

Magistrate Judge Michelle L. Peterson

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

KIPOUNG SOMSANUK,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

Case No. 2:26-cv-00048-MLP

FEDERAL RESPONDENTS'¹
RETURN MEMORANDUM

Noted for Consideration:
January 26, 2026.

I. INTRODUCTION

This Court should deny Petitioner Kipoung Somsanuk'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 native and citizen of Laos who entered the United States in 1991. In 2003, Petitioner was convicted of rape in the third degree and sodomy in the third degree in Oregon. Based on these convictions, he was ordered removed to Laos in 2007, which has since become administratively final. Petitioner was later released on an Order of Supervision (OSUP)

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

1 in 2003, due to the inability to obtain travel documents to Laos at that time.

2 While released on OSUP, between 2003 and 2025, Petitioner had multiple violations of
3 his conditions of release, including at least four criminal convictions. In 2007, Petitioner was
4 again convicted of rape in Oregon. In 2020, Petitioner was convicted in Federal Court in Order
5 for being a felon in possession of a firearm. Petitioner was also convicted for failure to register as
6 a sex offender and for driving while under the influence. In 2023, Petitioner was convicted of
7 probation violations.

8 As a result, U.S. Immigration and Customs Enforcement ("ICE") took Petitioner into
9 custody on December 12, 2025. Petitioner presents no evidence to show that his re-detention does
10 not comport with substantive or due process requirements or that ICE violated any of its
11 regulations.

12 While his Petition discusses removal to a third country, Petitioner presents no evidence of
13 any intention by ICE to do so. The facts here demonstrate that ICE is actively working to complete
14 the necessary travel documents request to Laos and ICE currently has no intention of removing
15 Petitioner to a third country. As a result, any third country claim is not ripe for review.

16 Petitioner's detention is lawful. He is a noncitizen subject to an administratively final
17 order of removal, and he is lawfully detained under Section 241 of the Immigration and
18 Nationality Act ("INA"). *See* 8 U.S.C. § 1231. Petitioner's detention also is not indefinite under
19 *Zadvydas*, 533 U.S. 678 at 701. The only necessary determination ICE must make under the
20 *Zadvydas* framework is whether there is a significant likelihood of removal in the reasonably
21 foreseeable future.

22 Accordingly, Federal Respondents respectfully request the Court deny the Petition. This
23 return is supported by the pleadings and documents on file in this case, and the Declaration of
24 Deportation Officer Anthony Rosa ("Rosa Decl."), and the Declaration of Alixandria K. Morris

1 (“Morris Decl.”), with accompanying exhibits. Federal Respondents do not believe an evidentiary
 2 hearing is necessary.

3 II. FACTUAL AND PROCEDURAL BACKGROUND

4 A. Detention Authorities and Removal Procedures

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

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

16 During the removal period, the [Secretary of Homeland Security]² shall detain the
 17 [noncitizen]. Under no circumstance during the removal period shall the
 18 [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.

19 8 U.S.C. § 1231(a)(2).

20 Section 1231(a)(6) authorizes ICE to continue detention of noncitizens after the expiration
 21 of the removal period. Unlike Section 1231(a)(2), Section 1231(a)(6) does not mandate detention
 22

23 ² Although 8 U.S.C. § 1231(a)(2) refers to the “Attorney General” as having responsibility for detaining noncitizens,
 24 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 and does not place any temporal limit on the length of detention under that provision:

2 [A noncitizen] ordered removed who is inadmissible under section 1182,
3 removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or
4 who has been determined by the [the Secretary of Homeland Security] to be a risk
5 to the community or unlikely to comply with the order of removal, *may* be detained
6 *beyond the removal period* and, if released, shall be subject to the terms of
7 supervision in paragraph (3).

