

Chief Magistrate Judge Theresa L. Fricke

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KAE A. SAELEE,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

Case No. 2:25-cv-02677-TLF

FEDERAL RESPONDENTS'¹
RETURN MEMORANDUM

Noted for Consideration:
January 12, 2026.

I. INTRODUCTION

This Court should deny Petitioner Kae A. Saelee's Petition for Writ of Habeas Corpus. Dkt. 1 ("Pet."). Petitioner challenges his post-order detention at the Northwest ICE Processing Center ("NWIPC") as unconstitutional and unlawful while he awaits removal from the United States. Petitioner is a citizen of Laos, he was ordered removed to Laos, and U.S. Immigration and Customs Enforcement ("ICE"), Office of Enforcement and Removal Operations ("ERO"), has determined that there is now a significant likelihood of Petitioner's removal to Laos in the foreseeable future.

¹ Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Detention Authorities and Removal Procedures

The INA governs the detention and release of noncitizens during and following their removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). The general detention periods are generally referred to as “pre-order” (meaning before the entry of a final order of removal) and, relevant here, “post-order” (meaning after the entry of a final order of removal). Compare 8 U.S.C. § 1226 (authorizing pre-order detention) with § 1231(a) (authorizing post-order detention).

When a final order of removal has been entered, a noncitizen enters a 90-day “removal period.” 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security “shall remove the [noncitizen] from the United States.” *Id.* To ensure a noncitizen’s presence for removal and to protect the community from noncitizens who may present a danger, Congress has mandated detention while removal is being effectuated:

During the removal period, the [Secretary of Homeland Security]² shall detain the [noncitizen]. Under no circumstance during the removal period shall the [Secretary] release [a noncitizen] who has been found inadmissible under section 1182(a)(2) or 1182(a)(3)(B) of this title or deportable under section 1227(a)(2) or 1227(a)(4)(B) of this title.

8 U.S.C. § 1231(a)(2).

Section 1231(a)(6) authorizes ICE to continue detention of noncitizens after the expiration of the removal period. Unlike Section 1231(a)(2), Section 1231(a)(6) does not mandate detention and does not place any temporal limit on the length of detention under that provision:

[A noncitizen] ordered removed who is inadmissible under section 1182, removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or

² Although 8 U.S.C. § 1231(a)(2) refers to the “Attorney General” as having responsibility for detaining noncitizens, the Homeland Security Act of 2002, Pub. L. No. 107-296 § 441(2), 116 Stat. 2135, 2192 (2002), transferred this authority to the Secretary of the Department of Homeland Security (“DHS”), of which ICE is a component. *See also* 6 U.S.C. § 251.

1 who has been determined by the [the Secretary of Homeland Security] to be a risk
2 to the community or unlikely to comply with the order of removal, *may* be detained
3 *beyond the removal period* and, if released, shall be subject to the terms of
4 supervision in paragraph (3).

5 8 U.S.C. § 1231(a)(6) (emphasis added).

6 During the removal period, ICE³ is charged with attempting to effect removal of a
7 noncitizen from the United States. 8 U.S.C. § 1231(a)(1). Although there is no statutory time limit
8 on detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen may be
9 detained only “for a period reasonably necessary to bring about that [noncitizen’s] removal from
10 the United States.” *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). The Supreme Court has further
11 identified six months as a presumptively reasonable time to bring about a noncitizen’s removal.
12 *Id.* at 701. The *Zadvydas* Court recognized that as the length of detention grows, a sliding scale of
13 burdens is applied to assess the continuing lawfulness of a noncitizen’s post-order detention. *Id.*
14 (stating that “for detention to remain reasonable, as the period of postremoval confinement grows,
15 what counts as the ‘reasonably foreseeable future’ conversely would have to shrink”). Thus, the
16 Supreme Court implicitly recognized that six months is the *earliest* point at which a noncitizen’s
17 detention could raise constitutional issues. *Id.*

18 **B. Petitioner Kae A. Saelee**

19 Petitioner is a native of Laos and a citizen of Laos. *See* Declaration of Wiley Brown
20 (“Brown Decl.”), ¶ 4. Petitioner last entered the United States on or about April 29, 1988, at San
21 Francisco, California as a refugee. *Id.* Petitioner never adjusted his status to a United States Citizen.
22 *Id.*

23
24 ³ Under 8 C.F.R. § 241.2(b), ICE deportation officers are delegated the Secretary of Homeland Security’s authority to execute removal orders.

1 On or about August 13, 1997, Petitioner was ordered removed to Laos by an immigration
2 judge in San Francisco, California. *Id.*, ¶ 5; *see also* Pet., ¶ 16. Petitioner never appealed this
3 decision, and he has no pending applications for relief or asylum. *Id.* On June 16, 2011, he was
4 placed on an Order of Supervision (“OSUP”) because ICE had not effected his deportation or
5 removal during the period prescribed by law. *See* Declaration of Kristen R. Vogel (“Vogel Decl.”),
6 Exh. D (OSUP).

