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10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 SAVATH DIPRASEUTH,

13 Petitioner,

14 v.

15 KRISTI NOEM, Secretary, United
States Department of Homeland
16 Security; et al.,

17 Respondents.
18

Case No.: 25cv3471-JLS (BJW)

**RETURN IN OPPOSITION TO
PETITION FOR WRIT OF HABEAS
CORPUS AND MOTION FOR
TEMPORARY RESTRAINING ORDER**

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22 **I. INTRODUCTION**

23 Petitioner Savath Dipraseuth has filed a habeas petition and a motion for temporary
24 restraining order. ECF Nos. 1, 2. For purposes of judicial efficiency, because the petition
25 and motion for temporary restraining order assert the same claims and seek the same relief,
26 Respondents respectfully respond to both herein. For the reasons set forth below, the Court
27 should deny Petitioner's request for interim relief and deny the petition.

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1 **II. FACTUAL BACKGROUND**

2 Petitioner is a native and citizen of Laos. Exhibit 1¹; *see also* Declaration of Martin
3 Parsons in Support of Response (“Parsons Decl.”), at ¶ 3. He entered the United States in
4 September 1979 as a refugee and later became a lawful permanent resident. ECF 1, p. 20,
5 ¶ 1; Parsons Decl., ¶ 4. After several criminal convictions, Petitioner was placed into
6 removal proceedings. On January 13, 2010, an Immigration Judge ordered Petitioner
7 removed from the United States to Laos. Exhibit 2; Parsons Decl., ¶ 6.

8 On January 3, 2011, Petitioner was released from Immigration and Customs
9 Enforcement (ICE) custody under an Order of Supervision pending removal to Laos.
10 Parsons Decl., ¶ 7. On October 7, 2025, ICE re-detained Petitioner as it had determined that
11 he could be expeditiously removed from the United States pursuant to the outstanding order
12 of removal. *Id.*, ¶ 8. On that same date, Petitioner was provided a Notice of Revocation of
13 Release but was not provided an informal interview. *Id.*, ¶ 9; Exhibit 3.

14 ICE has secured a travel document for Petitioner’s removal to Laos and intended to
15 execute the order of removal prior to December 14, 2025. Parsons Decl., ¶ 10. In preparation
16 for removal, on December 11, 2025, ICE transferred Petitioner to a staging area in another
17 state. *Id.*, ¶ 12. Upon receipt of this Court’s December 11, 2025 order enjoining Respondents
18 from removing Petitioner from the Court’s jurisdiction pending decision on the Petition,
19 ICE arranged for Petitioner to be returned to Otay Mesa Detention Center. *Id.*, ¶ 12. ICE is
20 not seeking to remove Petitioner to a third country and has worked diligently since his re-
21 detention in October 2025 to effectuate his removal to Laos. Once transportation can be re-
22 scheduled, Petitioner’s removal can be effectuated promptly. *Id.*, ¶¶ 13, 14, and 16.

23 **III. ARGUMENT**

24 ICE’s authority to detain, release, and re-detain noncitizens who are subject to a final
25 order of removal is governed by 8 U.S.C. § 1231(a). When an alien has been found to be
26 unlawfully present in the United States and a final order of removal has been entered, the

27 _____
28 ¹ The attached exhibits are true copies, with minor redactions of private information,
of documents obtained from ICE counsel.

1 government ordinarily secures the alien’s removal during a subsequent 90-day statutory
2 “removal period.” 8 U.S.C. § 1231(a)(1). The statute provides that the Attorney General
3 “shall detain” the alien during this removal period. 8 U.S.C. § 1231(a)(2).

4 The Supreme Court held in *Zadvydas* that when removal is not accomplished during
5 the 90-day removal period, the statute “limits an alien’s post-removal-period detention to a
6 period reasonably necessary to bring about the alien’s removal from the United States” and
7 does not permit “indefinite detention.” *Zadvydas*, 533 U.S. at 689. The Supreme Court has
8 held that six months constitutes a “presumptively reasonable period of detention.” *Id.* at
9 701. Courts have repeatedly declined to grant habeas relief where the presumptively
10 reasonable six-month period has not yet elapsed. *See Ghamelian v. Baker*, No. SAG-25-
11 02106, 2025 WL 2049981, at *4 (D. Md. July 22, 2025) (“The government is entitled to its
12 six-month presumptive period before Petitioner’s continued § 1231(a)(6) detention poses a
13 constitutional issue.”); *Guerra-Castro v. Parra*, No. 1:25-cv-22487-GAYLES, 2025 WL
14 1984300, at *4 (S.D. Fla. July 17, 2025) (“The Court finds that the Petition is premature
15 because Petitioner has not been detained for more than six months. Petitioner has been in
16 detention since May 29, 2025; therefore, his two-month detention is lawful under
17 *Zadvydas*.”) (citations omitted); *Farah v. INS*, No. Civ. 02-4725(DSD/RLE, 2003 WL
18 221809, at *5 (D. Minn. Jan. 29, 2013) (holding that when the government releases a
19 noncitizen and then revokes the release based on changed circumstances, “the revocation
20 would merely restart the 90-day removal period, not necessarily the presumptively
21 reasonable six-month detention period under *Zadvydas*”).