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

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

21 **B. OSUP and Revocation**

22 Once it is determined that there is no significant likelihood of removal in the reasonably
23 foreseeable future, DHS may release noncitizens on an Order of Supervision (“OSUP”). 8 C.F.R.
24 § 241.13(h). The right to remain under an OSUP is not unlimited. Revocation of an OSUP is

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.

governed by 8 C.F.R. §§ 241.13(i), 241.4(l), and may occur either: (1) if the noncitizen “violates any of the conditions of release,” *id.* §§ 241.13(i)(1), 241.4(l)(1); or (2) if it is determined “that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future.” *Id.* § 241.13(i)(2). Whether there is a significant likelihood that the alien may be removed in the reasonably foreseeable future is determined by assessing a series of factors, including “the history of the alien's efforts to comply with the order of removal, the history of the Service's efforts to remove aliens to the country in question or to third countries ... and the views of the Department of State regarding the prospects for removal of aliens to the country or countries in question.” *Id.* § 241.13(f). Alternatively, certain designated officials may also revoke an OSUP as an act of discretion when revocation is in the public interest. *Id.* § 241.4(l)(2).

Section 241.13(i)(3) provides that upon revocation, the alien “will be notified of the reasons for revocation of his or her release” and will receive an “initial informal interview promptly” after being detained, to “afford the alien an opportunity to respond to the reasons for revocation stated in the notification.” *Id.* § 241.13(i)(3). During such an interview, the noncitizen “may submit any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision.” *Id.* “The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.” *Id.* Then, if the alien’s request for release is denied, he or she “may submit a request for review of his or her detention . . . six months after [DHS’s] last denial of release[.]” *Id.* § 241.13(j).

C. Petitioner Kipoung Somsanuk

Petitioner is a native and citizen of Laos, who entered the United States as a refugee on or about November 19, 1991. Rosa Decl. ¶ 4. On July 17, 2003, the Petitioner was convicted of Rape

1 in the Third Degree and Sodomy in the Third Degree in the Multnomah County Circuit Court of
2 Oregon for which he was given ninety days of jail and thirty-six months of probation in case
3 number 030532578. *Id.* ¶ 5. The Petitioner was booked into detention on May 21, 2003, and
4 released on or about August 8, 2003, on probation. *Id.* On October 20, 2003, the Petitioner's
5 application for adjustment of status was denied. The Petitioner was detained by DHS pursuant to
6 Section 212 (a)(2)(A)(i)(I). *Id.* ¶ 6; Morris Decl., Exs. 1-2 (Notice to Appear; I-213).

7 On October 27, 2003, an Immigration Judge ("IJ") in the Portland, Oregon, Executive
8 Office for Immigration Review Immigration Court, ordered the Petitioner removed from the
9 United States to Laos because the Petitioner failed to file any application for relief from removal.
10 Rosa Decl. ¶ 7; Morris Decl., Ex. 3 (IJ Order). The Petitioner waived his appeal. Rosa Decl. ¶ 7.

11 On December 23, 2003, the government of Laos denied DHS's travel document request
12 because it did not believe that the Petitioner was a Laotian citizen. Rosa Decl. ¶ 8. As a result,
13 DHS could not effectuate the removal order. *Id.* On or about April 20, 2004, the Petitioner was
14 released on OSUP. Rosa Decl. ¶ 9; Morris Decl., Exs. 4-6 (Post Order Custody Review; OSUP;
15 OSUP Addendum, 2004). Subsequent to his original conviction for rape, the Petitioner was once
16 again convicted for Rape in the Third Degree in Multnomah County, Oregon, in 2007 for which
17 he was sentenced to fifteen months in prison and two years of probation in case number
18 D061476T. Rosa Decl. ¶ 10.

19 The Petitioner was booked into custody on June 28, 2007, and released on or about
20 November 18, 2007. *Id.* As a result of this conviction, Petitioner was issued an OSUP violation
21 and action report. Morris Decl., Ex. 7.

