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

11 **AMKHA SOUVANNASENG,<sup>1</sup>**

12 **Petitioner,**

13 **v.**

14 **KRISTI NOEM, Secretary of the**  
15 **Department of Homeland Security,**  
16 **PAMELA JO BONDI, Attorney General,**  
17 **TODD M. LYONS, Acting Director,**  
18 **Immigration and Customs Enforcement,**  
19 **JESUS ROCHA, Acting Field Office**  
20 **Director, San Diego Field Office,**  
21 **CHRISTOPHER LAROSE, Warden at**  
22 **Otay Mesa Detention Center,**

23 **Respondents.**

**CIVIL CASE NO.: '25CV3473 CAB DEB**

**Petition for Writ  
of  
Habeas Corpus**

**[Civil Immigration Habeas,  
28 U.S.C. § 2241]**

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25  
26 \_\_\_\_\_  
27 <sup>1</sup> Federal Defenders of San Diego, Inc., is filing the instant petition with  
28 provisional appointment under Chief Judge Order No. 134. Mr. Souvannaseng's  
financial eligibility for representation is included in a sworn statement attached to  
this petition.

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1 **I. Introduction**

2 Mr. Souvannaseng and his brother fled Laos in 1979. In 2000,  
3 Mr. Souvannaseng was ordered removed. But Laos wouldn't accept him, and  
4 Mr. Souvannaseng was released on an order of supervision.

5 Mr. Souvannaseng remained on supervision for the next 25 years. On  
6 November 28, 2025, ICE arrested him as he was driving his wife to work and re-  
7 detained him. Contrary to regulation, ICE did not notify Mr. Souvannaseng of any  
8 changed circumstances that made his removal more likely, like receiving news  
9 from Laos that it would now accept Mr. Souvannaseng despite not accepting him  
10 25 years ago. Nor did it give Mr. Souvannaseng an opportunity to contest his re-  
11 detention.

12 Mr. Souvannaseng's detention violates his statutory and regulatory rights,  
13 *Zadvydas v. Davis*, 533 U.S. 678 (2001), and the Fifth Amendment. Courts in this  
14 district have agreed in similar circumstances as to both of Mr. Souvannaseng's  
15 claims. Specifically:

16 (1) *Regulatory and due process violations*: Mr. Souvannaseng must be  
17 released because ICE's failure to follow its own regulations about notice and an  
18 opportunity to be heard violate due process. *See, e.g., Constantinovici v. Bondi*,  
19 \_\_ F. Supp. 3d \_\_, 2025 WL 2898985, No. 25-cv-2405-RBM (S.D. Cal. Oct. 10,  
20 2025); *Rokhfirooz v. Larose*, No. 25-cv-2053-RSH, 2025 WL 2646165 (S.D. Cal.  
21 Sept. 15, 2025); *Souvannaseng v. Noem*, 2025 WL 2898977, No. 25-cv-2422-  
22 RBM-MSB, \*3-\*5 (S.D. Cal. Oct. 10, 2025); *Sun v. Noem*, 2025 WL 2800037,  
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24 2025 WL 2770623, No. 25-cv-2334-JES, \*3 (S.D. Cal. Sept. 29, 2025); *Truong v.*  
25 *Noem*, No. 25-cv-02597-JES, ECF No. 10 (S.D. Cal. Oct. 10, 2025);  
26 *Khambounheuang v. Noem*, No. 25-cv-02575-JO-SBC, ECF No. 12 (S.D. Cal.  
27 Oct. 9, 2025) *Sphabmixay v. Noem*, 25-cv-2648-LL-VET (S.D. Cal. Oct. 30,  
28 2025); *Sayvongsa v. Noem*, 25-cv-2867-AGS-DEB (S.D. Cal. Oct. 31, 2025);

1 *Thammavongsa v. Noem*, 25-cv-2836-JO-AHG (S.D. Cal. Nov. 3, 2025);  
2 *Phakeokoth v. Noem*, 25-cv-2817-RBM-SBC (S.D. Cal. Nov. 7, 2025);  
3 *Soryadvongsa v. Noem*, 25-cv-2663-AGS-DDL (S.D. Cal. Nov. 8, 2025) (all  
4 either granting temporary restraining orders releasing noncitizens, or granting  
5 habeas petitions outright, due to ICE regulatory violations during recent re-  
6 detentions of released noncitizens previously ordered removed).

