Somcheth Sam Yok
[redacted]
Adelanto ICE Processing Center
10250 Rancho Road
Adelanto, CA 92301
W-2-C-209-2 L

UNITED SATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

Somcheth Sam Yok
[redacted]

Petitioner

v.

David Marin, Warden, Adelanto ICE Processing Center; Thomas Giles, Director of the Los Angeles ICE Field Office; Todd Lyons, Acting Director of ICE; Kristie Noem, Secretary of the Department of Homeland Security; Pamela Bondi, Attorney General of the United States

Respondents

Case No.: **5:25-CV-03377-MWF-MAA**

PETITION FOR A WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C § 2241, BY A PERSON SUBJECT TO INDEFINITE IMMIGRATION DETENTION

BACKGROUND

Petitioner, Somcheth Sam Yok, hereby petitions this court for a writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents, and to enjoin Petitioner's continued unlawful detention by the Respondent. In support of this petition and complaint for injuctive relief, Petitioner alleges as follows:

CUSTODY

1. Petitioner is in the physical custody of Respondents and the U.S. Immigration and Customs Enforcemen ("ICE"). Petitioner is detained at the Adelanto ICE Detention Center in Adelanto, California. Petitioner is under the direct control of of Respondents and their agents.

JURISDICTION

2. This action arises under the Constitution of the United States, 28 U.S.C. § 2241(c)(1), and the Immigration and Nationality Act ("INA"), 8 U.S.C. § et seq. This Court has subject matter jurisdiction under 28 U.S.C. § 2241, Art. 1 § 9, cl. 2 of the United States Constitution ("Suspension Clause"); and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States. See *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) ("We conclude that § 2241 habeas corpus proceedings remain available as a forum for statutory and constitutional challenges to post-removal-period detention."); *INS v. St. Cyr*, 533 U.S. 289, 301 (2001) ("at its historical core, the writ of habeas corpus has served as a means of reviewing the legality of executive detention, and it is in that context that its protections have been strongest.") *Clark v. Martinez*, 543 U.S. 371 (2005) (holding that *Zadvydas* applies to aliens found inadmissible as well as removable).

VENUE

3. Venue lies in the United States District Court for the Central District of California, because Petitioner is currently detained in the territorial jurisdiction of this Court, at the Adelanto ICE Processing Center. 28. U.S.C. § 1391.

EXHAUSTION OF REMEDIES

4. Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action. After the Supreme Court decision in *Zadvydas*, the

Department of Justice issued regulations governing the custody of aliens removed. See 8 C.F.R. § 241.4. Petitioner received a final order of removal May 8, 2007. At his "90-day" custody review, on or about 04/23/2025, ICE decided to continue his detention. Subsequently, on 07/07/2025 Petitioner Received a "Notice to Alien of Interview for Review of Custody Status. Petitioner had an interview with a reviewing panel of two ICE officers on 07/11/2025. The officers informed Petitioner they were forwarding all the information to ICE Headquarters Post-Order Detention Unit ("HQPDU"). Up-to-date, more than three months later HQPDU has not provided Petitioner with an answer or any information of whether they had reached a decision or not. The custody review regulations do not provide for appeal from a HQPDU custody review decision. See 8 C.F.R. § 241.4(d).

5. No statutory exhaustion requirements apply to Petitioner's claim of unlawful detention.

PARTIES

6. Petitioner is stateless for not country has recognized him as a citizen. This time Petitioner was first taken into ICE custody on 01/31/2025, and has remained in ICE custody continuously since that date. Petitioner was ordered removed on May 8, 2007. Petitioner is currently detained at Adelanto ICE Processing Center. Petitioner has been detained by ICE for over 9 (nine) months.

7. Respondent Pamela Bondi is the Attorney General of the United States and is responsible for the administration of ICE and the implementation and enforcement of the Immigration and Naturalization Act ("INA"). As such, Mrs. Bondi has ultimate custodial authority over Petitioner.