22 The Petitioner was also convicted for being a Felon in Possession of a Firearm by the
23 United States Federal District Court for the District of Oregon in 2020 for which he was sentenced
24 to four months of prison in case number 3:18-cr-00631, and booked on January 26, 2021, and

1 released on or about May 6, 2021 under a thirty-six month term of supervised release where the
2 Petitioner was required to comply with the terms of his probation. Rosa Decl. ¶ 10. Additionally,
3 the Petitioner was convicted for Failure to Register as a Sex Offender and for Driving While under
4 the Influence of Intoxicants. *Id.*

5 On October 19, 2023, the Petitioner was convicted of a probation violation and was given
6 a ninety-day prison sentence. *Id.* ¶ 11. On December 12, 2025, the Petitioner's supervised release
7 was revoked by DHS, and he was personally served with the Notice of Revocation of Release.
8 *Id.*; Morris Decl., Ex. 8 (OSUP Revocation). The Petitioner was originally released under OSUP
9 on April 20, 2004, because the Laotian government refused to recognize the Petitioner as a citizen
10 and issue a travel document, and the fact that at that time the United States had no repatriation
11 agreement with Laos. Rosa Decl. ¶ 11. The Petitioner's OSUP release was subject to a number of
12 conditions, including prohibition of violation of state or federal law, failure to register as a sex
13 offender, and failure to report to parole or probation officer. *Id.*; Morris Decl., Exs. 4, 6. The
14 Petitioner was detained and put into custody at the ICE Enforcement Removal Operations
15 Detention Center in Portland, Oregon, and transferred to the Northwest Immigration Processing
16 Center in Tacoma, Washington ("NWIPC"), where the Petitioner is currently detained. Rosa
17 Decl. ¶¶ 11, 13.

18 DHS has initiated the process of requesting that the government of Laos issue the
19 Petitioner a Laotian travel document. Rosa Decl. ¶ 12. At this time, ICE has no intention of
20 removing Petitioner to a third country other than Laos. *Id.* ¶ 14.

21 III. ARGUMENT

22 A. Petitioner's Administrative Procedure Act claims must be dismissed for lack of 23 Subject Matter Jurisdiction

24 Petitioner seeks to challenge his detention on grounds that violated Sections 706(2)(A),

1 (B) and (C) of the Administrative Procedure Act (“APA”). Pet., pg. 3. The Court has no subject
2 matter jurisdiction to hear these claims.

3 Where other adequate statutory remedies exist, the APA does not apply. *See* 5 U.S.C.
4 § 704 (“Agency action made reviewable by statute and final agency action *for which there is no*
5 *other adequate remedy in a court* are subject to judicial review.”) (emphasis added). Simply put,
6 “federal courts lack jurisdiction over APA challenges whenever Congress has provided another
7 ‘adequate remedy.’” *Brem-Air Disposal v. Cohen*, 156 F.3d 1002, 1004 (9th Cir. 1998).

8 Because habeas corpus is a fully adequate remedy on a claim seeking redress for custodial
9 detention that is alleged to be unlawful, relief is jurisdictionally unavailable under the APA. *See*
10 *Trump v. J. G. G.*, 604 U.S. 670, 671 (2025) (vacating TROs based on the APA because Plaintiffs’
11 claims necessarily implied the invalidity of the Plaintiffs’ confinement and removal under the
12 “Alien Enemies Act” and so had to be brought as habeas corpus claims in the jurisdiction of their
13 confinement). As Justice Kavanaugh stated in his concurring opinion, “[e]specially given the
14 history and precedent of using habeas corpus to review transfer claims, and given 5 U.S.C. § 704,
15 which states that claims under the APA are not available when there is another ‘adequate remedy
16 in a court,’ I agree with the Court that habeas corpus, not the APA, is the proper vehicle here.”
17 *Id.* at 674; *cf. O’Banion v. Matevousian*, 835 Fed. Appx. 347, 350 (10th Cir. 2020) (holding that
18 “habeas actions” provide an “adequate remedy” displacing APA review under Section 704); *and*
19 *see Lucas v. Fed. Bureau of Prisons*, 2018 WL 3038496, at *2 (S.D.N.Y. June 19, 2018)
20 (“Accordingly, because plaintiff could adequately remedy his conditions of confinement claim in
21 a habeas corpus petition, the Court does not have jurisdiction to decide his APA claim.”).

22 Moreover, to be reviewable under the APA an action must be a “final agency action,”
23 which is to say that it is the “consummation of the agency’s decision making process.” *See Bennett*
24 *v. Spear*, 520 U.S. 154, 177–78 (1997). Administrative detention for purposes of executing a

1 removal order is not within that category because it is only an intermediary step in the process.
 2 See *Gamez Lira v. Noem*, 2025 WL 2581710, at *4 (D.N.M. Sept. 5, 2025). Accordingly,
 3 Petitioner's claims based on alleged APA should be denied.