7 (2) *Zadvydas* violations: Mr. Souvannaseng must also be released under  
8 *Zadvydas* because—having proved unable to remove him for the last 25 years—  
9 the government cannot show that there is a “significant likelihood of removal in  
10 the reasonably foreseeable future.” *Id.* at 701. *See, e.g., Conchas-Valdez*, 2025  
11 WL 2884822, No. 25-cv-2469-DMS (S.D. Cal. Oct. 6, 2025); *Rebenok v. Noem*,  
12 No. 25-cv-2171-TWR, ECF No. 13 (S.D. Cal. Sept. 25, 2025) (granting habeas  
13 petitions releasing noncitizens due to *Zadvydas* violations).

14 This Court should grant this habeas petition and issue appropriate  
15 injunctive relief on either ground.

## 16 II. Statement of Facts

17 **A. Mr. Souvannaseng is ordered removed, held in ICE custody, and**  
18 **released as ICE proves unable to deport him for the next 25**  
**years, until he is arrested at his home.**

19 In 1979, Mr. Souvannaseng fled Laos and entered the United States as a  
20 refugee. Declaration of Amkha Souvannaseng, Exhibit A (“Exh. A”) ¶ 1. He soon  
21 obtained a green card. *Id.*

22 In 2000, as a result of a drug conviction, Mr. Souvannaseng was placed in  
23 removal proceedings. *Id.* at ¶ 2. An immigration judge ordered him removed on  
24 July 3, 2000. *Id.* at ¶ 3.

25 But after ICE was not able to effectuate Mr. Souvannaseng’s removal to  
26 Laos. ICE continued to detain him for a year before finally releasing him on an  
27 order of supervision. *Id.* at ¶ 4. In the years since his removal order,  
28 Mr. Souvannaseng has not missed a check-in appointment. *Id.* at ¶ 5.

1 On November 28, 2025, ICE officials arrested Mr. Souvannaseng as he was  
2 driving his wife to work. *Id.* at ¶ 6. They did not provide him any notice or give  
3 him an interview or an opportunity to contest his detention. *Id.*

4 **B. Laos has no repatriation agreement with the United States and a**  
5 **longstanding policy of refusing to accept deportees.**

6 The Lao People's Democratic Republic is an authoritarian state and one of  
7 the poorest nations in Asia. *See* Congressional Research Service, *In Focus: Laos*  
8 (Dec. 2, 2024) ("2024 CRS").<sup>2</sup> When the communist party came to power in Laos  
9 in 1975, hundreds of thousands of refugees fled, including many who had fought  
10 alongside the U.S. government in the Vietnam War. *Id.*; *see* The Economist,  
11 *America's secret war in Laos* (Jan. 21, 2017).<sup>3</sup> During the war, the United States  
12 had dropped over 2.5 million tons of bombs on Laos in what remains the largest  
13 bombardment of any country in history. *Id.*

14 No repatriation agreement exists between Laos and the United States. Laos  
15 has also been historically unwilling to accept deportees from the United States  
16 through informal negotiations. As a result, there are around 4,800 nationals of  
17 Laos living in the United States with final removal orders who have not been  
18 removed. Asian Law Caucus, *Status of Ice Deportations to Southeast Asian*  
19 *Countries: Laos* (July 29, 2025).<sup>4</sup> Last year, zero people were removed to Laos; in  
20 the five years before that, between 0 and 11 people were removed per year. *See*  
21 U.S. Immigration and Customs Enforcement, *Annual Report: Fiscal Year 2024*, at  
22 100 (Dec. 19, 2024).<sup>5</sup>

23  
24 \_\_\_\_\_  
25 <sup>2</sup> <https://www.congress.gov/crs-product/IF10236>.

26 <sup>3</sup> <https://www.economist.com/books-and-arts/2017/01/21/americas-secret-war-in-laos>.

27 <sup>4</sup> <https://www.asianlawcaucus.org/news-resources/guides-reports/resources-southeast-asian-refugees-facing-deportation>.

28 <sup>5</sup> <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2024.pdf>.

