

ENTERED

January 15, 2026

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SOPHATH PHAO, Petitioner,	§ CIVIL ACTION NUMBER § 4:25-cv-06251 § § §
versus	§ JUDGE CHARLES ESKRIDGE § §
KRISTI NOEM, <i>et al</i> , Respondents.	§ §

ORDER

Petitioner Sophath Phao filed a *pro se* petition for writ of *habeas corpus* on December 22, 2025. Dkt 1. He hasn't paid the filing fee applicable to such petitions.

He asserts that his current detention under 8 USC §1225(b) is unlawful and that he should instead be detained, if at all, under 8 USC §1226(a), which may entitle him to a bond hearing or release under an order of supervision. Id at ¶13.

Construed liberally, the petition alleges violations of (i) 8 USC §1226, and (ii) the Due Process Clause of the Fifth Amendment. Ibid. Among other relief, Petitioner seeks a writ of *habeas corpus* directing Respondents to immediately release him. Id at ¶15.

To the extent Petitioner requests immediate release prior to service of Respondents, it is DENIED.

The undersigned has previously determined that the Government may properly apply 8 USC §1225(b)(2)(A) in these circumstances. See *Montoya Cabanas v Bondi*, 2025 WL 3171331 (SD Tex); *Maceda Jimenez v Thompson*, 2025 WL 3265493 (SD Tex). Such determination would appear to dispose of all contentions in the petition, absent

distinguishing facts or other legal authority that causes reconsideration.

That said, and even though not requested, Petitioner is entitled to a show-cause order pursuant to 28 USC §2243.

Respondents are thus ORDERED to show cause with a filing that establishes the propriety of Petitioner's continued detention. Such filing must be made by January 23, 2026, absent extension.

Petitioner may file any reply by January 30, 2026.


Petitioner is also ORDERED to either pay the \$5 filing fee for a *habeas corpus* action or file a properly supported motion to proceed *in forma pauperis* by February 2, 2026. A blank motion to proceed *in forma pauperis* is attached to this Order for Petitioner's use.

Hearing will be set if determined necessary after briefing closes and after Petitioner complies with the payment requirements set forth above.

It is ORDERED that the Clerk will email this order to USATXS.CivilNotice@usdoj.gov to provide notice of this action to Respondents. Such service doesn't substitute for the requirements of formal service but is instead intended only to provide the Government notice and an opportunity to be heard at this initial juncture.

SO ORDERED.

Signed on January 15, 2026, at Houston, Texas.



Honorable Charles Eskridge
United States District Judge

AO 240 (Rev. 07/10) Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form)

UNITED STATES DISTRICT COURT
for the

Plaintiff/Petitioner
v.
Defendant/Respondent
Civil Action No.

APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS
(Short Form)

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested.

In support of this application, I answer the following questions under penalty of perjury:

1. If incarcerated. I am being held at:
If employed there, or have an account in the institution, I have attached to this document a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months for any institutional account in my name. I am also submitting a similar statement from any other institution where I was incarcerated during the last six months.

2. If not incarcerated. If I am employed, my employer's name and address are:

My gross pay or wages are: \$
, and my take-home pay or wages are: \$ per
(specify pay period)

3. Other Income. In the past 12 months, I have received income from the following sources (check all that apply):

- (a) Business, profession, or other self-employment
(b) Rent payments, interest, or dividends
(c) Pension, annuity, or life insurance payments
(d) Disability, or worker's compensation payments
(e) Gifts, or inheritances
(f) Any other sources

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

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4. Amount of money that I have in cash or in a checking or savings account: \$ _____ .

5. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that I own, including any item of value held in someone else's name (*describe the property and its approximate value*):

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses (*describe and provide the amount of the monthly expense*):

7. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship with each person, and how much I contribute to their support:

8. Any debts or financial obligations (*describe the amounts owed and to whom they are payable*):

Declaration: I declare under penalty of perjury that the above information is true and understand that a false statement may result in a dismissal of my claims.

Date: _____

Applicant's signature

Printed name