4 **B. Petitioner has failed to demonstrate that his OSUP revocation did not comport with**
 5 **due process or was inconsistent with ICE's procedural regulations**

6 "Due process is flexible and calls for such procedural protections as the particular situation
 7 demands." *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976). The *Mathews* test demonstrates that
 8 Petitioner's detention is consistent with his due process rights. Under *Mathews*, "[t]he
 9 fundamental requirement of due process is the opportunity to be heard at a meaningful time and
 10 in a meaningful manner." *Id.*, at 333 (internal quotation marks omitted). This calls for an analysis
 11 of (1) "the private interest that will be affected by the official action," (2) "the risk of an erroneous
 12 deprivation of such interest through the procedures used, and probable value, if any, of additional
 13 or substitute procedural safeguards," and (3) the Government's interest. *Id.*, at 334-35.

14 **1. Petitioner's liberty interest in remaining released on conditions is**
 15 **reduced.**

16 Respondents recognize the "weighty liberty interests implicated by the Government's
 17 detention of noncitizens." *Reyes v. King*, No. 19-cv-8674, 2021 WL 3727614, at *11 (S.D.N.Y.
 18 Aug. 20, 2021). However, Petitioner's interest in his liberty *generally* does not mean that he
 19 possesses a separate or heightened liberty interest in the continuation of his conditional release
 20 on OSUP.⁴ The recognized liberty interests of U.S. citizens and aliens are not coextensive: the
 21 Supreme Court has "firmly and repeatedly endorsed the proposition that Congress may make rules
 22 as to aliens that would be unacceptable if applied to citizens." *Rodriguez Diaz*, 53 F.4th at 1206
 23 (quoting *Demore v. Kim*, 538 U.S. 510, 522 (2003)). As the Supreme Court has explained, "[i]n

24 ⁴ Federal Respondents acknowledge that courts in this District have found that noncitizens have a liberty interest in their release on OSUP but respectfully disagree with those decisions.

1 the exercise of its broad power over naturalization and immigration, Congress regularly makes
2 rules that would be unacceptable if applied to citizens.” *Mathews v. Diaz*, 426 U.S. 67, 79-80
3 (1976).

4 Petitioner’s release on OSUP was always subject, in part, to him not committing any
5 crimes. Rosa Decl. ¶ 6. However, the Petitioner violated terms of OSUP due to his criminal
6 activities after receiving his conditional release on OSUP. *Id.* ¶¶ 4(k)-(l). Accordingly, Petitioner
7 cannot now claim that the Respondents promised him ongoing, limitless freedom from detention,
8 especially in the face of his criminal history. *Id.* ¶¶ 4, 6.

9 **2. The existing procedures for OSUP revocation are constitutionally**
10 **sufficient and Petitioner has failed to demonstrate that his detention**
11 **violates ICE’s regulations.**

12 Turning to the second *Mathews* factor, the risk of a constitutionally significant deprivation
13 of Petitioner’s liberty here is minimal, and Petitioner fails to show that ICE did not comply with
14 procedural safeguards in this case. Petitioner presents no evidence for his claims that the agency
15 failed to give him both notice and an opportunity to be heard regarding his OSUP revocation.

16 As outlined above, Congress established a clear statutory framework in 8 C.F.R. §
17 241.13(i) that sets forth the requirements and process for affecting an OSUP revocation. When
18 an alien has violated any condition of their release, as Petitioner did at least times by committing
19 and being convicted of at least three criminal offenses while on OSUP, or ICE determines that
20 there is a “significant likelihood” an alien can be removed from the United States within the
21 “reasonably foreseeable future,” ICE is clearly permitted to revoke the OSUP and take the alien
22 into custody; nothing else is required for revocation under these circumstances. *Id.* § 241.13(i)(1)
23 and (2); *see also Nizar Esmail v. Noem*, et al., 2025 WL 3030590, at *2 (C.D. Cal. Sept. 12,
24

2025).⁵ Additionally, when ICE's revocation is based on an alien's violation of a condition of release, the statute does not require that only certain officials may revoke the OSUP. *See generally* 8 C.F.R. § 241.13(i); *see also Nizar Esmail*, 2025 WL 3030590, at *2, n.3 (distinguishing between Sections 241.4 and 241.13, explaining that "Section 241.13 applies to cases where a petitioner is in revocation proceedings, whereas Section 241.4 applies to routine custody reviews for aliens detained after the 90-day removal period.").