1 In 2018, the United States issued visa sanctions on Laos “due to lack of  
2 cooperation in accepting their citizens who have been ordered removed.”<sup>6</sup> The  
3 federal government explained that Laos had not “established repeatable processes  
4 for issuing travel documents to their nationals ordered removed from the United  
5 States.” *Id.*

6 In June of this year, President Trump reiterated, “Laos has historically  
7 failed to accept back its removable nationals.” *See* Presidential Proclamation,  
8 *Restricting the Entry of Foreign Nationals to Protect the United States from*  
9 *Foreign Terrorists and Other National Security and Public Safety Threats*,  
10 § 3(c)(i) (June 4, 2025).<sup>7</sup> As a result, he included Laos as one of 19 countries in  
11 his travel ban, banning all Lao immigrant, tourist, student, and exchange visitors  
12 from the United States. *Id.*; *see* American Immigration Council, *Trump’s 2025*  
13 *Travel Ban* (Aug. 6, 2025).<sup>8</sup> In response, the Lao government has issued travel  
14 documents to a few dozen nationals of Laos with final removal orders. *See* Ben  
15 Warren, *Hmong refugees from Michigan among those deported to Laos, despite*  
16 *calls for release*, *The Detroit News* (Aug. 15, 2025) (noting 32 Laotian nationals  
17 were deported on a flight in August).<sup>9</sup>

18 Since then, several courts have rejected the Trump administration’s efforts  
19 to re-detain a Laotian immigrant without following its own regulations. *See*  
20 *Phetsadakone v. Scott*, No. 25-cv-1678-JNW, 2025 WL 2579569 (W.D. Wash.  
21 Sept. 5, 2025) (granting TRO to Laotian national in light of the government’s  
22

23 \_\_\_\_\_  
24 <sup>6</sup> <https://www.dhs.gov/archive/news/2018/07/10/dhs-announces-implementation-visa-sanctions>.

25 <sup>7</sup> <https://www.whitehouse.gov/presidential-actions/2025/06/restricting-the-entry-of-foreign-nationals-to-protect-the-united-states-from-foreign-terrorists-and-other-national-security-and-public-safety-threats/>

26 <sup>8</sup> <https://www.americanimmigrationcouncil.org/report/trump-2025-travel-ban/>.

27 <sup>9</sup> <https://www.detroitnews.com/story/news/local/michigan/2025/08/15/hmong-refugees-among-those-deported-to-laos/85680464007/>.

1 failure to follow its regulations regarding re-detention and questions regarding the  
2 validity of his underlying criminal conviction); *Khambounheuang v. Noem*, No.  
3 25-cv-02575-JO-SBC, ECF No. 12 (S.D. Cal. Oct. 9, 2025) (granting habeas for  
4 Laotian citizen and ordering immediate release); *Truong v. Noem*, No. 25-cv-  
5 02597-JES, ECF No. 10 (S.D. Cal. Oct. 10, 2025) (same); *Sphabmixay v. Noem*,  
6 25-cv-2648-LL-VET (S.D. Cal. Oct. 30, 2025) (same); *Sayvongsa v. Noem*, 25-  
7 cv-2867-AGS-DEB (S.D. Cal. Oct. 31, 2025) (same); *Thammavongsa v. Noem*,  
8 25-cv-2836-JO-AHG (S.D. Ca. Nov. 3, 2025) (same).

9 **III. Legal Analysis.**

10 This Court should grant this petition and order Mr. Souvannaseng's  
11 immediate release. ICE failed to follow its own regulations requiring changed  
12 circumstances before re-detention, as well as a chance to promptly contest a re-  
13 detention decision. And *Zadvydas v. Davis* holds that immigration statutes do not  
14 authorize the government to detain immigrants like Mr. Souvannaseng, for whom  
15 there is "no significant likelihood of removal in the reasonably foreseeable  
16 future." 533 U.S. 678, 701 (2001).

17 **A. Claim One: ICE failed to comply with its own regulations when**  
18 **it re-detained Mr. Souvannaseng, violating his rights under**  
19 **applicable regulations and due process.**

20 Two regulations establish the process due to someone who is re-detained in  
21 immigration custody following a period of release. 8 C.F.R. § 241.4(l) applies to  
22 all re-detentions, generally. 8 C.F.R. § 241.13(i) applies as an added, overlapping  
23 framework to persons released upon good reason to believe that they will not be  
24 removed in the reasonably foreseeable future, as Mr. Souvannaseng was. *See*  
25 *Nguyen v. Noem*, 2025 WL 2898977, No. 25-CV-2422-RBM-MSB, \*3-\*5 (S.D.  
26 Cal. Oct. 10, 2025) (explaining this regulatory framework and granting a habeas  
27 petition for ICE's failure to follow these regulations for a refugee of Laos who  
28 entered the United States before 1995); *Rokhfirooz*, No. 25-CV-2053-RSH-VET,  
2025 WL 2646165 at \*2 (same as to an Iranian national).

