

DETAINED

The Honorable Theresa L. Fricke

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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

PETITIONER'S RESPONSE TO RETURN
(TRAVERSE)

NOTED FOR CONSIDERATION:
January 12, 2026

PETITIONER'S RESPONSE TO RETURN

A. The revocation of supervision was unjustified under 8 C.F.R. 241.4 or 8 C.F.R. 241.13.

On the first claim for relief, Dkt. 1, at 5, the government implicitly concedes that Mr. Saelee has not violated the terms of supervision, which might have justified his detention under 8 C.F.R. 241.4(l)(2). It denies that Mr. Saelee is detained under 8 C.F.R. 241.4(l)(2) at

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1 all, even though the Notice of Revocation cites both to that regulation and to 8 C.F.R. 241.13.
2 Dkt. 6, at 5; Dkt. 8-1, at 2. Mr. Saelee has not violated the conditions of supervision, so
3 revocation cannot be justified under 8 C.F.R. 241.4(l)(2).

4 Also, the revocation notice must include the reasons for the revocation, 8 C.F.R.
5 241.13(i)(3), which means the changed circumstances justifying revocation, 8 C.F.R.
6 241.13(i)(2). But the changed circumstances in this notice are false. The notice states that, as
7 of November 1, 2025, "Your case is under current review by Loas [sic] for the issuance of a
8 travel document." Dkt. 8-1, at 2. But Deportation Officer Wiley Brown declares, "Petitioner's
9 information was forwarded to the DDO [Detention and Deportation Officer] on December 7,
10 2025." Dkt. 7, at 3. So the case was not under review by Laos when supervision was revoked.
11 The government offers no evidence that it is under review by Laos even now, but only that it
12 was in the hands of the DDO at headquarters as of last month. Dkt. 7, at 3. This claim cannot
13 justify the revocation of supervision. And the revocation notice includes no other claim of
14 changed circumstances, so it does not give sufficient notice of the reason for the revocation.
15 Because the revocation rests only on grounds that are factually false, the detention is not
16 justified under 8 C.F.R. 241.13(i)(3).

17
18 **B. The detention is unreasonable under 8 U.S.C. 1231(a) and Zadvydas.**

19 **1. The removal period ended decades ago.**

20
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1 On the second claim for relief, the removal period ended decades ago, and the
2 government makes no argument to the contrary. It relies only on the fact that Mr. Saelee was
3 convicted of crimes involving moral turpitude in the early 1990s, which led to the removal
4 order, but it does not argue why the removal period has now restarted. Dkt. 6, at 5. The
5 removal period runs from when the removal order becomes administratively final, when a
6 court enters a final order, or when a detained person is released from non-immigration
7 detention (such as a criminal sentence). 8 U.S.C. § 1231(a)(1)(B). That was in 1997. Dkt. 7, at
8 2. Once the removal period runs, it does not reset. *Van Tran v. Bondi*, 2025 U.S. Dist. LEXIS
9 265787, *11 (W.D. Wash. Dec. 24, 2025). Therefore, the current detention is not within the
10 removal period.

11 Also, even if the 180-day removal period under *Zadvydas* had not yet expired, the
12 detention would still be unjustified because the 180-day removal period is only presumptively
13 reasonable. “[I]f removal is not reasonably foreseeable, the court should hold continued
14 detention unreasonable and no longer authorized by statute.” *Zadvydas*, 533 U.S. at 699-700.
15 For the reasons discussed below, removal is not reasonably foreseeable, so the detention of
16 Mr. Saelee is not reasonable, for any length of time.

17
18 **2. There is not a substantial likelihood of removal in the reasonably foreseeable**
19 **future.**
20
21

1 The government also argues that there now exists a substantial likelihood of removal in
2 the reasonably foreseeable future. Dkt. 6, at 5-6; *Zadvydas v. Davis*, 533 U.S. 678, 699
3 (2001). But this argument fails for both factual and legal reasons.

