

Aurora, December 26, 2025.

Office of the Clerk
UNITED STATES DISTRICT COURT
Alfred A. Arraj Courthouse
901 19th. ST., Room A105
Denver, CO 80294

REF.: THEKNIK KHOKHWAN.
A# 213626344
PRO SE.

To whom it may concern:

I am sending this letter concerning to the Petition for a Writ of Habeas Corpus that I am submitting. Attached to this are the following documents:

1. Money Order for the amount of \$5.00 as a fee.
2. Form AO 242 Petition for a Writ of Habeas Corpus (09 pages).
3. Memorandum of Law (11 pages).
4. Order to Show Cause (2 ages).
5. Letter of Support (1 page).
6. Copy of Record of Deportable/Inadmissible Alien.
7. Order (final) of the Immigration Judge (3 pages).
8. Board (BIA) Decision (3 pages).
9. Letter of Review by ICE.

Please, let me know about any deficiencies in my application.

Sincerely



Theknik Khokhwan



PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Instructions

1. **Who Should Use This Form.** You should use this form if
 - you are a federal prisoner and you wish to challenge the way your sentence is being carried out (*for example, you claim that the Bureau of Prisons miscalculated your sentence or failed to properly award good time credits*);
 - you are in federal or state custody because of something other than a judgment of conviction (*for example, you are in pretrial detention or are awaiting extradition*); or
 - you are alleging that you are illegally detained in immigration custody.

2. **Who Should Not Use This Form.** You should not use this form if
 - you are challenging the validity of a federal judgment of conviction and sentence (*these challenges are generally raised in a motion under 28 U.S.C. § 2255*);
 - you are challenging the validity of a state judgment of conviction and sentence (*these challenges are generally raised in a petition under 28 U.S.C. § 2254*); or
 - you are challenging a final order of removal in an immigration case (*these challenges are generally raised in a petition for review directly with a United States Court of Appeals*).

3. **Preparing the Petition.** The petition must be typed or neatly written, and you must sign and date it under penalty of perjury. **A false statement may lead to prosecution.**

4. **Answer all the questions.** You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit any legal arguments, you must submit them in a separate memorandum. Be aware that any such memorandum may be subject to page limits set forth in the local rules of the court where you file this petition. If you attach additional pages, number the pages and identify which section of the petition is being continued. All filings must be submitted on paper sized 8½ by 11 inches. **Do not use the back of any page.**

5. **Supporting Documents.** In addition to your petition, you must send to the court a copy of the decisions you are challenging and a copy of any briefs or administrative remedy forms filed in your case.

6. **Required Filing Fee.** You must include the \$5 filing fee required by 28 U.S.C. § 1914(a). If you are unable to pay the filing fee, you must ask the court for permission to proceed in forma pauperis – that is, as a person who cannot pay the filing fee – by submitting the documents that the court requires.

7. **Submitting Documents to the Court.** Mail your petition and _____ copies to the clerk of the United States District Court for the district and division in which you are confined. For a list of districts and divisions, see 28 U.S.C. §§ 81-131. All copies must be identical to the original. Copies may be legibly handwritten.

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.

8. **Change of Address.** You must immediately notify the court in writing of any change of address. If you do not, the court may dismiss your case.

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT
for the
DISTRICT OF COLORADO

THEKNIK KHOKHWAN
Petitioner

TODD LYONS, DIRECTOR OF US ICE
MADISON SHEAHAN, DEPUTY DIRECTOR OF U.S. ICE
JUAN BALTAZAR, DIRECTOR OF GEO AURORA DET. CENT.
Respondent
(name of warden or authorized person having custody of petitioner)

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

JAN 02 2026

Case No. JEFFREY P. COLWELL
(Supplied by Clerk of Court)
CLERK

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

- 1. (a) Your full name: THEKNIK KHOKHWAN.
(b) Other names you have used: NONE
2. Place of confinement:
(a) Name of institution: AURORA DETENTION CENTER
(b) Address: 3130 N. OAKLAND STREET, AURORA CO 80010
(c) Your identification number: [REDACTED]
3. Are you currently being held on orders by:
[X] Federal authorities [] State authorities [] Other - explain: ICE DETENTION FACILITY
4. Are you currently:
[] A pretrial detainee (waiting for trial on criminal charges)
[] Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you:
(b) Docket number of criminal case:
(c) Date of sentencing:
[X] Being held on an immigration charge
[] Other (explain):

Decision or Action You Are Challenging

- 5. What are you challenging in this petition:
[] How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

- Pretrial detention
- Immigration detention
- Detainer
- The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- Disciplinary proceedings
- Other (explain): _____

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: U.S ICE - AURORA DETENTION CENTER

(b) Docket number, case number, or opinion number: REVIEW OF CUSTODY STATUS DETERMINATION

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
ICE WILL NOT RELEASES ME FROM ITS CUSTODY.