1           These regulations permit an official to “return [the person] to custody” only  
2 when the person “violate[d] any of the conditions of release,” 8 C.F.R.  
3 §§ 241.13(i)(1), 241.4(l)(1), or, in the alternative, if an appropriate official  
4 “determines that there is a significant likelihood that the alien may be removed in  
5 the reasonably foreseeable future,” and makes that finding “on account of  
6 changed circumstances,” 8 C.F.R. § 241.13(i)(2).

7           No matter the reason for re-detention, the re-detained person is entitled to  
8 certain procedural protections. For one, “[u]pon revocation,’ the noncitizen ‘will  
9 be notified of the reasons for revocation of his or her release or parole.’”  
10 *Souvannaseng*, 2025 WL 2898977 at \*3, \*4 (quoting §§ 241.4(l)(1), 241.13(i)(3)).  
11 Further, the person “‘will be afforded an initial informal interview promptly after  
12 his or her return’ to be given ‘an opportunity to respond to the reasons for  
13 revocation stated in the notification.’” *Id.*

14           In the case of someone released under § 241.13(i), the regulations also  
15 explicitly require the interviewer to allow the re-detained person to “submit any  
16 evidence or information that he or she believes shows there is no significant  
17 likelihood he or she be removed in the reasonably foreseeable future, or that he or  
18 she has not violated the order of supervision.” § 241.13(i)(3).

19           ICE is required to follow its own regulations. *United States ex rel. Accardi*  
20 *v. Shaughnessy*, 347 U.S. 260, 268 (1954); *see Alcaraz v. INS*, 384 F.3d 1150,  
21 1162 (9th Cir. 2004) (“The legal proposition that agencies may be required to  
22 abide by certain internal policies is well-established.”). A court may review a re-  
23 detention decision for compliance with the regulations, and “where ICE fails to  
24 follow its own regulations in revoking release, the detention is unlawful and the  
25 petitioner’s release must be ordered.” *Rokhfirooz*, 2025 WL 2646165 at \*4  
26 (collecting cases); *accord Souvannaseng*, 2025 WL 2898977 at \*5.

27           ICE followed none of its regulatory prerequisites to re-detention here.  
28

1 First, ICE did not identify a proper reason under the regulations to re-detain  
2 Mr. Souvannaseng. Mr. Souvannaseng was not returned to custody because of a  
3 conditions violation, and there was apparently no determination before or at his  
4 arrest that there are “changed circumstances” such that there is “a significant  
5 likelihood that [Mr. Souvannaseng] may be removed in the reasonably foreseeable  
6 future.” 8 C.F.R. § 241.13(i)(2).

7 Second, ICE did not notify Mr. Souvannaseng of the reasons for his re-  
8 detention upon revocation of release. *See* 8 C.F.R. §§ 241.4(l)(1), 241.13(i)(3). He  
9 was re-detained on November 28, 2025. Exh. A at ¶ 5. As he has explained,  
10 “[t]hey did not tell me why they were revoking my supervision.” *Id.* at ¶ 6.

11 Third, Mr. Souvannaseng does not believe he received an informal  
12 interview where an officer explained the purported “changed circumstances”  
13 underlying his revocation. “Simply to say that circumstances had changed or there  
14 was a significant likelihood of removal in the foreseeable future is not enough.”  
15 *Sarail A. v. Bondi*, No. 25-CV-2144, 2025 WL 2533673, at \*3 (D. Minn. Sept. 3,  
16 2025). Rather, “Petitioner must be told *what* circumstances had changed or *why*  
17 there was now a significant likelihood of removal in order to meaningfully  
18 respond to the reasons and submit evidence in opposition, as allowed under  
19 § 241.13(i)(3).” *Id.* By “identif[ying] the category—‘changed circumstances’—but  
20 fail[ing] to notify [Petitioner] of the reason—the circumstances that changed and  
21 created a significant likelihood of removal in the reasonably foreseeable future—  
22 [ICE] failed to follow the relevant regulation.” *Id.* This failure to identify any  
23 changed circumstances also means he has he been afforded a meaningful  
24 opportunity to respond to the reasons for revocation or submit evidence rebutting  
25 his re-detention. Exh. A at ¶ 6.

26 Numerous courts have released re-detained immigrants after finding that  
27 ICE failed to comply with applicable regulations this summer and fall. These have  
28

1 included courts in this district,<sup>10</sup> as well as courts outside this district.<sup>11</sup>

2 “[B]ecause officials did not properly revoke petitioner’s release pursuant to  
3 the applicable regulations, that revocation has no effect, and [Mr. Souvannaseng]  
4 is entitled to his release (subject to the same Order of Supervision that governed  
5 his most recent release).” *Liu*, 2025 WL 1696526, at \*3.

