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8 IN THE UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
10

11 YOUB PEK,

Petitioner,

12  
13 v.

14 WARDEN OF GOLDEN STATE ANNEX, ET  
15 AL.,<sup>1</sup>

16 Respondents.  
17

CASE NO. 1:25-CV-01696-DC-SCR

**RETURN TO PETITION FOR WRIT OF  
HABEAS CORPUS**

18 **I. INTRODUCTION**

19 Petitioner Youb Pek, who is subject to a final order of removal and detained pursuant to  
20 discretionary detention authority under 8 U.S.C. §1231(a)(6), seeks release from the United States  
21 Department of Homeland Security (“DHS”) Immigration and Customs Enforcement (“ICE”) custody  
22 pending efforts to effectuate his removal. Petitioner argues he is entitled to release because he has been  
23 detained for more than the six months following his removal order and does not believe there is a  
24 significant likelihood that ICE will be able to remove him in the reasonably foreseeable future.  
25 However, the Supreme Court has held that § 1231 “read in light of the Constitution’s demands” provides

26  
27 <sup>1</sup> The Court should dismiss all respondents other than the Warden of the Golden State Annex because  
28 the only proper respondent to a habeas petition is the custodian having immediate custody of the  
petitioner. *See* 28 U.S.C. § 2242; *Rumsfeld v. Padilla*, 542 U.S. 426, 430 (2004); *Doe v. Garland*, 109  
F.4th 1188, 1197 (9th Cir. 2024).

1 for a presumptively reasonable six-month time-period for release that may be prolonged absent a  
2 showing by the petitioner that there is “no significant likelihood of removal in the reasonably  
3 foreseeable future. *Zadvydas v. Davis*, 533 U.S. 678, 690 & 701 (2001). As demonstrated in the  
4 accompanying Declaration of Deportation Officer Sellenia Olson dated December 18, 2025 (“Olson  
5 Declaration”), ICE has been actively pursuing Petitioner’s removal to his home country of Cambodia.  
6 Furthermore, the Declaration provides support that ICE followed the regulations in revoking his release.  
7 Petitioner has failed to demonstrate that there is no significant likelihood of removal in the reasonably  
8 foreseeable future, and his requests for immediate release, entry of an order prohibiting removal to a  
9 third country, and any other just and proper relief should be denied.

## 10 II. FACTUAL AND PROCEDURAL BACKGROUND

11 Petitioner is a native and citizen of Cambodia who entered the United States on November 20,  
12 1987. Olson Declaration ¶ 5. On February 22, 1989, Petitioner adjusted his status to lawful permanent  
13 resident, retroactive to November 20, 1987. *Id.* at ¶ 6.

14 On July 14, 1997, Petitioner was convicted of illegal discharge of a firearm at an inhabited  
15 dwelling and sentenced to 365 days jail. *Id.* at ¶ 7. On October 7, 1998, Petitioner was placed in removal  
16 proceedings with a Notice to Appear charging him as removable pursuant to Immigration and  
17 Nationality Act § 237(a)(2)(C) as an alien who, at any time after admission, has been charged with a  
18 firearms offense. *Id.* at ¶ 8. The next day, ICE took Petitioner into custody and transferred him to Eloy  
19 Detention Center in Arizona. *Id.* at ¶ 9. On November 16, 1998, Petitioner was served with Form I-261,  
20 Additional Charge of Deportability under Immigration and Nationality Act § 237(a)(2)(A)(iii) as an  
21 alien who, at any time after admission, has been convicted of an aggravated felony. *Id.* at ¶ 10. Petitioner  
22 is subject to mandatory detention under Immigration and Nationality Act § 236(c) as an alien who is  
23 deportable by reasons of having committed an offense cover in § 237(a)(2)(A)(iii) and (C). *Id.* at ¶ 11.  
24 An immigration judge found he lacked jurisdiction to consider Petitioner’s bond request, and Petitioner  
25 waived appeal. *Id.* at ¶ 12.

26 On December 1, 1998, Petitioner admitted all factual allegations in the Notice to Appear and  
27 conceded the charges of removability. *Id.* at ¶ 13. The immigration judge found Petitioner removable  
28 and designated Cambodia as the country of return should return become necessary. *Id.* at ¶ 13. Petitioner

1 filed an application for relief from removal, which the immigration judge pretermitted as abandoned and  
2 ordered Petitioner removed from the United States to Cambodia. *Id.* at ¶¶ 14-15.