(d) Date of the decision or action: 10/15/2025

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

- Yes
- No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

N/A

(b) If you answered "No," explain why you did not appeal:

THIS PETITION OF HABEAS CORPUS IS MY FIRST LEGAL ACTION

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

- Yes
- No

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

N/A

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

N/A

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes No

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If "Yes," provide:

- (1) Name of court: _____
 - (2) Case number: _____
 - (3) Date of filing: _____
 - (4) Result: _____
 - (5) Date of result: _____
 - (6) Issues raised: _____
- N/A

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

Yes No

If "Yes," provide:

- (1) Name of court: _____
 - (2) Case number: _____
 - (3) Date of filing: _____
 - (4) Result: _____
 - (5) Date of result: _____
 - (6) Issues raised: _____
- N/A

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence:

N/A

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

Yes No

If "Yes," provide:

- (a) Date you were taken into immigration custody: 06/06/2024
- (b) Date of the removal or reinstatement order: 01/16/2025
- (c) Did you file an appeal with the Board of Immigration Appeals?

Yes No

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If "Yes," provide:

- (1) Date of filing: 01/30/25
- (2) Case number: A 213-626-344
- (3) Result: THE BOARD AFFIRMS THE DECISION OF THE COURT.
- (4) Date of result: 06/04/2025
- (5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

- Yes
- No

If "Yes," provide:

- (1) Name of court: _____
- (2) Date of filing: _____
- (3) Case number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: N/A

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

- Yes
- No

If "Yes," provide:

- (a) Kind of petition, motion, or application: _____
- (b) Name of the authority, agency, or court: N/A
- (c) Date of filing: _____
- (d) Docket number, case number, or opinion number: _____
- (e) Result: _____
- (f) Date of result: _____
- (g) Issues raised: _____

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: VIOLATION OF 8 U.S.C. § 1231(a)(6)

(a) Supporting facts (Be brief. Do not cite cases or law.):

I HAVE BEEN DETAINED BY ICE BEYOND THE REMOVAL PERIOD AUTHORIZED BY STATUTE. ICE IS NOT LIKELY TO REMOVE ME IN THE NEAR FUTURE. SEE ATTACHED MEMORANDUM WITH ADDITIONAL SPECIFIC FACTS. QUESTION (b) BELOW IS NOT APPLICABLE.

(b) Did you present Ground One in all appeals that were available to you?

Yes No

GROUND TWO: VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION.

(a) Supporting facts (Be brief. Do not cite cases or law.):

ICE IS DEPRIVING ME OF MY RIGHT TO LIBERTY. I HAVE BEEN DETAINED BY ICE FOR A PROLONGED PERIOD (OVER 180 DAYS). SEE ATTACHED MEMORANDUM WITH ADDITIONAL SPECIFIC FACTS. QUESTION (b) BELOW IS NOT APPLICABLE.

(b) Did you present Ground Two in all appeals that were available to you?

Yes No

GROUND THREE:

(a) Supporting facts (Be brief. Do not cite cases or law.):

(b) Did you present Ground Three in all appeals that were available to you?

Yes No

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GROUND FOUR:

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

(b) Did you present Ground Four in all appeals that were available to you?

Yes No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: THIS IS NOT APPLICABLE TO THIS MATTER.

Request for Relief

15. State exactly what you want the court to do: I REQUEST TO THE COURT TO ORDER MY IMMEDIATE RELEASE FROM ICE CUSTODY

**MEMORANDUM OF LAW IN SUPPORT OF PETITION OF WRIT OF HABEAS
CORPUS PURSUANT TO 28 U.S.C. § 2241**

Name: THEKNIK KHOKHWAN

Alien Registration No. 

Pro Se Petitioner-Detained

Detention Center: AURORA DETENTION CENTER

Address: 3130 N. OAKLAND STREET., A3-110

AURORA, CO 80010

INTRODUCTION

1. Petitioner, THEKNIK KHOKHWAN petitions this Court for a Writ of Habeas Corpus to remedy Petitioner's indefinite detention by Respondents. Petitioner submits this Memorandum of Law in Support of the Petition for a Writ of Habeas Corpus.
2. As the Supreme Court held in *Zadvydas v. Davis*, 533 U.S. 678 (2001), noncitizens cannot be detained indefinitely if the government is unable to carry out their removal. Instead, detention after a final order of removal is authorized only when removal is reasonably foreseeable. As a guide to courts, the Court in *Zadvydas* established a presumption that detention after a final order of removal was permissible for six months. Detention after a final order may be unlawful even when six months have not passed, particularly if it is clear that the United States will not be able to effect a noncitizens's removal. But after that six months period, once a noncitizen provides "good reason to believe that there is not significant likelihood of removal in he reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." And the longer a noncitizen has been detained, the stronger the government's showing must be.
3. Petitioner is entitled to release under the framework of *Zadvydas* unless the government promptly demonstrate that there is a significant likelihood of removal in the reasonably foreseeable future.
4. Petitioner respectfully request that the Court use its authority under 28 U.S.C. § 2243 To order the Respondents to file a return within three days, unless they can show good cause

for additional time. See 20 U.S.C. § 2243 (stating that an Order to Show Cause why a petition for a Writ of Habeas Corpus should be denied is returnable “within three days unless for good cause additional time, not exceeding twenty days, is allowed”).

