Const. amend. V**

15 88. Mr. Saepanh re-alleges and incorporates herein by reference, as is set forth fully
16 herein, the allegations in all the preceding paragraphs.

17 89. The Due Process Clause of the Fifth Amendment forbids the government from
18 depriving individuals of their right to be free from unjustified deprivations of liberty. U.S. Const.
19 amend. V.

20 90. Mr. Saepanh has a vested liberty interest in his conditional release. Due Process
21 does not permit the government to strip him of that liberty without it being tethered to one of the
22 two constitutional bases for civil detention: to mitigate against the risk of flight or to protect the
23 community from danger.

24 91. Since 1997, Mr. Saepanh has complied with the reporting requirements imposed
25 on him by ICE, thus demonstrating that he is not a flight risk. Moreover, each time that he has
26 been permitted to return for another check-in date, including as recently as March 31, 2025, ICE
27 has necessarily determined that he does not pose a danger. In fact, on March 31, 2025, ICE

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1 determined that he did not need to check-in again for approximately 1 year. See Chohan Decl. ¶
2 6; Exh. 3.

3 92. Finally, there has been no change in circumstances that now renders his removal
4 to Laos reasonably foreseeable. Re-arresting him now would be punitive and violate his
5 constitutional right to be free from the unjustified deprivation of his liberty.

6 93. For these reasons, Mr. Saephanh's detention violates the Constitution.

7 **THIRD CLAIM FOR RELIEF**

8 **Violation of the INA and Applicable Regulations (5 U.S.C. § 706(2)(D))**

9 94. Mr. Saephanh's re-alleges and incorporates herein by reference, as if set forth
10 fully herein, the allegations in all the preceding paragraphs.

11 95. The INA provides for detention during the ninety (90) day "removal period" that
12 begins immediately after a noncitizen's order of removal becomes final. 8 U.S.C. § 1231(a)(1).
13 After the ninety (90) day removal period, the INA and its applicable regulations provide that
14 detaining noncitizens is generally permissible only upon notice to the noncitizen and after an
15 individualized determination of dangerousness and flight risk. See 8 U.S.C. § 1231(a)(6); 8
16 C.F.R. § 241.4(d), (f), (h) & (k).

17 96. The revocation was also not in accordance with the INA and implementing
18 regulations governing who may lawfully revoke an order of supervision and under what
19 circumstances. Government agencies are required to follow their own regulations. *United States*
20 *ex rel Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954); *Nat'l Ass'n of Home Builders v.*
21 *Norton*, 340 F.3d 835, 852 (9th Cir. 2003). Courts have found that when ICE fails to follow its
22 own regulations in revoking release, the detention is unlawful and the petitioner's release must be
23 ordered. See *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 161 (W.D.N.Y. 2025); *Rombot v.*
24 *Souza*, 296 F. Supp.3d 383, 387 (D. Mass. 2017); *Khamba v. Albarran*, No. 1:25-CV-01227
25 JLSKO, 2025 WL 2959276, at *9 (E.D. Cal. Oct. 17, 2025). As Mr. Saephanh has not been
26 provided a revocation notice stating the legal authority for the revocation, he brings challenges of
27 his revocation under both 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13.

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1 Violation of 8 C.F.R. § 241.4(l)(1)-(2)

2 97. The regulations require that noncitizens be provided with notice stating the
3 reasons for revocation and an informal interview to respond to the reasons for revocation stated
4 in the notification. 8 C.F.R. § 241.4(l)(1). Furthermore, the regulations permit only certain
5 officials to revoke an order of supervision: the ICE Executive Associate Director, a field office
6 director, or an official “delegated the function or authority . . . for a particular geographic district,
7 region, or area.” *Ceesay*, 781 F. Supp. 3d at 161 (citing 8 C.F.R. §§ 1.2, 241.4(l)(2) and
8 explaining that the Homeland Security Act of 2002 renamed the position titles listed in § 241.4).
9 If the field office director or a delegated official intend to revoke an order of supervision, they
10 must first make findings that “revocation is in the public interest and circumstances do not
11 reasonably permit referral of the case to the Executive Associate [Director].” 8 C.F.R. §
12 241.4(l)(2).

13 98. Petitioner did not receive notice of the reasons for his revocation, much less an
14 informal interview to respond to the reasons for revocation.