3 On May 27, 1999, DHS (then known as Immigration and Naturalization Service) requested  
4 emergency travel document from the Consulate of Cambodia in Washington D.C. *Id.* at ¶ 16. Upon  
5 information and belief, the Consulate of Cambodia did not issue a travel document to Petitioner. *Id.* at ¶  
6 17. On May 5, 2000, DHS released Petitioner on an order of supervision; upon information and belief,  
7 since that date, Petitioner has been arrested and/or convicted approximately nineteen times. *Id.* at ¶ 18.  
8 Upon information and belief, Petitioner has been in and out of DHS and state custody for the next 25  
9 years due to criminal activity. *Id.* at ¶ 19. During this same period, Petitioner was repeatedly released  
10 from DHS custody on an order of supervision due to legal temporal limitations and difficulty in securing  
11 travel documents to Cambodia to facilitate his removal. *Id.* at ¶ 20.

12 On September 10, 2025, Petitioner came to the attention of DHS pursuant to his incarceration for  
13 violation of California Vehicle Code section 10851(a) theft and unlawful driving or taking of a vehicle,  
14 and an electronic notification from the California Department of Corrections and Rehabilitation  
15 Correctional Training Facility in Soledad, California as a possible alien. *Id.* at ¶ 22. After confirming  
16 Petitioner's immigration history, DHS arrested Petitioner upon his release from the California  
17 Department of Corrections and Rehabilitation on October 14, 2025. *Id.* at ¶ 23. On that same day, DHS  
18 revoked Petitioner's order of supervision due to his criminal convictions and because DHS believed it  
19 would be able to effectuate his removal to Cambodia in the foreseeable future. *Id.* Petitioner was served  
20 with written notice of revocation of release "based on a review of your official alien file and a  
21 determination that there are changed circumstances in your case." *Id.* at Ex. 1. ICE advised that  
22 Petitioner violated the conditions of his release with his criminal convictions. *Id.* Additionally, "ICE  
23 determined that you can be expeditiously removed from the United States pursuant to the outstanding  
24 order of removal against you. On February 2, 1999, you were ordered removed to Cambodia by an  
25 Immigration Judge. Your case is under current review by Cambodia government for issuance of a travel  
26 document." *Id.* The notice of revocation included proof of service on Petitioner on October 14, 2025. *Id.*  
27 Petitioner was also given an informal interview on October 14, 2025 in order to afford Petitioner an  
28 opportunity to respond to the reasons for revocation of his supervision. *Id.* Petitioner did not provide a

1 written statement or any documents. *Id.*

2 On December 9, 2025, Petitioner's travel document packet was approved by ICE; on a later date,  
3 it was submitted to the Cambodian Embassy for final processing. *Id.* at ¶ 24. Petitioner has an  
4 appointment for an interview at the Cambodian Embassy on December 22, 2025. *Id.*

5 Petitioner is currently held at Golden State Annex in McFarland, California, pursuant to  
6 Immigration and Nationality Act § 241(a)(6).

7 **III. LEGAL FRAMEWORK**

8 Congress enacted a multi-layered statute that provides for the continued civil detention of aliens  
9 pending removal. *See Prieto-Romero v. Clark*, 534 F.3d 1053, 1059 (9th Cir. 2008). The detention and  
10 removal of aliens, like Petitioner, who are subject to a final order of removal issued after removal  
11 proceedings, is governed by 8 U.S.C § 1231. Under this statute, there is a 90-day "removal period,"  
12 during which detention is mandatory. 8 U.S.C. § 1231(a)(1), (2); *Zadvydas v. Davis*, 533 U.S. 678, 683  
13 (2001). Once the mandatory removal period ends, ICE has discretion to continue detaining aliens  
14 pending their removal. 8 U.S.C. § 1231(a)(6).

15 In *Zadvydas*, the Supreme Court held that 8 U.S.C. § 1231(a)(6) did not authorize the  
16 government to detain a removable alien indefinitely beyond the 90-day statutory removal period; rather,  
17 the Court construed the statute to contain an implicit "reasonable time" limitation. 533 U.S. at 682. The  
18 Court concluded that six months was a presumptively reasonable period of detention which should be  
19 read into the statute. *Id.* at 701. After six months, an alien is entitled to habeas relief only if he can show  
20 "there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* The Ninth Circuit  
21 has explained that *Zadvydas* requires an alien to show he is "stuck in a 'removable-but-unremovable  
22 limbo,' as the petitioners in *Zadvydas* were." *Prieto-Romero v. Clark*, 534 F.3d at 1063 (internal citation  
23 omitted). That is, the alien must show he "is unremovable because the destination country will not  
24 accept him or his removal is barred by our own laws." *Id.* (citing *Zadvydas*, 533 U.S. at 697).