8. Respondent Kristie Noem is the Secretary of the Department of Homeland Security. She is responsible for the administration of ICE and the implementation and enforcement of the INA. As such, Mrs Noem is the legal custodian of Petitioner.

9. Respondents Todd Lyons, Acting Director of ICE and Thomas Giles, Director of the Los

Angeles ICE Field Office are Petitioner's immediate Custodians. See *Vasquez v. Reno*, 233 F.3d 688, 690 (1st Cir. 2000), cert. denied, 122 S. Ct. 43 (2001).

10. Respondent David Marin, Warden of Adelanto ICE Processing Center, where Petitioner is currently detained under the authority of ICE, alternatively may be considered to be Petitioner's immediate custodian.

STATEMENT OF FACTS

11. Petitioner, Somcheth Sam Yok, was born on [redacted] in a USA military camp in Udon, Thailand where the US Consulate was also located (Exhibit 1, Decision of the Immigration Judge page 5). [redacted] Mr. Yok believed their lives in danger. In 1973, Mr. Yok was sent to Thailand to [redacted] Later, in 1974, Mrs. Yok joined her husband in Thailand. Petitioner was born in Thailand of Cambodian parents. Mr. Yok elected to take his family to the United States where they were granted asylum. Petitioner adjusted his status to Lawful Permanent Resident on June 29, 1975 under Private Law section 95-145. When released, Petitioner will be living at [redacted] this is

Petitioner's sponsor, employer, and life long friend's house. His name is Markus Witte, phone [redacted] His wife, Brezzy Draper, can also be contacted at [redacted] They both speak English and you may contact them if you want to corroborate any of this information. Petitioner arrived in the United States April 1, 1975 when he was around 2 months old and have lived in the United States since then. He has made no efforts to obtain a passport or leave the country since then. That amounts to around 50 years of continuous residence in the United States. In that time Petitioner has forged deep ties to the community. He has 2 children and a grandchild. Petitioner has one brother and one sister and numerous nieces and nephews. As a Buddhist he belongs to a community of fellow Buddhist and actively participates in community events. He has also shown ability to obtain legal, gainful employment and stable housing within the community with no need for government assistance. He will therefore be a credit to society as a law-abiding, tax-paying resident, and therefore, not a drain on community resources. He has worked as a carpet cleaning tech for his late brother's Carpet cleaning and flood restoration company for the past 20 years and is also a handyman. Even before he had children and a grandchild, Petitioner already had deep ties to the community. He is less likely now to want to break such ties and as such cannot be reasonably considered a flight risk. Particularly, considering the fact Petitioner cannot obtain a travel document. Petitioner contends that an examination of his history will show that he is an individual who wants to remain in the United States, and therefore, cannot be deemed to be an individual who posses a flight risk. Petitioner is under an Order of Deferral of Removal. Exhibit 1. He is aware that an individual who is under an order of Deferral of Removal risks triggering their own deportation, and as such will not be allowed into the United States, should Petitioner leave the United States while under such an order of Deferred Removal. He cannot be considered a flight risk where if he leaves the country he could not come back. Petitioner has everything here in this country. His whole life is here and most importantly, his family and everyone he loves and care for in the whole wide world. Petitioner, therefore, asserts that he is not a flight risk, and