5. In order to permit full judicial review of the claim herein and requested relief, Petitioner respectfully requests that the Court orders Respondents not to transfer Petitioner outside the jurisdiction of this Court pending considerations of this petition.

STATEMENTS OF FACTS

6. Petitioner was born in: THAILAND.
7. Petitioner entered the United States on or about: 10/21/2010.
8. An Immigration Judge ordered Petitioner removed from the United States on or about: 06/06/24.
9. Regarding Appeals: FOLLOWING THE ENTRY OF THE FINAL ORDER OF REMOVAL, PETITIONER APPEALED TO THE BOARD OF IMMIGRATION APPEALS (BIA), THE BIA DENIED PETITION'S APPEAL ON 06/04/2025.
10. Petitioner has cooperated fully with all of ICE's efforts to remove Petitioner. Petitioner has cooperated with ICE in the following ways: PETITIONER HAS COOPERATED WITH ICE BY PROVIDING INFORMATION ABOUT PETITIONER'S COUNTRY OF BIRTH AND COUNTRY OF CITIZENSHIP.
PETITIONER HAS COOPERATED WITH ICE BY PROVIDING FINGERPRINTS, AND OTHER IDENTIFICATION DOCUMENTS.

11. Nonetheless, ICE has been unable to remove Petitioner from the United States. ICE is unlikely to remove Petitioner in the reasonably foreseeable future because: _____

PETITIONER HAS NOT A PASSPORT AND SINCE HE IS UNDER CUSTODY, HE DID NOT CONTACT TO HIS COUNTRY CONSULATE TO GET A NEW ONE BECAUSE THE IMPRISONMENT, ICE DID NOT EFFORT TO GET A TRAVEL DOCUMENT TO THE PETITIONER.

12. Regarding Petitioner Detention: _____

PETITIONER HAS BEEN DETAINED OVER 18 MONTHS SINCE ICE ARRESTED HIM.

13. If release, Petitioner will be supported by family and friends in the United States. In particular: By LAMPHAY VONGSAHITH, WHO IS AMERICAN CITIZEN AND

RESIDES AT: [REDACTED], DENVER CO 80249. ALSO A

JOB OFFER IS WAITING FOR HIM AT: KAY AUTOTRANSPORT (SAME ADDRESS)

PHONE NUMBER [REDACTED]

ARGUMENT

14. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA") §§ 101-507, 8 U.S.C. § 1101-1537, amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009-1570.

15. This Court has jurisdiction under 28 U.S.C. § 2241, The Suspension Clause, U.S. Const. Art. 1 § 9, cl 2, and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of the authority of the United States, and Petitioner's custody is in violation of the Constitution, laws, or treaties of the United States. *See Zadvydas*, 566 U.S. 678. This Court may grant relief under 28 U.S.C. § 2241 (Habeas Corpus), 5 U.S.C. § 702 (establishing the right of review for a person suffering a legal wrong due to agency action), and 28 U.S.C. § 1651 (All Writs Act).
16. The Due Process Clause applies to all persons in the United States, "whether their presence here is lawful, unlawful, temporary or permanent." *Zadvydas*, 533 U.S. at 693. In *Zadvydas*, the Supreme Court emphasized, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical lies at the heart of the liberty that [the Due Process] Clause protects." 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). The Court noted, "[a] statute permitting indefinite detention of an alien would raise a serious constitutional problem," *Id.*; *see also Plyer v. Doe*, 457 U.S. 202, 210 (1982) ("Aliens, even aliens whose presence in this country is unlawful, have long been recognized as "persons" guaranteed due process of law by the Fifth and Fourteenth Amendments").
17. Under 8 U.S.C. § 1231(a)(2), noncitizens subject to final orders of removal "shall" be detained during the first 90 days—the "removal period"—and they "shall" be removed during that period under § 1231(a)(1). Under 8 U.S.C. § 1231(a)(6), the government "may" continue detention beyond the 90-days removal period if a noncitizen falls within certain broad categories of removability or is determined "to be a risk to the community or unlikely to comply with the order of removal." 8 U.S.C. § 1231(a)(6).

18. In *Zadvydas*, the Supreme Court construed 8 U.S.C. § 1231(a)(6) to authorize detention only where it is significantly likely that removal will occur in the reasonably foreseeable future, in order to avoid the serious due process concerns that would be presented by permitting detention for an indefinite period of time. *Zadvydas*, 533 U.S. at CITE. After a noncitizen meets his or her initial burden to show that no such likelihood of removal exists, the burden shifts to the government to “respond with evidence sufficient to rebut [the alien] showing,” *Id.* At 701.
19. Courts have rejected conclusory claims by ICE agents which claim, without submitting concrete factual information about scheduled flights or repatriation agreements, that removal is imminent. “[A] theoretical possibility of eventually being removed does not satisfy the government’s burden once the removal period has expired and the petitioner establishes good reason to believe his removal is not significantly likely in the reasonably foreseeable future.” *Balza v. Barr*, No. 6:20-CV-00866, 2020 WL 6143643, at *5 (W.D. La. Sept. 17, 2020) (internal quotation and citation omitted). “[I]f [ICE] has no idea of when it might reasonably expect [Petitioner] to be repatriated, [a] Court certainly cannot conclude that [a] removal is likely to occur—or even that it might occur—in the reasonably foreseeable future.” *Id.* at *5 (internal quotation marks and citation omitted). See also, *Gomez Barco v. Witte*, No. 6:20-CV-00497, 2020 WL 7393786 (W.D. La. Dec. 16, 2020) (ordering release of a petitioner who was detained longer than six months because ICE had not be able to secure necessary travel document, noting that the ICE officer “clearly has no factual basis for his ‘belief’ that there is not foreseeable impediment of Petitioner’s removal or that her removal is imminent,” and that there was not foundation for the “expectation” that the COVID-19 related travel restrictions in place would soon be lifted); *Balza v. Barr*, No. 6:20-CV-00866, 2020 WL 6064881 (W.D. La.