8 C.F.R. § 241.13(i)(3) further outlines the OSUP revocation procedures and provides that "upon revocation," i.e., not before revocation, "the alien will be notified of the reasons for the revocation" and to conduct an "initial interview promptly after his or return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification." *Id.* § 241.13(3).

Here, ICE took custody of Petitioner based on its determination that Petitioner could be removed expeditiously and based on Petitioner's violations of the conditions of his release. Rosa Decl., ¶ 11; Morris Decl., Ex. 8. Upon revocation, ICE provided Petitioner with written notice of the specific reasons for its determination, including Petitioner's criminal offenses and a likelihood of removal, and informed him he would promptly be afforded an interview. Rosa Decl., ¶ 11; Morris Decl., Ex. 8. Accordingly, Petitioner fails to meet his burden to demonstrate his contentions that he was detained without cause.

3. The Government has a strong interest in returning aliens to custody who violate conditions of release.

Turning to the third *Mathews* factor, the Ninth Circuit has emphasized that the *Mathews* test "must account for the heightened government interest in the immigration detention context."

⁵While ICE may also revoke an OSUP as an act of discretion if revocation is in the public interest, pursuant to 8 C.F.R. § 241.4(l)(2), this is not what ICE has chosen to do in this case.

1 *Rodriguez Diaz*, 53 F.4th at 1206. Invoking the Supreme Court’s 2003 *Demore* decision, the Ninth
2 Circuit in *Rodriguez Diaz* recognized that “the government clearly has a strong interest in
3 preventing aliens from ‘remain[ing] in the United States in violation of our law.’” *Rodriguez Diaz*,
4 53 F.4th at 1208 (quoting *Demore*, 538 U.S. at 518). The government likewise has an interest in
5 enforcing compliance with its orders of release and returning individuals to custody who violate
6 their terms. This is especially the case when such violations involve putting public safety at risk
7 —such as the case with Petitioner’s history of repeated criminal activity, including repeated
8 offenses of rape and recent offenses of felon in possession of a firearm, failure to register as a sex
9 offender, driving under the influence, and probation violations.

10 In sum, the three *Mathews* factors demonstrate that Petitioner’s detention comports with
11 procedural due process and Petitioner has failed to demonstrate that ICE did not adhere to its own
12 regulations in revoking Petitioner’s OSUP.

13 **C. Petitioner’s detention comports with substantive due process.**

14 Petitioner argues that his detention is unlawful in violation of *Zadvydas*. The burden is on
15 Petitioner to show that there is “good reason to believe that there is no significant likelihood of
16 removal in the reasonably foreseeable future.” *Pelich v. I.N.S.*, 329 F.3d 1057, 1059 (9th Cir.
17 2003) (citing *Zadvydas*). If a petitioner meets his evidentiary burden, the government must then
18 introduce evidence to refute the petitioner’s assertion. *Id.*

19 In *Zadvydas*, the Supreme Court noted the six-month “presumptively reasonable” post-
20 order detention period “does not mean that every [noncitizen] not removed must be released after
21 six months. 533 U.S. at 701. To the contrary, [a noncitizen] may be held in confinement until it
22 has been determined that there is no significant likelihood of removal in the reasonably
23 foreseeable future.” *Id.* The *Zadvydas* Court recognized that as the length of detention grows, a
24 sliding scale of burdens is applied to assess the continuing lawfulness of a noncitizen’s post-order

1 detention. *Id.* (stating that “for detention to remain reasonable, as the period of post-removal
2 confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to
3 shrink”).