no reasonable person can consider him as such by any measure, as the record indicates. As held in *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006), factors such as family ties, community involvement, and rehabilitation weigh in favor of release on bond. Petitioner has never been affiliated with any gangs or have any violent crimes. While he was incarcerated Petitioner took steps towards improving and better himself so that once he gets released Petitioner can be a useful and productive member of society and be of benefit not only for himself but for his family members and those around him. While in the custody of the BOP, Petitioner participated and completed several Evidence Based Recidivism Reduction (EBBR) programs provided by the BOP. (Please see Exhibit 2 attached for Individualized Needs Plan/Program Review (inmate copy) issued by the Bureau of Prisons for Petitioner). These programs are provided by the BOP to help inmates prepare for a life outside of prison, while gauging their readiness to do so. Inmates are routinely assessed and their custody levels are recorded by the BOP. Due to this stellar participation and completion rate in these EBBR programs, the BOP classified Petitioner as a Low Security Risk and Low Recidivism rate individual. This represents one of the lowest levels an inmate in federal custody can obtain. This also mean that the BOP which has come to know Petitioner intimately over the course of his incarceration as adjudged him to be ready to rejoin society with very little likelihood of re-offending. During Petitioner's incarceration he had no disciplinary problems of any kind. He was a low risk inmate, he had low recidivism and low points. Petitioner served 57 months out of 66 for full good conduct time. Petitioner has taken courses that were available for him in prison and also in his current place of detention with GEO Adelanto ICE Detention Center. He just completed DBT here in GEO which is a course that addresses "Stress Management, "Domestic Abuse", "Drug Addiction" and "Seeking Safety" because he is determined to continue making efforts towards improving himself. Petitioner has completed a good number of courses on Cypherworx here at GEO as you will see in the transcripts in Exhibit 3. Petitioner remains subject to the conditions of Supervised Release imposed as part of his Federal sentence. As part of the sentence

imposed in his criminal conviction, Petitioner remains subject to the terms of his supervised release as stipulated in federal court. Supervised release condition typically involve frequently reporting to a federal probation officer, restitution payments, random check ups at home or work, random drug testing and other stipulations of which failing to adhere to would constitute a violation of the terms of probation. Violating the terms of federal probation/supervised release could lead to re-incarceration, a fact that Petitioner is well aware of. These facts are relevant here because he contends that that represent all the assurance that the reviewing officers may require that he will not re-offend, skip town or indeed do anything that would jeopardize his freedom, and that if he does so, there is a mechanism already in place to immediately apprehend him and adequately punish him.

12. Petitioner was due to be released from prison on Saturday February,1st 2025. Nevertheless, because that day was a Saturday, Petitioner was released on Friday, January 31st, 2025. ICE picked Petitioner up from prison after he finished his sentence.

13. On May 19, 2006 the Department of Homeland Security (DHS") issued a Notice to Appear ("NTA"), charging Petitioner as removable from the United States pursuant to Section 237(a)(2)(iii) of the INA, as amended in that, at any time after admission Petitioner was convicted of an aggravated felony as defined in Section 101(a)(43)(B) of the Act, an offense relating to illicit trafficking of a controlled substance, as described in section 102 of the Controlled Substances Act, including a drug trafficking crime, as defined in section 924(c) of Title 18, United States Code. On February 2, 2007, Petitioner was ordered deported from the United States by an Immigration Judge ("IJ"). The Immigration Judge, however, **did not ordered him removed to any specific country**. In the same order the IJ granted Petitioner Deferral of Removal to Cambodia, pursuant to Art. III of the Convention Against Torture pursuant to 8 C.F.R. § 1208.16(c). Exhibit 1, page 19. Petitioner appealed to the BIA, but the BIA dismissed the appeal. To the best of Petitioner's knowledge he did not Petition to the Ninth Circuit. His order became final May 9, 2007.

14. On January 31, 2025 Petitioner was taken into custody to await his deportation. Petitioner has been continuously detained by ICE for around 10 months.

15. Petitioner was served a "Notice to Alien of File Custody Review" March 7, 2025. The notice informed him his review will be on or about 05/01/2025. Exhibit 4. On April 23, 2025 Petitioner was served with a written decision ordering his continued detention. Exhibit 5.

16. On 07/07/2025 Petitioner was served with a "Notice to Alien of Interview for Review of Custody Status" notifying him he was going to have an interview on 07/11/2025. Exhibit 6.The interview was in fact held that date. Petitioner presented the interviewing officers with a packet of documents supporting every aspect they needed to consider to release Petitioner. Because HQPDU had not responded Petitioner, he wrote a follow up letter on or about October 1st, 2025. Still, at the date this petition is signed, HQDPU has not provided Petitioner with any information about the review. That is more than 9 and a half months in detention.