Oct. 14, 2020) (same).¹ In granting Ms. Balza's release, the Court considered and rejected a conclusory declaration by a local ICE Assistant Field Officer that removal was imminent. *Id.* at *5. In *Alexis v. Smith*, the Petitioner, Mr. Alexis, had been in detention for almost a year and subject to a removal order for over a year. An ICE official testified to an informal agreement that permitted removals but acknowledged that there were far fewer removals to Haiti in the aftermath of the 2010 hurricane. The Haitian government had an issue with identity documents and it was unknown when that would be resolved. The magistrate did not credit ICE's vague statements that it was "endeavoring to rectify the issue" and conclude there was no end in sight for detention, and recommended release. The District Court Judge agreed and ordered release. ICE then released Mr. Alexis on an Order of Supervised release and moved to get the judgment vacated on mootness, which it was. However, this does not invalidate the reasoning and conclusions of the Magistrate Judge and District Court Judge on this subject, and this case is still informative and persuasive to the body of law on this subject. *Alexis v. Smith*, No. CIV.A. 11-0309, 2011 WL 3924247 (W.D. La. Aug. 3, 2011) report and recommendations adopted, No. CIV.A. 11-0309, 2011 WL 3954945 (W.D. La. Sept. 6, 2011), vacated, No. CV 11-0309, 2011 WL 13386020 (W.D. La. Sept. 15, 2011).

20. Courts in this Districts have—pursuant to *Zadvydas*—released individuals who have been detained for over six months. *See, e.g. Gomez Barco*, 2020 WL 7393786 (ordering released of an immigrant detained who was a native and citizen of Venezuela who was

¹ Other districts courts in the Fifth Circuit and Elsewhere have similarly granted Habeas relief when the noncitizen has shown that there is no significant likelihood of removal in the reasonably foreseeable future. *See, e.g., Carreno v. Gillis*, No. 5:20-cv-44-KS-MTP, 2020 WL 8366735 (S.D. Miss. Dec. 16, 2020) (granting habeas relief to petitioner detained for approximately sixteen months due to a lack of diplomatic relations with Venezuela); *Ali v. Dep't of Homeland Sec.*, 451 F. Supp. 3D 703 (S.D. Tex. 2020) (granting habeas relief to petitioner initially detained for three years, released and detained again for four months when petitioner could not be removed due to travel restrictions to Pakistan); *Saharifi v. Gillis*, No. 5:20-cv-5-DCB-MTP, 2020 WL 7379211 (S.D. Miss. Oct. 9, 2020) (granting habeas relief to petitioner detained for seventeen months after Iranian officials failed to respond a travel document request for more than seven months).

detained longer than six month because ICE had not been able to secure necessary travel documents); *Balza*, 2020 WL 6143643, at *5 (ordering release of petitioner and nothing that “[a]fter more than a year of detention, Petitioner’s removal need not necessarily be imminent, but it cannot be speculative”) (internal quotation marks omitted).

21. Under *Zadvydass*, courts have found that there is no significant likelihood of removal and granted relief where:

- No country will accept the petitioner. *See, e.g. Jabir v. Ashcroft*, No. 03-2480, 2004 WL 60318 (E.D. La. Jan. 8, 2004) (granting habeas relief to petitioner detained for more than fourteen months after numerous countries refused to repatriate the petitioner).²
- The Petitioner’s country of origin refuses to issue a travel document, *See. e.g., Alexis v. Smith*, No. 11-0309, 2011 WL 3924247 (W.D. La. Aug. 3, 2011) (granting habeas release to petitioner detained for approximately one year due to the Haitian government rejecting the quality of identity documents provided); *Fermine v. Dir. Of Immigr. Custom Enf’t*, No. 2:06-cv-1578, 2007 WL 2284606 (W.D. La. May 23, 2007) (granting habeas relief to petitioner detained for fifteen months due to Trinidad’s refusal to issue travel documents); *Lijadu v. Gonzales*, No. 06-1208, 2006 WL 3933850 (W.D. La. Dec. 18, 2006) (granting habeas relief to petitioner detained nineteen months because Nigeria refused to issue travel documents due to petitioner’s HIV status).³

² *See also Hassoun v. Sessions*, No. 18-CV-586-FPG, 2019 WL 78984, at *4 (W.D.N.Y. Jan. 2, 2019) (ordering release of petitioner detained fourteen months after petitioner showed “that the countries with he has any affiliation will not accept him”), *Yusupov v. Love*, No. 4:CV-06-1804, 2007 WL 5063231 (M.D. Pa. Jan. 12, 2007); *Abel-Muhti v. Ashcroft*, 314 F. Supp. 2d 418 (M.D. Pa. 2004) (ordering release of petitioner detained approximately two years after refusal of several countries to accept petitioner).