25 While an alien's detention is no longer presumed to be reasonable after six months, "there is  
26 nothing in *Zadvydas* which suggests that the Court must or even should assume that any detention  
27 exceeding that length of time is unreasonable." *Lema v. U.S. I.N.S.*, 214 F. Supp. 2d 1116, 1118 (W.D.  
28 Wash. 2002), *aff'd sub nom. Lema v. I.N.S.*, 341 F.3d 853 (9th Cir. 2003).

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IV. ARGUMENT

Petitioner's detention is lawful. While the Petitioner's post-removal-period detention has exceeded the presumptively reasonable six-month period since his removal order was issued in February 1999, he has failed to sustain his burden of showing there is no significant likelihood of removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701; *see generally* Olson Declaration. Petitioner has been detained since October 14, 2025. Olson Declaration, ¶ 23. He has not shown he is stuck in "removable-but-unremovable limbo." *Prieto-Romero v. Clark*, 534 F.3d at 1063. Petitioner has not cited to any United States law that bars his removal. Thus, he is not in a "removable-but-unremovable limbo." ICE is actively pursuing Petitioner's removal to his home country of Cambodia. Olson Declaration, ¶ 24. On December 9, 2025, Petitioner's travel document packet was approved by ICE; on a later date, it was submitted to the Cambodian Embassy for final processing. *Id.* at ¶ 24. Petitioner has an appointment for an interview at the Cambodian Embassy on December 22, 2025. *Id.* Although his removal is not currently scheduled, DHS believes it will be able to effectuate his removal to Cambodia in the reasonably foreseeable future. *Id.* at ¶ 23. The fact his detention "does not have a certain end date does not change the analysis." *Diouf v. Mukasey*, 542 F.3d 1222, 1233 (9th Cir. 2008) (citing *Prieto-Romero*, 534 F.3d at 1063). Accordingly, Petitioner has failed to establish that there is no significant likelihood of removal in the reasonably foreseeable future.

Petitioner also argues that his continued detention violates the Fifth Amendment Due Process Clause because ICE detained him without proof that an ICE official determined that there was a significant likelihood he would be removed soon and notifying him of the reasons for the revocation of his release. (ECF 1 at 17). Pursuant to 8 C.F.R. § 241.13(i)(2), DHS "may revoke an alien's release under this section and return the alien to custody if, on account of changed circumstances, [DHS] determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future." The following subsection, 8 C.F.R. § 241.13(i)(3) also provides that DHS will conduct an initial informal interview promptly after return to custody.

Here, ICE has complied with these requirements. On the same day that DHS arrested Petitioner, DHS provided written notice of revocation of release due to criminal convictions and because DHS believed it would be able to effectuate removal to Cambodia in the foreseeable future. Olson

1 Declaration, ¶ 23 & Exhibit 1. In the notice of revocation, ICE reached this decision “based on a review  
2 of your official alien file and a determination that there are changed circumstances in your case.” *Id.* at  
3 Ex. 1. The notice expressly outlined that Petitioner violated the conditions of his release with his  
4 criminal convictions. *Id.* “Additionally, ICE determined that you can be expeditiously removed from the  
5 United States pursuant to the outstanding order of removal against you. On February 2, 1999, you were  
6 ordered removed to Cambodia by an Immigration Judge. Your case is under current review by  
7 Cambodia government for the issuance of a travel document.” *Id.* Petitioner’s travel documents are with  
8 the Cambodia Consulate for final processing, and Petitioner has an interview at the Cambodian Embassy  
9 on December 22, 2025. Olson Declaration, ¶¶ 23-24. The notice of revocation included proof of service  
10 on Petitioner on October 14, 2025. *Id.* Petitioner was also given an informal interview on October 14,  
11 2025 in order to afford Petitioner an opportunity to respond to the reasons for revocation of his  
12 supervision. *Id.* Petitioner did not provide a written statement or any documents. *Id.* Because  
13 Respondents revoked Petitioner’s release with written notice identifying a change of circumstances and  
14 the significant likelihood that Petitioner will be removed in the reasonably foreseeable future and after  
15 undergoing an informal interview, they have complied with the requirements of 8 C.F.R. § 241.13(i)(2).  
16 Petitioner’s due process claim fails. *See, e.g., Mendoza v. Lyons*, No. 1:25-cv-01650-DC-SCR (HC),  
17 2025 WL 3514126, at \*4 (E.D. Cal. Dec. 8, 2025).

18 **V. CONCLUSION**

19 Based on the foregoing, the Court should find that Petitioner’s detention continues to be lawful  
20 under 8 U.S.C. § 1231(a)(6) and deny the Petition for Writ of Habeas Corpus.

21  
22 Dated: December 19, 2025

ERIC GRANT  
United States Attorney

23  
24 By: /s/ Tara Amin  
25 TARA AMIN  
Assistant United States Attorney  
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