4 First, the government offers no evidence that a travel document request has been
5 submitted to Laos, even after Mr. Saelee has languished in detention for more than two
6 months. The government says with certainty only that paperwork was submitted to an official
7 at ERO headquarters on December 7, 2025. Dkt. 7, at 3. The government goes on to say “it
8 appears” that the paperwork travels “promptly” from headquarters to Laos. *Id.* It offers no
9 evidence of how long “promptly” is, and it does not even commit to a prompt transfer of
10 paperwork to Laos, only to an appearance of promptness. Nor does it say why none of this
11 was done *before* Mr. Saelee was detained instead of after.

12 Second, the government claims that Mr. Saelee “could make” a removal flight to Laos
13 this month and that he “appears to be eligible” for another flight in February. Dkt. 7, at 3. It
14 offers no evidence of the likelihood, substantial or otherwise, for the January flight, and it
15 does not explain why Mr. Saelee only “appears to be eligible” for the February flight.
16 Presumably, one eligibility factor is submission of the travel document request to Laos, and
17 the government offers no evidence that this has happened. Nor does it offer an explanation of
18 any other eligibility factors or what the likelihood is that they will be met. This is insufficient
19 evidence of a substantial likelihood of removal in the reasonably foreseeable future that can
20 justify continued detention.

1 Third, the government argues that “ICE is presently removing individuals to Laos[.]”
2 Dkt. 6, at 6. It does not say how many have been removed, nor does it say what percentage of
3 travel document requests submitted to ERO headquarters are submitted to Laos, which
4 percentage of those submitted to Laos are actually granted, or how long the process takes.
5 This is insufficient to meet its burden.

6 It appears that removals to Laos either are not happening or are limited, because on
7 December 16, 2025, the president banned Laotians from entering the United States, in part
8 because “Laos has historically failed to accept back its removable nationals.” Presidential
9 Proclamation, December 16, 2025, § 4(b).¹

10 A similar situation recently arose in *Lien Ngoc Do v. Scott*, 2025 U.S. Dist. LEXIS
11 252151, *3 (W.D. Wash. Dec. 5, 2025), concerning a Vietnamese habeas petitioner who was
12 detained under similar facts—a decades old removal order, long residence in the United
13 States, sudden detention last summer, and government claims that it was “actively working to
14 obtain a travel document to remove her to Vietnam,” it had “completed certain travel
15 documents but have not yet submitted those documents to ‘government contacts in Vietnam,’”
16 and it anticipated receiving travel documents “expeditiously.” *Id.*, at 3, 9. The government in
17 that case also submitted evidence that 154 people had recently been deported to Vietnam. *Id.*,
18 at 9. The court found no evidence that the government had submitted a travel document
19

20 ¹ Available at [https://www.whitehouse.gov/presidential-actions/2025/12/restricting-and-](https://www.whitehouse.gov/presidential-actions/2025/12/restricting-and-limiting-the-entry-of-foreign-nationals-to-protect-the-security-of-the-united-states/)
21 [limiting-the-entry-of-foreign-nationals-to-protect-the-security-of-the-united-states/](https://www.whitehouse.gov/presidential-actions/2025/12/restricting-and-limiting-the-entry-of-foreign-nationals-to-protect-the-security-of-the-united-states/).

1 request to Vietnam. *Id.*, at 8. It was also unpersuaded that “evidence of *some* increased
2 deportations is enough to establish a significant likelihood that *any* Vietnamese citizen,
3 including Petitioner, will be removed to Vietnam in the reasonably foreseeable future.” *Lien*
4 *Ngoc Do*, at 10, *quoting*, *Phong Thanh Nguyen v. Scott*, 796 F. Supp. 3d 703, 725 (W.D.
5 Wash. Aug. 21, 2025). As a result, the court found that detention was unconstitutionally
6 prolonged under *Zadvydas*. *Id.*, at 11.

7 Similarly here, the government offers no evidence that it has submitted the travel
8 document request to Laos. Nor does it offer any evidence of how many people have been
9 removed to Laos recently, and it not explain how *some* removals to Laos establish a
10 significant likelihood that *any* Laotian citizen, including Mr. Saelee, will be removed to Laos
11 in the reasonably foreseeable future.