6 **B. Claim Two: Mr. Souvannaseng’s detention violates *Zadvydas***  
7 **and 8 U.S.C. § 1231.**

8 **1. Legal background**

9 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered  
10 a problem affecting people like Mr. Souvannaseng: Federal law requires ICE to  
11 detain an immigrant during the “removal period,” which typically spans the first  
12 90 days after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-(2). After  
13 that 90-day removal period expires, detention becomes discretionary—ICE may

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14  
15 <sup>10</sup> *Constantinovici v. Bondi*, \_\_\_ F. Supp. 3d \_\_\_, 2025 WL 2898985, No. 25-cv-  
16 2405-RBM (S.D. Cal. Oct. 10, 2025); *Rokhfirooz v. Larose*, No. 25-cv-2053-  
17 RSH, 2025 WL 2646165 (S.D. Cal. Sept. 15, 2025); *Souvannaseng v. Noem*, 2025  
18 WL 2898977, No. 25-cv-2422-RBM-MSB, \*3–\*5 (S.D. Cal. Oct. 10, 2025); *Sun*  
19 *v. Noem*, 2025 WL 2800037, No. 25-cv-2433-CAB (S.D. Cal. Sept. 30, 2025);  
20 *Van Tran v. Noem*, 2025 WL 2770623, No. 25-cv-2334-JES, \*3 (S.D. Cal. Sept.  
21 29, 2025); *Truong v. Noem*, No. 25-cv-02597-JES, ECF No. 10 (S.D. Cal. Oct.  
22 10, 2025); *Khambounheuang v. Noem*, No. 25-cv-02575-JO-SBC, ECF No. 12  
(S.D. Cal. Oct. 9, 2025); *Truong v. Noem*, No. 25-cv-02597-JES, ECF No. 10  
(S.D. Cal. Oct. 10, 2025); *Sphabmixay v. Noem*, 25-cv-2648-LL-VET (S.D. Cal.  
Oct. 30, 2025); *Sayvongsa v. Noem*, 25-cv-2867-AGS-DEB (S.D. Cal. Oct. 31,  
2025); *Thammavongsa v. Noem*, 25-cv-2836-JO-AHG (S.D. Ca. Nov. 3, 2025)  
(same); *Phakeokoth v. Noem*, 25-cv-2817-RBM-SBC (S.D. Cal. Nov. 7, 2025);  
*Soryadvongsa v. Noem*, 25-cv-2663-AGS-DDL (S.D. Cal. Nov. 8, 2025).

23 <sup>11</sup> *Grigorian*, 2025 WL 2604573; *Delkash v. Noem*, 2025 WL 2683988; *Ceesay v.*  
24 *Kurzdorfer*, 781 F. Supp. 3d 137, 166 (W.D.N.Y. 2025); *You v. Nielsen*, 321 F.  
25 Supp. 3d 451, 463 (S.D.N.Y. 2018); *Rombot v. Souza*, 296 F. Supp. 3d 383, 387  
26 (D. Mass. 2017); *Zhu v. Genalo*, No. 1:25-CV-06523 (JLR), 2025 WL 2452352, at  
27 \*7–9 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, No. 6:25-CV-01204-AA, 2025  
28 WL 2430267, at \*10–12 (D. Or. Aug. 21, 2025); *Escalante v. Noem*, No. 9:25-CV-  
00182-MJT, 2025 WL 2491782, at \*2–3 (E.D. Tex. July 18, 2025); *Hoac v.*  
*Becerra*, No. 2:25-cv-01740-DC-JDP, 2025 WL 1993771, at \*4 (E.D. Cal. July 16,  
2025); *Liu*, 2025 WL 1696526, at \*2; *M.Q. v. United States*, 2025 WL 965810, at  
\*3, \*5 n.1 (S.D.N.Y. Mar. 31, 2025).