³ *See also Ka v. Bureau of Immigr. & Custom Enf’t*, No. B-07-197, 2008 WL 11462867, at *8 (S.D. Tex. June 24, 2008) (ordering release of petitioner detained twelve months after Senegal “refuses to issue Ka a travel document because he d[id] not have proper identity documentation”); *Moreira v. Gonzales*, No. CIVA CV05-588 A, 2006 WL 3861972 (W.D. La. Nov. 2, 2006) (granting habeas relief to petitioner detained for three years because Cape Verde advised that it would not accept the petitioner for repatriation); *Khan v. Gonzales*, 481 F. Supp. 2d 638 (W.D. Tex. 2006).

- There is not removal agreement between the United States and a country. In this scenarios, courts have found that the lack of a normal agreement regarding repatriation, lack of diplomatic relationship, and lack of a functioning government support a finding that there is no significant likelihood of removal. *See, e.g. Negusse v. Gonzales*, No. 06-1382, 2007 WL 708615 (W.D. La. Mar. 1, 2007) (granting habeas relief to petitioner detained for approximately one year because the United States did not have a repatriation agreement with Ethiopia and Ethiopia would not issue travel documents because one of the petitioner's parents was not Ethiopian).⁴
- There is either no response from a country designated for removal or a significant delay in receiving a response. *See. e. g., Gonzales-Rondon v. Gillis*, 5:19-cv-109-DCB-MTP, 2020 WL 3428983 (S.D. Miss. June 23, 2020) (granting habeas relief to petitioner detained thirteen months where there was no response from Venezuelan officials).⁵
- ICE fails to take action to secure travel documents for a prolonged period. *See, e.g. Senior*, 401 F. Supp. 3d at 430-31 (granting habeas relief after ICE initially requested travel documents but where “there [wa]s no identification from the record that anyone ha[d] taken

⁴ *See also Gomez Barco*, 2020 WL 7393786, *Islam v. Kane*, No. CV-11-515-PHX-PGR (LOA), 2011 WL 4374226, at *3 (D. Ariz. Aug. 30, 2011) (ordering release of petitioner detained ten months where petitioner presented evidence that Bangladesh “is one of fifteen countries identified by ICE as least likely to issue travel documents”); *Carreno*, 2020 WL 8366735, *Simoza Rangel v. Gillis*, No. 5:19-cv-118-DCB-MTP, 2020 WL 7223258 (S.D. Miss. Sept. 2, 2020) (granting habeas relief to petitioner detained for sixteen months due to lack of diplomatic relation with Venezuela); *Abduelle v. Gonzales*, 422 F. Supp. 2d 774 (W.D. Tex. 2006) (concluding that the petitioner met the burden to show removal was not reasonably foreseeable after being detained for more than one year when an injunction restricted the government’s ability to remove the petitioner to Somalia).

⁵ *See also Sharif*, 2020 WL 7379211; *Aung v. Barr*, No. 20-CV-681-LJV, 2020 WL4581465 (W.D.N.Y. Aug. 10, 2020); *Edwards v. Barr*, No. 4:20cv350-WS-MAF, 2020 WL 6747737 (N.D. Fla. Oct. 14, 2020); *Rual v. Barr*, No. 6:20-CV-06215 EAW, 2020 WL 3972319 (W.D.N.Y. July 14, 2020); *Rodriguez Del Rio v. Price*, No. EP-20-CV-00217-FM, 2020 WL 7680560 (W.D. Tex. Nov. 3, 2020); *Singh v. Whitaker*, 362 F. Supp. 3d 93 (W.D.N.Y. 2019); *Butt v. Holder*, No. CA 08-0672-CG-C, 2009 WL 1035354 (S.D. Ala. Mar. 19, 2009) (holding that petitioner met his initial burden where he was held in ICE custody for more than ten months after the issuance of his removal order with no indication from the Pakistan Embassy that travel documents would be issued); *Lawrikov v. Kollus*, No. CV-08-1403-PHX-GMS (LOA), 2009 WL 2905549 (D. Ariz. July 27, 2009); *Reid v. Crawford*, No. 06-02436 PHX-JWS (MEA), 2007 WL 1063413 (D. Ariz. Jan. 31, 2007); *Gui v. Ridge*, No. 3CV031965, 2004 WL 1920719 (M.D. Pa. Aug. 13, 2004); *Shefqet v. Ashcroft*, No. 02C 7737, 2003 WL 1964290 (N.D. III. Apr. 28, 2003).