ICE tried to deport Petitioner to Mexico first but as per what Deportation Officer A. Hernandez told him, Mexico declined Petitioner. Officer A. Hernandez told Petitioner he was aware Thailand would not accept Petitioner either. So far, ICE has not given an indication of which country can Petitioner be deported to. Due to his birth in Thailand ICE wanted Petitioner to obtain travel documents from Thailand as an alternative option. Petitioner had already made efforts to obtain travel documents from Thailand. Petitioner contacted the Royal Embassy of Thailand in D.C., on March 8, 2024. The embassy responded to Petitioner denying to issue a travel document for him. Exhibit 7. For the last 3 months ICE has not given Petitioner information concerning the status of efforts to deport Petitioner.

17. In the over 3 months that have passed since Petitioner's last custody review, ICE has not notified Petitioner of any progress in Petitioner's repatriation.

18. To Petitioner's knowledge, the government of Thailand (or any other country) has not issued travel documents for him. Indeed, neither ICE nor Thailand nor any other country have provided any

indication that they would accept Petitioner in the reasonably foreseeable future. Petitioner is unlikely to be removed in the reasonably foreseeable future because he is stateless and no country has recognized him as a citizen. This also implies that no travel documents of any kind can be obtained for Petitioner. Cambodia is not an option due to the deferral of removal under Convention Against Torture; and to the fact Cambodia has never recognized Petitioner as a citizen or national of that country. See *Zadvydas v. Davis*, 533 U.S. 678, 702 (2001) ("Petitioner need not show 'the absence of *any* prospect of removal' only that 'there is no significant likelihood of removal in the reasonably foreseeable future.'")

19. Petitioner has cooperated fully with all efforts by ICE to remove Petitioner from the United States. During his incarceration Petitioner tried to obtain travel documents from Thailand but Thailand denied him. Exhibit 7. Petitioner is out of options for he cannot request any other country of the world to issue him travel documents. On Exhibit 8 you see evidence of a recent Internet Google search in October 2025, that proves Thailand law is the same than when Petitioner applied for travel documents in 2024. There is also evidence from a LexisNexis search that confirms the evidence in Google is the same that in the LexisNexis legal resource.

LEGAL FRAME FOR RELIEF SOUGHT

20. In *Zadvydas v. Davis*, 533 U.S. 678(2001), the U.S. Supreme Court held that 8 U.S.C. § 1231 (a)(6), when read in light of the Constitution's demands, limits an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal from the United States." 533 U.S. at 689. A "habeas court must [first] ask whether the detention in question exceeds a period reasonably necessary to secure removal." Id. at 699. If the individual's removal 'is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by the

statute." Id. at 699-700.

21. In determining he length of a reasonable removal period, the Court adopted a "presumptively reasonable period of detention" of six months. Id. at 701. After six months, the government bears the burden of disproving an alien's good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." See *Zhou v. Farquharson*, 2001 U.S. Dist. LEXIS 18239, *2-*3 (D. Mass, Oct. 19, 2001) (quoting ans summarizing *Zadvydas*.) Moreover, "for detention to remain reasonable, as the period of prior post-removal confinement grows, what counts as the 'reasonably foreseeable future' conversely would have to shrink." *Zadvydas*, 533 U.S. at 701. ICE's administrative regulations also recognize that the HQPDU has a six-month period for determining whether there is a significant likelihood of an alien's removal in the reasonably foreseeable future. See. 8 C.F.R. § 241.4 (k)(2)(ii).

22. Evidence showing successful repatriation of other persons to the country at issue is not sufficient to meet the government's burden to establish that an alien petitioner will be deported in the reasonably foreseeable future. See *Thompson v. INS*, 2002 U.S. Dist. LEXIS 23936 (E.D. La. September 16, 2002) (government failed to show that alien's deportation to Guyana was reasonably foreseeable where the government offered historical statistics of repatriation to Guyana, but failed to show any response from Guyana on the application of travel documents that INS and the petitioner had requested). Rather, for the government to meet its burden of showing than an alien's repatriation is reasonably foreseeable, it must provide some meaningful evidence particular to the individual's petitioner's case.