1 detain the migrant while continuing to try to remove them. *Id.* § 1231(a)(6).  
2 Ordinarily, this scheme would not lead to excessive detention, as removal  
3 happens within days or weeks. But some detainees cannot be removed quickly.  
4 Perhaps their removal “simply require[s] more time for processing,” or they are  
5 “ordered removed to countries with whom the United States does not have a  
6 repatriation agreement,” or their countries “refuse to take them,” or they are  
7 “effectively ‘stateless’ because of their race and/or place of birth.” *Kim Ho Ma v.*  
8 *Ashcroft*, 257 F.3d 1095, 1104 (9th Cir. 2001). In these and other circumstances,  
9 detained immigrants can find themselves trapped in detention for months, years,  
10 decades, or even the rest of their lives. If federal law were understood to allow for  
11 “indefinite, perhaps permanent, detention,” it would pose “a serious constitutional  
12 threat.” *Zadvydas*, 533 U.S. at 699. In *Zadvydas*, the Supreme Court avoided the  
13 constitutional concern by interpreting § 1231(a)(6) to incorporate implicit limits.  
14 *Id.* at 689.

15 *Zadvydas* held that § 1231(a)(6) presumptively permits the government to  
16 detain an immigrant for 180 days after his or her removal order becomes final.  
17 After those 180 days have passed, the immigrant must be released unless his or  
18 her removal is reasonably foreseeable. *Zadvydas*, 533 U.S. at 701. After six  
19 months have passed, the petitioner must only make a prima facie case for relief—  
20 there is “good reason to believe that there is no significant likelihood of removal  
21 in the reasonably foreseeable future.” *Id.* Then the burden shifts to “the  
22 Government [to] respond with evidence sufficient to rebut that showing.” *Id.*

23 Further, even before the 180 days have passed, the immigrant must still be  
24 released if he *rebutts* the presumption that his detention is reasonable. *See, e.g.,*  
25 *Trinh v. Homan*, 466 F. Supp. 3d 1077, 1092 (C.D. Cal. 2020) (collecting cases  
26 on rebutting the *Zadvydas* presumption before six months have passed); *Zavvar v.*  
27 *Scott*, Civil No. 25-2104-TDC, 2025 WL 2592543, \*6 (D. Md. Sept. 8, 2025)

28

1 (finding the presumption rebutted for a person who was immediately released  
2 after being ordered removed and, years later, re-detained for less than six months).

3 Mr. Souvannaseng can make all the threshold showings needed to prove his  
4 *Zadvydas* claim and shift the burden to the government.

5 **C. Mr. Souvannaseng’s six-month grace period expired in 2001.**

6 The six-month grace period has long since ended. The *Zadvydas* grace  
7 period is linked to the date the final order of removal is issued. It lasts for “six  
8 months after a final order of removal—that is, *three months* after the statutory  
9 removal period has ended.” *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th  
10 Cir. 2001); *see also* 8 U.S.C. § 1231(a)(1)(B) (linking the statutory removal  
11 period to issuance of the final order and other proceedings associated with the  
12 original removal order).

13 Here, Mr. Souvannaseng’s order of removal was entered in July 2000. Exh.  
14 A at ¶ 3. Accordingly, his 90-day removal period began then. 8 U.S.C.  
15 § 1231(a)(1)(B). The *Zadvydas* grace period thus expired in January 2001, three  
16 months after the removal period ended. *See, e.g., Tadros v. Noem*, 2025 WL  
17 1678501, No. 25-cv-4108(EP), \*2–\*3.<sup>12</sup>

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18  
19 <sup>12</sup> The government has sometimes argued that release and rearrest resets the six-  
20 month grace period completely, taking the clock back to zero. “Courts . . . broadly  
21 agree” that this is not correct. *Diaz-Ortega v. Lund*, 2019 WL 6003485, at \*7 n.6  
22 (W.D. La. Oct. 15, 2019), *report and recommendation adopted*, 2019 WL  
6037220 (W.D. La. Nov. 13, 2019); *see also Sied v. Nielsen*, No. 17-CV-06785-  
LB, 2018 WL 1876907, at \*6 (N.D. Cal. Apr. 19, 2018) (collecting cases).

23 It has also sometimes argued that rearrest creates a new three-month grace  
24 period. As a court explained in *Bailey v. Lynch*, that view cannot be squared with  
25 the statutory definition of the removal period in 8 U.S.C. § 1231(a)(1)(B). No. CV  
26 16-2600 (JLL), 2016 WL 5791407, at \*2 (D.N.J. Oct. 3, 2016). “Pursuant to the  
27 statute, the removal period, and in turn the [six-month] presumptively reasonable  
28 period, begins from the latest of ‘the date the order of removal becomes  
administratively final,’ the date of a reviewing court’s final order where the  
removal order is judicially removed and that court orders a stay of removal, or the  
alien’s release from detention or confinement where he was detained for reasons  
other than immigration purposes at the time of his final order of removal.” *Id.*  
None of these statutory starting points have anything to do with whether or when

1           **D. Mr. Souvannaseng’s personal experience, and Laos’s general**  
2           **policy of not repatriating most Laotian immigrants, provide good**  
3           **reason to believe that Mr. Souvannaseng will not likely be**  
4           **removed in the reasonably foreseeable future.**

5           This Court uses a burden-shifting framework to evaluate  
6           Mr. Souvannaseng’s *Zadvydas* claim. At the first stage of the framework,  
7           Mr. Souvannaseng must “provide[] good reason to believe that there is no  
8           significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*,  
9           533 U.S. at 701. This standard can be broken down into three parts.