12 Because the removal period is long past, and because the government has not shown a
13 substantial likelihood of removal in the reasonably foreseeable future, the detention is
14 prolonged under *Zadvydas* and should end.

15
16 **C. The detention violates Mr. Saelee’s Due Process rights.**

17 As to the third claim for relief, even if the government had complied with the
18 procedures in 8 C.F.R. § 241.13, those procedures would not provide sufficient protections to
19 comply with Due Process:

20 Those meager procedures do not, however, provide the process due under the
21 Fifth Amendment, which prohibits the federal government from depriving any

1 person of “life, liberty, or property, without due process of law[.]”...[T]he
2 government action at issue here is at the core of the liberty protected by the Due
Process Clause....

3 *Khim v. Bondi*, 2025 U.S. Dist. LEXIS 261018, *10-11 (W.D. Wash. December 17, 2025);
4 Dkt. 1, at 8. Because the government has not complied even with the “meager procedures” of
5 the regulation, *a fortiori* it is also in violation of the greater requirements of Due Process.
6

7 **1. Mathews applies in this context.**

8 *Mathews v. Eldridge*, 424 U.S. 319 (1976), sets out the applicable test for assessing
9 whether the government has violated Due Process. Although the Ninth Circuit has not yet
10 decided whether *Mathews* applies in an immigration context, it has assumed it does.
11 *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1207 (9th Cir. 2022). Most other circuits have
12 found that the *Mathews* test applies in an immigration context. *Pinchi v. Noem*, 792 F. Supp.
13 3d 1025, 1033 n.2 (N.D. Cal. Jul. 24, 2025) (collecting cases); *see also*, *Gayle v. Warden*
14 *Monmouth Cty. Corr. Inst.*, 12 F.4th 321, 331 (3rd Cir. 2021); *Gaye v. Lynch*, 788 F.3d 519,
15 532 (6th Cir. 2015); *Parra v. Perryman*, 172 F.3d 954, 958 (7th Cir. 1999). One circuit has
16 found that it does not apply, and the remaining circuits have not addressed the issue. *Banyee v.*
17 *Garland*, 115 F.4th 928, 933 (8th Cir. 2024) (“*Zadvydas* and *Demore* [*Demore v. Hyung Joon*
18 *Kim*, 538 U.S. 510 (2003)] have already done whatever balancing is necessary.”) Several
19 district courts in the Ninth Circuit have also applied *Mathews* in an immigration context. *See*
20 *e.g.*, *Amandeep Singh v. Albarran*, 2026 U.S. Dist. LEXIS 4335, *12 (E.D. Cal. Jan. 9, 2026);
21

2 yala v. Henkey, 2025 U.S. Dist. LEXIS 268011, *11 (Ida. Dec. 29, 2025); Momtazian v.
3 Noem, 2025 U.S. Dist. LEXIS 266022, *5 (C.D. Cal. Dec. 25, 2025); Pardeep Sharma v.
4 Casey, 2025 U.S. Dist. LEXIS 262089, *6 (S.D. Cal. Dec. 18, 2025); S-M-J v. Bostock, 2025
5 U.S. Dist. LEXIS 221108, *12 (Ore. Nov. 10, 2025); Gomez v. Doe, 2025 U.S. Dist. LEXIS
6 230946, *30 (Ariz. Oct. 31, 2025); Sequen v. Kaiser, 2025 U.S. Dist. LEXIS 181837, *14 n. 4
(N.D. Cal. Sep. 16, 2025). Mr. Saelee urges this Court to apply the *Mathews* test here.

7
8 **2. Mathews requires a pre-detention hearing.**

9 The *Mathews* test is as follows:

10 First, the private interest that will be affected by the official action; second, the
11 risk of an erroneous deprivation of such interest through the procedures used, and
12 the probable value, if any, of additional or substitute procedural safeguards; and
13 finally, the Government's interest, including the function involved and the fiscal
14 and administrative burdens that the additional or substitute procedural
15 requirement would entail.