23. An alien who has been detained beyond the presumptive six months should be released where the government is unable to present documented confirmation that the foreign government at issue will agree to accept the particular individual in question. See Agbada v. John Ashcroft, 2002 U.S. Dist. LEXIS 15797 (D. Mass. August 22, 2002) (court "will likely grant" habeas petition after fourteen

months if ICE is "unable to present document confirmation that the Nigerian government has agreed to [petitioner's] repatriation"); *Zhou*, 2001 U.S. Dist. LEXIS 19050 at *7 (W.D. Wash. February 28, 2002) (government's failure to offer specific information regarding how or when it expected to obtain the necessary documentation or cooperation from the foreign government indicated that there was no significant likelihood of petitioner's removal in the reasonably foreseeable future.)

CLAIMS FOR RELIEF

COUNT ONE

STATUTORY VIOLATION

24. Petitioner re-alleges and incorporates by reference paragraphs 1 through 23 above.

25. Petitioner's continued detention by Respondents is unlawful and contravenes 8 U.S.C. § 1231 (a)(6) as interpreted by The U.S. Supreme Court in *Zadvydas*. The six-month preemptively reasonable period for continued removal efforts has expired. Petitioner still has not been removed, and for the reasons outlined above in paragraphs 1 to 20, Petitioner's removal to any country is not reasonably foreseeable. The Supreme Court held in *Zadvydas* and *Martinez* that ICE's continued detention of someone after six months where deportation is not reasonably foreseeable is unreasonably and in violation of 8 U.S.C. § 1231 (a). 533 at 701.

COUNT TWO

SUBSTANTIVE DUE PROCESS VIOLATION

26. Petitioner re-alleges and incorporates by reference paragraphs 1 through 25 above.

27. Petitioner's continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restrain. See e.g., *Tam v. INS*, 14 F. Supp. 2d 1184 (E.D. Cal 1998) (aliens retain substantive due process right).

28. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. While Respondents would have an interest in detaining Petitioner in order to effectuate removal, that interest does not justify the indefinite detention of Petitioner, who is not significantly likely to be removed in the reasonably foreseeable future. The U.S. Supreme Court in *Zadvydas* thus interpreted 8. U.S.C. § 1231 (a) to allow continued detention only for a period reasonably necessary to secure the alien's removal, because any other reading would go beyond the government's articulated interest – to effect the alien's removal. See

Kay v. Reno, 94 F. Supp. 2d. 546, 551 (M.D. Pa. 2000) (granting writ of habeas corpus, because petitioner's substantive due process rights were violated, and noting that "If deportation can never occur, the government's primary legitimate purpose in detention-executing removal-is nonsensical.")

COUNT THREE

PROCEDURAL DUE PROCESS VIOLATION

29. Petitioner e-alleges and incorporates by reference paragraphs 1 through 28 above.

30. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained. Petitioner in this case has been denied that opportunity ICE Does not make decisions concerning aliens' custody status in a neutral and impartial manner. The failure of Respondents to provide a neutral decision-maker to review the continued custody of Petitioner violates Petitioner's right to procedural due process. Further, Respondents have failed to acknowledge or act upon the Petitioner's administrative request for release

after the 180-day interview in a timely manner. There is no administrative mechanism in place for the Petitioner to demand a decision, ensure that a decision will ever be made, or appeal a custody decision that violates *Zadvydas*.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant him the following relief:

1) Assume jurisdiction over this matter;

2) grant Petitioner a Writ of Habeas Corpus directing the Respondents to immediately release Petitioner from custody, under reasonable conditions of supervision;

3) Order Respondents to refrain from transferring the Petitioner out of the jurisdiction of the Director of Los Angeles ICE Field Office during the pendency of these proceedings and while the Petitioner remains in Respondent's custody; and

4) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. §2412, and on any other basis justified under law; and

5) Grant any further relief that this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully Submitted this 25th day of November, 2025.

Somcheth Sam Yok
[redacted]
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