15 99. Furthermore, there is no indication in the record that the revocation was made by
16 the ICE Executive Associate Director, or that the official who revoked the order first made
17 findings that revocation was in the public interest and that circumstances did not reasonably
18 permit referral to the Executive Associate Director. *See M.S.L. v. Bostock*, No. 6:25-CV-01204-
19 AA, 2025 WL 2430267, at *12 (D. Or. Aug. 21, 2025) (“In cases where the local official makes
20 the decision, rather than the Executive Associate Director of ICE, they must conclude that
21 revocation is in the public interest and that the circumstances prevent referral of the case to the
22 Executive Associate Director of ICE.”); *Ceesay*, 781 F. Supp. 3d at 162 (holding that the
23 noncitizen’s release was not lawfully revoked and that he is entitled to release “on that basis
24 alone,” where there was “no evidence that [the local ICE official – assistant field office director]
25 made the findings that a district director is required to make before revoking” release); *Rombot*,
26 296 F. Supp. 3d at 387 (concluding revocation was unlawful where the Field Office Director did
27 not make “threshold determination,” among other errors).

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1 Violation of 8 CFR § 241.13(i)(3)

2 100. Pursuant to 8 CFR § 241.13(i)(3), ICE is required to: (1) provide a noncitizen the
3 reasons for revocation of his release; (2) conduct an informal interview with the noncitizen to
4 afford them an opportunity to respond to the reasons for revocation stated in the notification; (3)
5 provide the noncitizen an opportunity to submit any evidence or information that he believes
6 shows there is no significant likelihood he be removed in the reasonably foreseeable future; and
7 (4) provide a revocation custody review an evaluation of any contested facts relevant to the
8 revocation and a determination whether the facts as determined warrant revocation and further
9 denial of release.

10 101. ICE has not provided Mr. Saepanh with any reason for the alleged revocation of
11 his release provided by his OSUP.

12 102. ICE has not provided Mr. Saepanh an informal interview regarding any reasons
13 for the revocation of his release provided by his OSUP.

14 103. ICE has not provided Mr. Saepanh with the opportunity to submit evidence or
15 information that he believes shows there is no significant likelihood he will be removed in the
16 reasonably foreseeable future.

17 104. ICE has not provided Mr. Saepanh with a revocation custody review or
18 evaluation of any contested facts related to the revocation of his release.

19 105. ICE did not meet any of its requirements under 8 CFR § 241.13(i)(3).

20 106. The essence of due process is notice and an opportunity to respond. *See Cleveland*
21 *Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542, (1985); *Baldwin v. Hale*, 68 U.S. 223, 233 (1863)
22 (“Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy
23 that right they must first be notified. Common justice requires that no man shall be condemned in
24 his person or property without notice and an opportunity to make his defence.”)

25 107. ICE’s own regulations contemplate that a noncitizen will have an opportunity to
26 “respond to the reasons for revocation stated in the notification” during the initial informal
27 interview after re-detention. 8 CFR § 241.13(i)(3). But, Mr. Saepanh cannot be expected to

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1 “respond to the reasons for revocation stated in the notification” if he has not even been provided
2 with any notification.

3 Violation of 8 CFR § 241.13(i)(2)

4 108. Pursuant to 8 CFR § 241.13(i)(2), DHS must provide a noncitizen with facts
5 supporting (1) changed circumstances supporting the revocation of that noncitizen’s release and
6 (2) a significant likelihood that the noncitizen may be removed in the reasonably foreseeable
7 future.

8 109. Case law further refined those elements as requiring: “(1) an individualized
9 determination (2) by ICE that, (3) based on changed circumstances, (4) removal has become
10 significantly likely in the reasonably foreseeable future.” *See, e.g., Kong v. United States*, 62
11 F.4th 608, 619-620 (1st Cir. 2023).

12 110. The individualized determination required by 8 CFR § 241.13(i)(2) must be based
13 on the factors in 8 CFR § 241.13(f). *Id.* at 620 & fn. 13.