7 On October 9, 2025, Petitioner’s file was requested by ERO Portland to complete a Travel
8 Document (“TD”) request. *Id.*, ¶ 7. On or about November 1, 2025, Petitioner was detained by
9 ERO Portland. *Id.*, ¶ 8. The Portland ERO agents went to Petitioner’s last known address where
10 he was apprehended. *Id.* Petitioner was thereafter transferred to the NWIPC on the same day. *Id.*,
11 ¶ 9. On November 3, Petitioner’s file was received at the NWIPC. *Id.*, ¶ 10. His information was
12 forwarded to the Detention and Deportation Officer (“DDO”) on December 7. *Id.*, ¶ 13.

13 III. ARGUMENT

14 A. Petitioner’s detention did not violate 8 C.F.R. 241.4(l) or 8 C.F.R. 241.13(i)(3)

15 The Department of Homeland Security provides a clear framework in 8 C.F.R. §
16 241.13(i)(2) that allows ICE to revoke an OSUP if it determines that there is a “significant
17 likelihood” an alien can be removed from the United States within the “reasonably foreseeable
18 future.” The regulations also require that “[u]pon revocation, the alien will be notified of the
19 reasons for revocation of his or her release.” *Id.* §§ 241.13(2), (3); *see also* *Nizar Esmail v. Noem*,
20 *et al.*, No. 25-cv-8325, 2025 WL 3030590, at *2 (C.D. Cal. Sept. 12, 2025). Here, ICE informed
21 Petitioner his OSUP was revoked and that he was being detained based on a determination that he
22 could be “expeditiously removed from the United States pursuant to the outstanding order of
23 removal against [him]” and that his “case is under review by Loas [sic] for the issuance of a travel
24 document.” *See* Declaration of Kristen R. Vogel (“Vogel Decl.”), Exh. A (Notice of Revocation

1 of Release). In connection with the Notice of Revocation, he also received an initial informal
2 interview. Vogel Decl., Exh. B (Alien Informal Interview).

3 Petitioner also alleges that his detention violates 8 C.F.R. § 241.4(l)(2), but his detention
4 arose from 8 C.F.R. § 241.13(i). DHS may revoke a noncitizen's OSUP "if, on account of changed
5 circumstances, [DHS] determines that there is a significant likelihood that the [noncitizen] may be
6 removed in the reasonably foreseeable future." 8 C.F.R. § 214.13(i)(2); *see also Tran v. Bondi*,
7 No. 25-2335-DGE, 2025 WL 3725677, at *3 (W.D. Wash. Dec. 24, 2025) (noting that "[8 C.F.R.]
8 § 241.4 applies to noncitizens who have been ordered removed in general, while § 241.13
9 specifically applies to noncitizens whom the government has determined 'there is no significant
10 likelihood...[that they] can be removed in the reasonably foreseeable future.'") As discussed above,
11 ICE informed Petitioner his OSUP was revoked and that he was being detained based on a
12 determination that he could be "expeditiously removed from the United States pursuant to the
13 outstanding order of removal against [him]" and that his "case is under review by Loas [sic] for
14 the issuance of a travel document." Vogel Decl., Exh. A.

15 **B. Petitioner's detention does not violate 8 U.S.C. § 1231(a)**

16 Petitioner argues that his continued detention violates 8 U.S.C. § 1231(a) because the 90-
17 day statutory removal period began and ended many years ago and no other provision of 8 U.S.C.
18 § 1231(a) justifies detention. Pet., ¶ 26. But Petitioner is removable because he was convicted of
19 two crimes involving moral turpitude not arising out of a single scheme of criminal misconduct.
20 Vogel Decl., Exh. C. As discussed in the detention authorities above, he is therefore removable
21 under 8 U.S.C. § 1227(a)(2)(A)(ii) and can lawfully be detained pursuant to 8 U.S.C. § 1231(a)(6).

22 Citing *Zadvydas*, 533 U.S. at 699, Petitioner further argues that his continued detention
23 violates 8 U.S.C. § 1231(a) because there is no likelihood of removal in the reasonably foreseeable
24 future as there is "no reason to believe that Mr. Saelee can be removed to Laos or to any other

country.” Pet., ¶ 27. However, ICE is presently removing individuals to Laos and the ERO field office has taken active and concrete steps to effect Petitioner’s removal by submitting a travel document request for Petitioner to ERO headquarters on December 7, 2025. Wiley Decl., ¶¶ 11-14.

C. Petitioner’s detention does not violate Due Process

Petitioner argues that his due process rights were violated because the government violated its own regulations and there is no legitimate purpose for his detention. As discussed above, Petitioner has been detained to effectuate his removal. Pursuant to the regulations, he was provided with notice regarding the same. Therefore, Petitioner fails to allege a due process violation.

IV. CONCLUSION

For the foregoing reasons, Federal Respondents respectfully request that this Court deny the Petition.

DATED this 6th day of January, 2026.

Respectfully submitted,

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s/ Kristen R. Vogel

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I certify that this memorandum contains 1,535 words, in compliance with the Local Civil Rules.