22 Even after the period of presumptive reasonableness has run, release is not required
23 under *Zadvydas* unless “there is *no* significant likelihood of removal in the reasonably
24 foreseeable future.” *Zadvydas*, 533 U.S. at 701 (emphasis added). As the Supreme Court
25 instructed, “the habeas court must ask whether the detention in question exceeds a period
26 reasonably necessary to secure removal. It should measure reasonableness primarily in
27 terms of the statute’s basic purpose, namely, *assuring the alien’s presence at the moment of*
28 *removal.*” *Id.* at 699 (emphasis added). In so holding, the Supreme Court recognized that

1 detention is presumptively reasonable pending efforts to obtain travel documents, because
2 the noncitizen's assistance is often needed to obtain the travel documents, and because a
3 noncitizen who is subject to an imminent, executable warrant of removal becomes a
4 significant flight risk, especially if he or she is aware that it is imminent. The Ninth Circuit
5 has emphasized, "*Zadvydas* places the burden on the alien to show, after a detention period
6 of six months, that there is 'good reason to believe that there is no significant likelihood of
7 removal in the reasonably foreseeable future.'" *Pelich v. INS*, 329 F. 3d 1057, 1059 (9th
8 Cir. 2003) (quoting *Zadvydas*, 533 U.S. at 701); *see also Xi v. INS*, 298 F.3d 832, 840 (9th
9 Cir. 2003).

10 Here, Petitioner contends that his current detention runs afoul of *Zadvydas*. But even
11 if Petitioner's total time in detention since he was ordered removed does exceed the six
12 months of presumptive reasonableness, his claim still fails at the next step because he cannot
13 meet his burden to establish "that there is no significant likelihood of removal in the
14 reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701. Petitioner was re-detained for
15 removal on October 7, 2025, and ICE obtained a travel document to effect his removal to
16 Laos shortly thereafter. Parsons Decl., ¶¶ 14-16. Upon resolution of the claims in this
17 petition, ICE will promptly re-schedule Petitioner for a removal flight. *Id.*, ¶ 16. Thus,
18 Petitioner's *Zadvydas* claim must fail.

19 Likewise, Petitioner's complaints about procedural defects do not establish a basis
20 for habeas relief. A noncitizen who is not removed within the removal period may be
21 released from ICE custody "pending removal . . . subject to supervision under regulations
22 prescribed by the Attorney General." 8 U.S.C. §§ 1231(a)(1)(A), 1231(a)(3); *see also* 8
23 U.S.C. § 1231(a)(6). An order of supervision may be issued under 8 C.F.R. § 241.4, and the
24 order may be revoked under 8 C.F.R. § 241.4(l)(2)(iii) where "appropriate to enforce a
25 removal order." *See also* 8 C.F.R. § 241.5 (conditions of release after removal period). ICE
26 may also revoke the order of supervision where, "on account of changed circumstances,
27 [ICE] determines that there is a significant likelihood that the alien may be removed in the
28 reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2).

1 Here, upon his re-detention Petitioner was provided with a written notice that his
2 order of supervision had been revoked because there were changed circumstances. Parsons
3 Decl., ¶ 9; Exhibit 3. It appears, however, that he was not provided with an informal
4 interview affording him an opportunity to dispute that there were changed circumstances
5 justifying revocation of his order of supervision. Parsons Decl., ¶ 9. Yet it is clear that there
6 *were* changed circumstances here. As of October of 2025, when Petitioner was re-detained,
7 ICE had been routinely obtaining travel documents for Laotian citizens and effectuating
8 removal flights to Laos. Parsons Decl., ¶ 15. These facts are fatal to Petitioner’s claim,
9 because even though the agency failed to provide Petitioner with a prompt informal
10 interview to dispute the reasons for his re-detention, Petitioner cannot establish that he was
11 prejudiced by those omissions nor that a constitutional level violation has occurred. *See*
12 *Brown v. Holder*, 763 F.3d 1141, 1148–50 (9th Cir. 2014) (“[T]he mere failure of an agency
13 to follow its regulations is not a violation of due process.”); *United States v. Tatoyan*, 474
14 F.3d 1174, 1178 (9th Cir. 2007) (holding that “[c]ompliance with . . . internal [customs]
15 agency regulations is not mandated by the Constitution”) (simplified); *Bd. of Curators of*
16 *Univ. of Mo. v. Horowitz*, 435 U.S. 78, 92 n.8 (1978) (holding that *Accardi* “enunciate[s]
17 principles of federal administrative law rather than of constitutional law”).

18 With Petitioner’s removal likely to occur in the reasonably foreseeable future, no
19 purpose would be served by this Court’s ordering his release—other than frustrating “the
20 statute’s basic purpose, namely, assuring the alien’s presence at the moment of removal.”
21 *Zadvydass*, 533 U.S. at 699. The Court should deny Petitioner’s claim for interim injunctive
22 relief and dismiss the petition. *See Omdara v. Noem*, No. 25-cv-2834-BAS-MMP (S.D.
23 Cal.) (allowing Respondents to proceed forward with effectuating removal under similar
24 facts).

25 **IV. THERE IS NO NEED FOR AN EVIDENTIARY HEARING**

26 Because the record shows that Petitioner is not entitled to habeas relief, there is no
27 need for an evidentiary hearing in this matter. *See Schriro v. Landrigan*, 550 U.S. 465, 474
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1 (2007) (“[I]f the record refutes the applicant’s factual allegations or otherwise precludes
2 habeas relief, a district court is not required to hold an evidentiary hearing.”).

3 **V. CONCLUSION**

4 For the reasons stated above, the Court should deny Petitioner’s claim for interim
5 injunctive relief and deny the petition.

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7 DATED: December 15, 2025

Respectfully submitted,

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9 United States Attorney

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