16 *Mathews*, 424 U.S. at 335.

17 First, as to the private interest, Mr. Saelee has suffered more than two months in
18 detention, and freedom from detention is "the most elemental" of private interests. *Hamdi v.*
19 *Rumsfeld*, 542 U.S. 507, 529 (2004); see *Zadvydas*, 533 U.S. at 690. His liberty interest is
20 strengthened by the fact that the government permitted him to remain in the community for
21 more than 28 years since the removal order became final and more than 14 years since he was
placed on supervision. In that time, Mr. Saelee married and cared for his stepdaughter, gaining
a foothold and developing ties to the United States. See, *Sequen v. Kaiser*, 2025 U.S. Dist.

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1 LEXIS 181837, *12 (N.D. Cal. Sept. 16, 2025). His mother and sister are in the United States,
2 and he helps care for his in-laws. Mr. Saelee's private interest is substantial and elemental, so
3 the first *Mathews* factor favors him.

4 Second, there is a high risk of erroneous deprivation of his liberty interest, for several
5 reasons. The revocation order itself contains a material falsehood—that his case was under
6 “current review” by Laos. Dkt. 8-1, at 2. There is no evidence that Laos yet has any
7 paperwork concerning Mr. Saelee, and it is unknown when—or whether—it might eventually
8 issue travel documents. Also, Mr. Saelee has proven he is not a flight risk by presenting
9 himself for all ICE check-ins for 15 years, in addition to forming deep family and personal
10 ties in this country since entering in 1988. Whether he is a threat to community safety depends
11 on his criminal history. Mr. Saelee has no recent history, and the government has not
12 presented any older history, other than a vague reference to the convictions that led to his
13 removal proceedings in 1994. Counsel for Mr. Saelee has not yet been able to obtain his FBI
14 record. And finally, Mr. Saelee has multiple grounds for a motion to reopen, including legal
15 improprieties in his original criminal proceedings and, independently, eligibility for a waiver
16 under former 8 U.S.C. § 1182(c) (INA § 212(c)). Counsel also has information, as yet
17 unverified, that his crimes have now been vacated, or that they can no longer justify removal
18 even if they are still in effect. For all of these reasons, Mr. Saelee is at high risk of being
19 deprived of his liberty even though he is likely not removeable.

As to the third *Mathews* factor, the government has little interest in keeping Mr. Saelee detained. With no substantial likelihood of removal, his detention is only an expense to the government and an ongoing tearing of the fabric of the community to which he belongs. If Mr. Saelee is released and the government eventually determines that it can in fact remove him, it would face only a minimal burden in holding a hearing to determine the propriety of detention. Mr. Saelee has shown that he is diligent in appearing when required by the government. Therefore, all three *Mathews* factors show that by detaining Mr. Saelee, the government has violated—and continues to violate—his Due Process rights.

3. The required Due Process protections.

Mr. Saelee asks that if he is released and the government later seeks to redetain him, that a hearing be held, before detention occurs, in the Immigration Court, with adequate notice to appear and to secure counsel's appearance. He further asks that the government bear the burden to show, by clear and convincing evidence, that travel papers have been obtained, that removal will occur within three days of detention, and that Mr. Saelee is either "a risk to the community or unlikely to comply with the order of removal." 8 U.S.C. § 1231 (a)(6).

D. Conclusion.

The revocation of supervision was unjustified under any regulation and rested on a material falsehood. The detention is prolonged both because the removal period is long past

1 and because the government has not proven a substantial likelihood of removal in the
2 reasonably foreseeable future. And Due Process is violated, as the *Mathews* test shows, and is
3 further violated every day Mr. Saelee remains in detention. He asks this Court to grant the
4 relief in his petition, Dkt. 1, at 6-7, including his immediate release on the previous conditions.

5
6 I certify that this memorandum contains 2,466 words, in compliance with the Local Civil
7 Rules.

8 Dated this 12th day of January, 2026.

9 /s/ Kelly Vomacka

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