

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Leng THAO,

Petitioner,

v.

Donald J. TRUMP, et. al.,

Respondents.

Civil Action No: 25-cv-4758
(ECT/ECW)

**PETITIONER’S REPLY TO
RESPONDENTS ANSWER TO
PETITION FOR WRIT OF
HABEAS CORPUS**

Petitioner respectfully replies to Respondent’s January 6, 2025 Response to Petition for Writ of Habeas Corpus (hereafter “Response”), Docket No. 5., as follows:

1. Respondents Have Not Met Their Burden to Show Petitioner’s Removal is Significantly Likely

Although a habeas petitioner bears the ultimate burden of showing that his detention violates the law, *see Copenhaver v. Bennett*, 355 F.2d 417, 422 (8th Cir. 1966), § 241.13 of ICE’s regulations place the burden on ICE to establish that “changed circumstances” justified the revocation of release. *See Roble v. Gondi*, 2025 WL 2443453, at * 2 (D. Minn. Aug. 25, 2025). The regulation placing the burden on the government to establish that changed circumstances justify revoking a noncitizen’s supervised release pending removal reflects the general principle that

the burden of proof falls on the party seeking to change the present state of affairs. *Phongsavanh*, 2025 WL 3124032, at *2 (citing 8 C.F.R. § 241.13(i)(2)). The regulations at 8 C.F.R. § 241.13(i)(1) require that, “upon revocation of supervised release, it is the [ICE’s] burden to show a significant likelihood that the [noncitizen] may be removed.” *Escalante v. Noem*, No. 9:25-CV-00182-MJT, 2025 WL 226113, at *3 (E.D. Tex. Aug. 2, 2025).

Respondent’s assert in their response that Petitioner’s revocation is lawful because his removal to Laos is reasonably foreseeable. In support of this position, the Government filed a declaration from Deportation Officer William J. Robinson. See Docket No. 6. Officer Robinson noted in his declaration that Laos had resumed issuing travel documents for removals, and that the agency has been able to remove more than 20 individuals over the last 10 months. Officer Robinson also stated that the agency requested a travel document for Petitioner nearly 30 days ago, and that it remained pending as of January 6, 2026. Besides these vague statements about the possibility of Petitioner’s removal, the Respondent’s have not provided any concrete information about when, and if, Petitioner’s removal is significantly likely to occur.

This Court should find that the Respondent’s ability to only remove approximately two people per month to Laos over the last ten months coupled with the fact that Respondents have not received a response on their request for a travel

document for Respondent, do not provide a sufficient basis to find that Petitioner's removal is significantly likely to occur. Therefore, Respondents have failed to show that the revocation of Petitioner's Order of Supervision is lawful.

Dated: January 12, 2025

Respectfully submitted,

s/ Maria Miller

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