10           **“Good reason to believe.”** The “good reason to believe” standard is a  
11           relatively forgiving one. “A petitioner need not establish that there exists no  
12           possibility of removal.” *Freeman v. Watkins*, No. CV B:09-160, 2009 WL  
13           10714999, at \*3 (S.D. Tex. Dec. 22, 2009). Nor does “[g]ood reason to  
14           believe’ . . . place a burden upon the detainee to demonstrate no reasonably  
15           foreseeable, significant likelihood of removal or show that his detention is  
16           indefinite; it is something less than that.” *Rual v. Barr*, No. 6:20-CV-06215 EAW,  
17           2020 WL 3972319, at \*3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401  
18           F. Supp. 3d 420, 430 (W.D.N.Y. 2019)). In short, the standard means what it says:  
19           Petitioners need only give a “good reason”—not prove anything to a certainty.

20           **“Significant likelihood of removal.”** This component focuses on whether  
21           Mr. Souvannaseng will likely be removed: Continued detention is permissible  
22           only if it is “significant[ly] like[ly]” that ICE will be able to remove him.  
23           *Zadvydas*, 533 U.S. at 701. This inquiry targets “not only the *existence* of  
24           untapped possibilities, but also [the] probability of *success* in such possibilities.”  
25           *Elashi v. Sabol*, 714 F. Supp. 2d 502, 506 (M.D. Pa. 2010) (second emphasis  
26           added). In other words, even if “there remains *some* possibility of removal,” a

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28           an immigrant is detained. *See id.* Because the statutorily-defined removal period  
          has nothing to do with release and rearrest, releasing and rearresting the  
          immigrant cannot reset the removal period.

1 petitioner can still meet its burden if there is good reason to believe that  
2 successful removal is not significantly likely. *Kacanic v. Elwood*, No. CIV.A. 02-  
3 8019, 2002 WL 31520362, at \*4 (E.D. Pa. Nov. 8, 2002) (emphasis added).

4 “In the reasonably foreseeable future.” This component of the test  
5 focuses on when Mr. Souvannaseng will likely be removed: Continued detention  
6 is permissible only if removal is likely to happen “in the reasonably foreseeable  
7 future.” *Zadvydas*, 533 U.S. at 701. This inquiry places a time limit on ICE’s  
8 removal efforts. If the Court has “no idea of when it might reasonably expect  
9 [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal  
10 is likely to occur—or even that it might occur—in the reasonably foreseeable  
11 future.” *Palma v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at \*3  
12 (S.D. Miss. July 7, 2020), *report and recommendation adopted*, 2020 WL  
13 4876859 (S.D. Miss. Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d  
14 93, 102 (W.D.N.Y. 2019)). Thus, even if this Court concludes that Mr.  
15 Souvannaseng “would *eventually* receive” a travel document, he can still meet his  
16 burden by giving good reason to anticipate sufficiently lengthy delays. *Younes v.*  
17 *Lynch*, 2016 WL 6679830, at \*2 (E.D. Mich. Nov. 14, 2016).

18 Mr. Souvannaseng satisfies this standard for two reasons.

19 First, Mr. Souvannaseng’s own experience bears this out. ICE has now had  
20 25 years to deport him. He has cooperated with ICE’s removal efforts throughout  
21 that time. Yet ICE has proved unable to remove him.

22 Second, as explained above, Laos generally does not accept deportees. Last  
23 year, zero people were removed to Laos; in the five years before that, between 0  
24 and 11 people were removed per year. *See* U.S. Immigration and Customs  
25 Enforcement, *Annual Report: Fiscal Year 2024*, at 100 (Dec. 19, 2024).<sup>13</sup>  
26 Although President Trump has pressured Laos to begin accepting deportees, that  
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28 <sup>13</sup> <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2024.pdf>.