any further action in the eight months since that time. . .to facilitate Senor's receipt of the necessary travel documents").⁶

22. As the length of detention grows, the period of time that would be considered the "reasonably foreseeable future" shrinks. *See e.g., Zadvydas*, 533 U.S. at 701 (stating that as the length of time in detention grows "what counts as the 'reasonably foreseeable future' conversely would be to shrink"); *Senor*, 401 F. Supp. 3d at 430 ("[T]he passage of time combined with 'the' government [being] no closer to . . . repatriating [a detainee] than they were once they first took him into custody' [is] sufficient to meet that 'initial burden.'"); *Lawrikow*, 2009 WL 2905549, at *12.
23. Petitioner's continued detention is unlawful, and petitioner is unlikely to be removed in the reasonably foreseeable future. Therefore, Petitioner's detention violates the statute and s/he is entitled to immediate release.
24. Petitioner's detention also violates the Due Process Clause. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. Amend. V. "Freedom from imprisonment—from government custody, detention or other form of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). Civil immigration detention violates due process if it is not reasonably related to its statutory purpose. *See, id.* (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risk of flight and prevent danger to the community. *Id.* Petitioner's prolonged civil detention, which has lasted well beyond the end of the removal period, and


⁶ *See also Chun Yat Ma v. Asher*, No. C11-1797 MJP, 2012 WL 1432229, at *4 (W.D. Wash. Apr. 25, 2012) (ordering petitioner's release where the government failed "to provide any documentation of efforts. . . to effectuate removal . . . [for] nearly six months").

which is likely to continue indefinitely, is no longer reasonably related to the primary statutory purpose of ensuring imminent removal. Thus, Petitioner's detention violates Petitioner's right to due process.

CONCLUSION

25. In conclusion, Petitioner's indefinite detention violates the detention statute and is unconstitutional. Petitioner respectfully requests that this Court order Respondents to show cause why should not be granted "within three days unless for good cause additional time, not exceeding twenty days, is allowed," and set a hearing on this Petition within five days of the return, pursuant to 28 U.S.C. § 2243 and grant the Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from their custody.

Respectfully submitted.

Signature: 

Name: THEKNIK KHOKHWAN

A-Number: 

Detention Center: AUROPA DETENTION CENTER (GEO)

To Whom It May Concern:




I Lamphay Vongsarith
DL No. [REDACTED], residing in
Denver CO 80249
declare under oath that I am supporting
to Theknik Khokhwan as a
sponsor. Such person is my
relative who is going to live in
the address named above, and
helping him to find a job to
be provided by himself.

Sincerely
Lamphay Vongsarith
12-19-25

U.S. Department of Homeland Security

Subject ID : 394332219

Record of Deportable/Inadmissible Alien

Family Name (CAPS) KHOKHWAN, THEKNIK		First	Middle	Sex M	Hair BLK	Eyes BRO	Complexion YEL
Country of Citizenship THAILAND	Passport Number and Country of Issue	File Number		Height 61	Weight 130	Occupation Cook	
U.S. Address COLORADO, 81416				Scars and Marks See Narrative			
Date, Place, Time, and Manner of Last Entry 12/21/2010, LAX, B2 - Visitor For Pleasure			Passenger Boarded at		F.B.I. Number See Narrative		
Number, Street, City, Province (State) and Country of Permanent Residence 178/10 UDON THANI, THAILAND				<input type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Married <input type="checkbox"/> Widower <input type="checkbox"/> Separated			
Date of Birth 02/14/1971	Age: 53	Date of Action 06/06/2024	Location Code GJC/DEN	Method of Location/Apprehension CLC NA			
City, Province (State) and Country of Birth Udon Thani, THAILAND		AR <input checked="" type="checkbox"/>	Firm (Type and No.) Lited <input type="checkbox"/> Not Lited <input type="checkbox"/>	AvNear See I-831	Date/Hour 06/06/2024 16:15		
NIV Issuing Post and NIV Number		Social Security Account Name		By See Narrative			
Date Visa Issued		Social Security Number		Status at Entry		Status When Found	
Immigration Record POSITIVE - See Narrative				Criminal Record See Narrative			
Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate)				Number and Nationality of Minor Children None			
Father's Name, Nationality, and Address, if Known PHAISAN PHAN, CHARN NATIONALITY: THAILAND ADDRESS: 178/10, Udon Thani, THAILAND		Mother's Present and Maiden Names, Nationality, and Address, if Known PHAISAN PHAN, MUOY NATIONALITY: THAILAND ADDRESS: 178/10, Udon Thani, THAILAND					
Monies Due/Property in U.S. Not in Immediate Possession None Claimed		Fingerprinted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Systems Checks See Narrative	Charge Code Word(s) See Narrative			
Name and Address of (Last/Current) U.S. Employer See Narrative		Type of Employment Employee	Salary	Employed from/to Hr			
Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.) FIN: See Narrative Left Index fingerprint Right Index fingerprint							
							