14 111. 8 CFR § 241.13(f) provides the following requirements for an individualized
15 determination: “the history of the [noncitizen’s] efforts to comply with the order of removal, the
16 history of [ICE’s] efforts to remove [noncitizens] to the country in question or to third countries,
17 including the ongoing nature of [ICE’s] efforts to remove this [noncitizen] and the [noncitizen’s]
18 assistance with those efforts, the reasonably foreseeable results of those efforts, and the views of
19 the Department of State regarding the prospects for removal of [noncitizens] to the country or
20 countries in question.”

21 112. Respondents violated this regulation when detained Mr. Saepphanh absent an
22 individualized determination of changed circumstances—and absent changed circumstances.

23 113. Mr. Saepphanh has complied with all of ICE’s removal efforts, including the
24 requirements of his OSUP.

25 114. ICE has not provided Mr. Saepphanh with any individualized determination.

26 115. ICE has not provided Mr. Saepphanh with any determination by ICE as to the
27 alleged revocation of his release provided by his OSUP.

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1 116. ICE has not provided Mr. Saephanh with any changed circumstances supporting
2 the alleged revocation of his release provided by his OSUP.

3 117. ICE has not provided his counsel of record, Kamalpreet Chohan, with any notice
4 of the revocation of his release provided by his OSUP. See Chohan Decl. ¶ 9.

5 118. On information and belief, there are no changed circumstances supporting the
6 alleged revocation of Mr. Saephanh's release provided by his OSUP.

7 119. ICE has not provided Mr. Saephanh with any information supporting the
8 conclusion that there is a significant likelihood that he will be removed in the reasonably
9 foreseeable future.

10 120. The revocation should be held unlawful and set aside because it was contrary to
11 the agency's constitutional power and not in accordance with the INA and implementing
12 regulations.

13 **FOURTH CLAIM FOR RELIEF**

14 **Violation of the Accardi Doctrine**

15 121. Mr. Saephanh realleges all paragraphs above as if fully set forth here.

16 122. Under the *Accardi* doctrine, Mr. Saephanh has the right to set aside agency action
17 that violated agency procedures, rules, or instructions. See *United States ex rel. Accardi v.*
18 *Shaughnessy*, 347 U.S. 260, 268 (1954) ("If petitioner can prove the allegation [that agency
19 failed to follow its rules in a hearing] he should receive a new hearing").

20 123. In addition to violating agency regulations, *supra*, Respondents also violated
21 agency instructions in Mr. Saephanh's release notification to give an opportunity to prepare for
22 an orderly departure when they revoked Mr. Saephanh's order without advance notice. See
23 *Ceesay*, 781 F. Supp. 3d at 170 ("[T]he government, having made a promise to Ceesay to
24 provide him with an 'opportunity to prepare for an orderly departure,' cannot now renege on the
25 promise such that its words meant nothing. The government therefore must give Ceesay that
26 opportunity, and its definition of 'an orderly departure' must be reasonable.").

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- a. Written notice to Mr. Saephanh and his counsel of the third country to which he may be removed, in a language that Mr. Saephanh can understand, provided at least twenty-one days before any such removal;
- b. A meaningful opportunity for Mr. Saephanh to raise a fear of return for eligibility for protection under the Convention Against Torture, including a reasonable fear interview before a DHS officer;
- c. If Mr. Saephanh demonstrates a reasonable fear during the interview, DHS must move to reopen his underlying removal proceedings so that he may apply for relief under the Convention Against Torture;

(6) If it is found that Mr. Saephanh does not demonstrate a reasonable fear during the interview, a meaningful opportunity, and a minimum of sixty days, for Mr. Saephanh to seek to move to reopen his underlying removal proceedings to challenge potential third country removal;

- (7) Award reasonable costs and attorney fees; and
- (8) Grant such further relief as the Court deems just and proper.

Date: November 26, 2025

NOSSAMAN LLP
CHRISTOPHER D. HUGHES

By: */s/ Christopher D. Hughes*
Christopher D. Hughes, Attorneys for
Plaintiff, OUSIN SAEPHANH

Date: November 26, 2025

ASIAN LAW CAUCUS
EVELYN WIESE

By: */s/ Evelyn Weise*
Evelyn Wiese, Attorneys for
Plaintiff, OUSIN SAEPHANH

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner, Ousin Saepanh because I am one of Mr. Saepanh’s attorneys. I have discussed with the Petitioner the events described in Mr. Saepanh. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: November 26, 2025

/s/ Kamalpreet Chohan
Kamalpreet Chohan