1 has resulted in Laos issuing travel documents for only a few dozen nationals out  
2 of thousands of Laotians. And since then, multiple courts have rejected the Trump  
3 administration’s efforts to re-detain Laotian immigrants without following its own  
4 regulations. *See, e.g., Khambounheuang*, No. 25-cv-02575-JO-SBC, ECF No. 12  
5 (S.D. Cal. Oct. 9, 2025); *Phetsadakone v. Scott*, No. 25-cv-1678-JNW, 2025 WL  
6 2579569 (W.D. Wash. Sept. 5, 2025).

7 Thus, Mr. Souvannaseng has met his initial burden, and the burden shifts to  
8 the government. Unless the government can prove a “significant likelihood of  
9 removal in the reasonably foreseeable future,” Mr. Souvannaseng must be  
10 released. *Zadvydas*, 533 U.S. at 701.

11 **IV. This Court must hold an evidentiary hearing on any disputed facts.**

12 Resolution of a prolonged-detention habeas petition may require an  
13 evidentiary hearing. *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009).  
14 Mr. Souvannaseng hereby requests such a hearing on any material, disputed facts.

15 **V. Prayer for relief**

16 For the foregoing reasons, Petitioner respectfully requests that this Court:

- 17 1. Order and enjoin Respondents to immediately release Petitioner from  
18 custody;
- 19 2. Enjoin Respondents from re-detaining Petitioner under 8 U.S.C.  
20 § 1231(a)(6) unless and until Respondents obtain a travel document for  
21 his removal;
- 22 3. Enjoin Respondents from re-detaining Petitioner without first following  
23 all procedures set forth in 8 C.F.R. §§ 241.4(l), 241.13(i), and any other  
24 applicable statutory and regulatory procedures;

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4. Order all other relief that the Court deems just and proper.

Respectfully submitted,

Dated: December 8, 2025

s/ Kara Hartzler  
Federal Defenders of San Diego, Inc.  
Attorneys for Mr. Souvannaseng  
Email: kara\_hartzler@fd.org

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**Proof of Service**

I, the undersigned, will cause the attached Petition for a Writ of Habeas Corpus to be emailed to the U.S. Attorney’s Office for the Southern District of California at USACAS.Habeas2241@usdoj.gov when I receive the court-stamped copy.

Dated: December 8, 2025

/s/ Kara Hartzler  
Kara L. Hartzler

# Exhibit A

1 **Kara Hartzler**  
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3 **Federal Defenders of San Diego, Inc.**  
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8 Kara\_hartzler@fd.org

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

11 **AMKHA SOUVANNASENG,**  
12 **Petitioner,**

Civil Case No.:

13 v.

14 **KRISTI NOEM, Secretary of the**  
15 **Department of Homeland Security,**  
16 **PAMELA JO BONDI, Attorney General,**  
17 **TODD M. LYONS, Acting Director,**  
18 **Immigration and Customs Enforcement,**  
19 **JESUS ROCHA, Acting Field Office**  
20 **Director, San Diego Field Office,**  
21 **CHRISTOPHER LAROSE, Warden at**  
22 **Otay Mesa Detention Center,**

**Declaration of**  
**Amkha Souvannaseng**  
**in Support of Petition**  
**for a Writ of Habeas Corpus**

23 **Respondents.**  
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1 I, Amkha Souvannaseng, declare:  
2

- 3 1. I was born in Laos and came to the United States with my family in  
4 October 1979 as a refugee. We all became lawful permanent residents soon  
5 after we arrived.  
6 2. In 1998, when I was 24 years old, I was convicted of a drug crime in  
7 Arkansas. As a result of this conviction, I was put into removal  
8 proceedings.  
9 3. On July 3, 2000, an immigration judge ordered me removed on the basis of  
10 this conviction.  
11 4. After I was ordered removed, ICE tried to deport me to Laos. However,  
12 Laos did not issue me travel documents. ICE continued to detain me for a  
13 year before releasing me on an order of supervision.  
14 5. Since my release from ICE custody, to the best of my knowledge, I have  
15 not been convicted of any other crimes and I have not missed a check-in  
16 appointment.  
17 6. On November 28, 2025, ICE arrested me as I was driving my wife to work.  
18 When they arrested me, they did not tell me why they were revoking my  
19 supervision or give me a chance to contest my detention.  
20 7. I have been disabled for five years due to a neck injury. Because of this, I  
21 do not make enough money to hire a lawyer.  
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I declare under penalty of perjury that the foregoing is true and correct,  
executed on 12-7-25, in San Diego, California.

~~\_\_\_\_\_~~

Declarant

ad covered