							
SCARS MARKS AND TATTOOS TATTOO HAND, LEFT - Scorpion near thumb							
Subject Health Status The subject claims good health.							
Current Administrative Charges ... (CONTINUED ON I-831)							
Alien has been advised of communication privileges 6-6-24 JPA (Date/Initials)				J. 05828 NICKOLBS DO (Signature and Title of Immigration Officer)			
Distribution				Received: (Subject and Document) (Report of Interview)			
T File				Officer: J. 05828 NICKOLBS			
DCDF				on June 6, 2024 (date)			
				Disposition: Warrant of Arrest/Notice to Appear			
				Examinee Officer: SALAZAR, B. 7822 BENNIE K SALAZAR <small>Digitally signed by BENNIE K SALAZAR Date: 2024.06.06 17:14:54 -0500</small>			



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
AURORA IMMIGRATION COURT

Respondent Name:

KHOKHWAN, THEKNIK

To:

KHOKHWAN, THEKNIK
3130 N. OAKLAND STREET
AURORA, CO 80010

A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

01/16/2025

ORDER OF THE IMMIGRATION JUDGE

- This is a summary of the oral decision entered on 01/16/2025. The oral decision in this case is the official opinion, and the immigration court issued this summary for the convenience of the parties.
- Both parties waived the issuance of a formal oral decision in this proceeding.

I. Removability

The immigration court found Respondent removable inadmissible under the following Section(s) of the Immigration and Nationality Act (INA or Act): 237(a)(1)(B).

The immigration court found Respondent not removable not inadmissible under the following Section(s) of the Act:

II. Applications for Relief

Respondent's application for:

A. Asylum/Withholding/Convention Against Torture

- Asylum was granted denied withdrawn with prejudice withdrawn without prejudice
- Withholding of Removal under INA § 241(b)(3) was granted denied withdrawn with prejudice withdrawn without prejudice
- Withholding of Removal under the Convention Against Torture was granted denied withdrawn with prejudice withdrawn without prejudice
- Deferral of Removal under the Convention Against Torture was granted denied withdrawn with prejudice withdrawn without prejudice
- Respondent knowingly filed a frivolous application for asylum after notice of the consequences. *See* INA § 208(d)(6); 8 C.F.R. §1208.20

B. Cancellation of Removal

- Cancellation of Removal for Lawful Permanent Residents under INA § 240A(a) was granted denied withdrawn with prejudice withdrawn without prejudice
 - Cancellation of Removal for Nonpermanent Residents under INA § 240A(b)(1) was granted denied withdrawn with prejudice withdrawn without prejudice
 - Special Rule Cancellation of Removal under INA § 240A(b)(2) was granted denied withdrawn with prejudice withdrawn without prejudice
- C. Waiver
- A waiver under INA § was granted denied withdrawn with prejudice withdrawn without prejudice
- D. Adjustment of Status
- Adjustment of Status under INA § was granted denied withdrawn with prejudice withdrawn without prejudice
- E. Other

III. Voluntary Departure

- Respondent's application for pre-conclusion voluntary departure under INA § 240B(a) post-conclusion voluntary departure under INA § 240B(b) was denied.
- Respondent's application for pre-conclusion voluntary departure under INA § 240B(a) post-conclusion voluntary departure under INA § 240B(b) was granted, and Respondent is ordered to depart by . The respondent must post a \$ bond with DHS within five business days of this order. Failure to post the bond as required or to depart by the required date will result in an alternate order of removal to taking effect immediately.
- The respondent is subject to the following conditions to ensure his or her timely departure from the United States:
 - Further information regarding voluntary departure has been added to the record.
 - Respondent was advised of the limitation on discretionary relief, the consequences for failure to depart as ordered, the bond posting requirements, and the consequences of filing a post-order motion to reopen or reconsider:

If Respondent fails to voluntarily depart within the time specified or any extensions granted by the DHS, Respondent shall be subject to a civil monetary penalty as provided by relevant statute, regulation, and policy. *See* INA § 240B(d)(1). The immigration court has set

- the presumptive civil monetary penalty amount of \$3,000.00 USD
- \$ USD instead of the presumptive amount.

If Respondent fails to voluntarily depart within the time specified, the alternate order of removal shall automatically take effect, and Respondent shall be ineligible, for a period of 10 years, for voluntary departure or for relief under sections 240A, 245, 248, and 249 of the Act, to include cancellation of removal, adjustment of status, registry, or change of



Immigration Judge: KAUFMAN, MATTHEW 01/16/2025

Appeal: Department of Homeland Security: waived reserved
Respondent: waived reserved


Appeal Due: 02/18/2025

Certificate of Service

This document was served:

Via: Mail | Personal Service | Electronic Service | Address Unavailable

To: Noncitizen | Noncitizen c/o custodial officer | Noncitizen's atty/rep. | DHS

Respondent Name : KHOKHWAN, THEKNIK | A-Number : 

Riders:

Date: 01/17/2025 By: GUTHRIE, KIMBERLY, Court Staff



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*



*5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041*

KHOKHWAN, THEKNIK
A [REDACTED]
DHS / ICE / GEO
3130 N. OAKLAND ST., A3-110
AURORA CO 80010

DHS/ICE Office of Chief Counsel - AUR
12445 East Caley Avenue
Centennial CO 80111-5663

Name: **KHOKHWAN, THEKNIK**

A [REDACTED]

Date of this Notice: 6/4/2025

Enclosed is a copy of the Board's decision in the above-referenced case. If the attached decision orders that you be removed from the United States or affirms an Immigration Judge's decision ordering that you be removed, any petition for review of the attached decision must be filed with and received by the appropriate court of appeals within 30 days of the date of this decision.