4 However, the Supreme Court determined that it is “presumptively reasonable” for the
5 Government to detain a noncitizen for six months following entry of a final removal order, while
6 it worked to remove the noncitizen from the United States. *Id.* at 701. Thus, the Supreme Court
7 implicitly recognized that six months is the *earliest* point at which a noncitizen’s detention could
8 raise constitutional issues. *Id.* Moreover, the Supreme Court noted the six-month presumption
9 “does not mean that every [noncitizen] not removed must be released after six months. To the
10 contrary, [a noncitizen] may be held in confinement until it has been determined that there is no
11 significant likelihood of removal in the reasonably foreseeable future.” *Id.*

12 Here, the Federal Respondents do not concede that Petitioner’s presumptively reasonable
13 period has passed.⁶ Petitioner’s current period of detention began on December 12, 2025. Rosa
14 Decl. ¶ 11; Morris Decl, Ex. 8.

15 Even assuming arguendo that the presumptively reasonable period has ended, Petitioner
16 fails to demonstrate that there is good reason to believe that there is no significant likelihood of
17 removal in the reasonably foreseeable future. Pet., pgs. 6-7. Petitioner’s claims regarding
18 cooperation with Laos are not based on any facts. Pet., pg. 20. Petitioner provides no evidence
19 that Laos is unwilling to cooperate. *Id.* Petitioner erroneously attempts to shift the burden to the
20 Government without even attempting to meet his evidentiary burden. *Pelich*, 329 F.3d at 1059.

21
22 ⁶ Federal Respondents acknowledge that Courts in this district disagree as to whether the presumptively reasonable
23 period expires six months after a final order, regardless of detention. *See Tran v. Bondi*, No. CV-25-01897-JLR,
2025 WL 3140462 (W.D. Wash. Nov. 10, 2025); *but see Thach Wana v. Bondi, et al.*, No. 2:25-CV-02321-RSL,
2025 WL 3628634, at *3, n.2 (W.D. Wash. Dec. 15, 2025). For the reasons set forth in their briefing in the *Tran*
24 case, Federal Respondents do not agree with this decision. In any event, Petitioner’s detention is still lawful even
past the presumptively reasonable period for the reasons stated herein.

1 Petitioner's claims regarding his removal are speculative and insufficient to demonstrate—
2 especially given his brief current period of detention—that he is unlikely to be removed to Laos
3 in the reasonably foreseeable future.

4 **D. Petitioner's Third Country Claims Are Without Merit and Not Ripe for Review**

5 Petitioner presents no evidence of any intention by ICE to remove Petitioner to a third
6 country. *See* Pet., pgs. 12-19. Petitioner purports to bring claims challenging the constitutionality
7 of his possible removal to a third country as a likely violation of the Fifth Amendment, 8 U.S.C.
8 § 1231, the Eighth Amendment, the Convention Against Torture, the INA, the APA, and relevant
9 implementing regulations. *Id.* Such claims are based on the hypothetical scenario of his removal
10 to a third country other than Laos, which are entirely speculative and not ripe for review.
11 Petitioner has a removal order to Laos. Morris Decl., Ex. 3. In the approximately one month
12 Petitioner has been detained, ICE has been working on obtaining travel documents solely for
13 Laos. Rosa Decl. ¶ 12. At this time, ICE has no intention of removing Petitioner to a third country
14 other than Laos. *Id.* ¶ 14. There is no case or controversy because there is no concrete indication
15 that removal to any third country will occur.

16 In any event, at least one court in this district has found that such claims are not the proper
17 subject of an immigration habeas petition, considering that Petitioner presents no evidence that
18 Federal Respondents seek to remove him to a third country. *See Tran*, 2025 WL 3140462, at *4
19 (citing *Zadvydas*, 533 U.S. at 688).

20 Accordingly, Petitioner's claims are speculative and not part of a live controversy because
21 there is no concrete indication that removal to a third country will occur. Thus, these claims should
22 be dismissed as premature.

23 **IV. CONCLUSION**

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

1 the Petition.

2 Dated this 21st day of January, 2026.

3 Respectfully submitted,

4 CHARLES NEIL FLOYD
5 United States Attorney

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17 I certify that this memorandum contains 4,409
18 words, in compliance with the Local Civil Rules.