Sincerely,

John Seiler
Acting Chief Clerk

Enclosure

User team: Docket

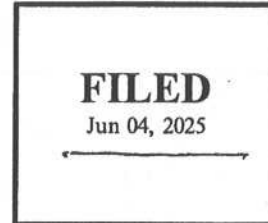
NOT FOR PUBLICATION

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

MATTER OF:

Theknik KHOKHWAN, A 

Respondent



ON BEHALF OF RESPONDENT: Pro se

IN REMOVAL PROCEEDINGS
On Appeal from a Decision of the Immigration Court, Aurora, CO

Before: O'Connor, Appellate Immigration Judge

O'CONNOR, Appellate Immigration Judge

ORDER:

The Board affirms, without opinion, the result of the decision below. The decision below is, therefore, the final agency determination. *See* 8 C.F.R. § 1003.1(e)(4).

NOTICE: If a respondent is subject to a final order of removal and willfully fails or refuses to depart from the United States pursuant to the order, to make timely application in good faith for travel or other documents necessary to depart the United States, or to present himself or herself at the time and place required for removal by the Department of Homeland Security, or conspires to or takes any action designed to prevent or hamper the respondent's departure pursuant to the order of removal, the respondent shall be subject to a civil monetary penalty of up to \$998 for each day the respondent is in violation. *See* section 274D of the Immigration and Nationality Act, 8 U.S.C. § 1324d; 8 C.F.R. § 280.53(b)(14).

COMES NOW the Department of Homeland Security (DHS), by and through undersigned counsel, and requests that the Board of Immigration Appeals (Board) summarily affirm the decision of the Immigration Judge, pursuant to 8 C.F.R. § 1003.1(e)(4)(i) (2024).

DHS submits that the Immigration Judge reached the correct decision, such that any errors that may exist are harmless or immaterial, and that the respondent's appellate arguments are not so substantial that the case warrants the issuance of a written opinion. 8 C.F.R. § 1003.1(e)(4)(i)(B). The issues on appeal are squarely controlled by the Immigration and Nationality Act (INA) and existing Board or federal court precedent and do not involve the application of precedent to a novel factual situation. 8 C.F.R. § 1003.1(e)(4)(i)(A).

Specifically, the Immigration Judge properly found that the respondent's asylum application was not timely and that there were no extraordinary circumstances or that the application was filed in a reasonable period of time following a purported change in circumstances under the Immigration and Nationality Act. Additionally, the Immigration Judge properly determined that the respondent was not credible.

Further, the Immigration Judge correctly determined that the respondent did not meet his evidentiary burden for asylum, withholding of removal, or protection under the Convention Against Torture (CAT). The Immigration Judge properly found that the respondent did not suffer past persecution in Thailand on account of a protected ground. Further, the Immigration Judge properly found that there was no well-founded fear of future persecution. For the same reasons, the Immigration Judge correctly denied withholding of removal. Next, the Immigration Judge correctly held that the respondent did not meet his high evidentiary burden for protection under the Convention Against Torture, as the respondent could not show that it was more likely than not

A3-110

Enforcement and Removal Operations
U.S. Department of Homeland Security
12445 E. Caley Avenue
Centennial, CO 80111



U.S. Immigration
and Customs
Enforcement

Khokhwam, Theknik
C/O Denver Contract Detention Facility
3130 N. Oakland St.
Aurora, CO 80010



Notice of Failure to Comply Pursuant to 8 CFR 241.4(g)

This letter is to inform you that your custody status has been reviewed and it has been determined that you will not be released from the custody of U.S. Immigration and Customs Enforcement (ICE) at this time. This decision has been made based on your refusal to cooperate with ICE's efforts to remove you from the United States.

On _____, you stated to the Deportation Officer that you would not comply and refused to aid ICE in obtaining a travel document. Pursuant to Section 241.4 (g), if you conspire or act to prevent your removal from the United States, this statute allows for the extension of the removal period. By refusing to comply and cooperate with ICE's removal efforts, you have taken firm action to prevent your removal. The removal period is therefore suspended in your case, and it will not commence until you are fully compliant in the removal process.

You are to remain in ICE custody until you demonstrate that you are making reasonable efforts to comply with the order of removal and that you are cooperating with ICE's efforts to remove you. You are also advised that continued willful failure or refusal on your part to make timely application in good faith for travel or other documents necessary for your departure, or any conspiracy or actions to prevent your removal or obstruct the issuance of a travel document, may subject you to criminal prosecution under 8 USC Section 1253(a).

MONIQUE S FABRE Digitally signed by MONIQUE S FABRE
Date: 2025.10.15 16:03:19 -06'00'

(A)AFOD Monique Fabre

_____ Date