

1 **Kara Hartzler**
2 Cal. Bar No. 293751
3 **Federal Defenders of San Diego, Inc.**
4 225 Broadway, Suite 900
5 San Diego, California 92101-5030
6 Telephone: (619) 234-8467
7 Facsimile: (619) 687-2666
8 Kara_hartzler@fd.org

9 Counsel for Mr. Soryadvongsa



10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12
13 **BOUNPHENG SORYADVONGSA,¹**

14 **Petitioner,**

15 **v.**

16 **KRISTI NOEM, Secretary of the**
17 **Department of Homeland Security,**
18 **PAMELA JO BONDI, Attorney General,**
19 **TODD M. LYONS, Acting Director,**
20 **Immigration and Customs Enforcement,**
JESUS ROCHA, Acting Field Office
Director, San Diego Field Office,
CHRISTOPHER LAROSE, Warden at
Otay Mesa Detention Center,

21 **Respondents.**

22 **CIVIL CASE NO.: '26CV0279 DMS DEB**

Petition for Writ
of
Habeas Corpus

[Civil Immigration Habeas,
28 U.S.C. § 2241]

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28 ¹ Federal Defenders of San Diego, Inc., is filing the instant petition with provisional appointment under Chief Judge Order No. 134.

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1 **I. Introduction**

2 This Court previously granted Mr. Soryadvongsa’s immigration habeas
3 petition and ordered him released on November 6, 2025, due to ICE’s regulatory
4 and due process violations during Mr. Soryadvongsa’s re-detention. *See*
5 *Soryadvongsa v. Noem*, 25-cv-2663-AGS-DDL. *See* ECF No. 11 at 1 (holding
6 that ICE officials did not “promptly” conduct an informal interview, in violation
7 of the regulations).

8 After his release, ICE told Mr. Soryadvongsa to appear for a check-in
9 appointment in downtown San Diego on December 18, 2025. At that
10 appointment, Mr. Soryadvongsa remembers that an ICE officer told him he had
11 been “ordered removed by the immigration judge” and took him into custody in
12 the downtown facility. Declaration of Bounpheng Soryadvongsa, Exhibit A at ¶ 4.
13 He does not believe that they told him they had a travel document or that he
14 received an informal interview. *Id.*

15 Since being transferred to Otay Mesa Detention Center, Mr. Soryadvongsa
16 has not been provided an informal interview or otherwise told when he would be
17 removed. At least three other individuals who were redetained within days of
18 Mr. Soryadvongsa have been told that local ICE does not have a travel document
19 for them. *See* Exhibits B, C, and D (declarations of Hai Thai, Saengphet Lnu, and
20 Sonxai Rasakhamdee).

21 Assuming that Mr. Soryadvongsa was not told ICE had a travel document
22 for him and did not receive an informal interview, ICE did not comply with its
23 own regulations, and this Court should order his release. But at a minimum, a
24 factual dispute exists as to whether “changed circumstances” exist that justified
25 the revocation of Mr. Soryadvongsa’s order of supervision under 8 C.F.R.
26 §§ 241.4 and 241.13. Thus, this Court should hold an evidentiary hearing with
27 relevant ICE witnesses to resolve whether local ICE has a travel document for
28 him.

1 Alternatively, this Court should find that Mr. Soryadvongsa’s removal is
2 not significantly likely in the reasonably foreseeable future. In the month since his
3 redetention, Mr. Soryadvongsa has not been removed, nor has ICE scheduled him
4 for any upcoming flights. And a week ago, the primary airline ICE uses for
5 chartered flights cancelled its contract with the agency.² These facts, combined
6 with the conflicting accounts of the existence of a travel document, show that
7 removal is not significantly likely in the reasonably foreseeable future. Thus, this
8 Court should order Mr. Soryadvongsa released, or at least hold an evidentiary
9 hearing on the likelihood of his removal in the reasonably foreseeable future.

10 **II. Statement of Facts**

11 Mr. Soryadvongsa was born in Laos and entered the United States in 1985;
12 he became a lawful permanent resident soon after. Exh. A at ¶ 1. In 2002, he was
13 ordered removed on the basis of a criminal conviction. *Id.* at ¶ 2. But because
14 Laos would not issue him a travel document, ICE eventually released him on an
15 order of supervision. *Id.*

16 In September 2025, ICE revoked Mr. Soryadvongsa’s order of supervision
17 and took him back into custody. *Id.* at ¶ 3. He filed a petition for a writ of habeas
18 corpus, which this Court granted on November 8, 2025. *See Soryadvongsa v.*
19 *Noem*, 25-cv-2663-AGS-DDL. ICE released him but told him he needed to
20 continue to check in. *Id.* at ¶ 3.

21 When he went to his ICE check in San Diego on December 18, 2025, the
22 officer told Mr. Soryadvongsa that he had been ordered removed by an
23 immigration judge. *Id.* at ¶ 4. He does not remember being told that ICE had a
24 travel document for him or receiving an informal interview. *Id.* ICE then
25 redetained him and transferred him back to Otay Mesa Detention Center. *Id.* at ¶

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28 ² *See* “Avelo Airlines to Halt Deportation Flights for ICE,” CBS News, Jan. 8, 2026,
available at: <https://www.cbsnews.com/news/avelo-stops-ice-deportation-flights/>.

1 5. Since that time, he has not been removed or told that ICE has a travel document
2 for him. *Id.* at ¶ 5.

3 At least three other individuals have been redetained under similar
4 circumstances. One individual was redetained on December 16, 2025, and told
5 that, “We don’t have your travel document. I don’t know why they took you in.”
6 Exhibit B, Declaration of Hai Thai, at ¶ 5. Another person was redetained on
7 December 18, 2025, but then subsequently informed by an ICE officer that “I
8 don’t see your travel document.” Exhibit C, Declaration of Saengphet Lnu at ¶ 5.
9 Another person was redetained on December 19, 2025, and told “I don’t have
10 nothing on you,” which he took to mean that ICE does not have a travel document
11 for him. Exhibit D, Declaration of Sonxai Rasakhamdee. None of these
12 individuals have been scheduled for a flight or told when they would be removed.

13 **III. Legal Analysis.**

14 This Court should grant the petition and order Mr. Soryadvongsa’s
15 immediate release or at least hold an evidentiary hearing. First, assuming that ICE
16 did not advise Mr. Soryadvongsa that it had obtained a travel document or give
17 him an informal interview, the Court may grant the habeas petition on that basis
18 alone. Second, this Court should conduct an evidentiary hearing because a
19 material question of fact exists as to whether local officials have a travel
20 document for Mr. Soryadvongsa. Third, ICE’s failure to remove
21 Mr. Soryadvongsa in the month since it claimed to have his travel document,
22 along with the cancellation of ICE’s contract with its primary airline carrier,
23 shows that there is “no significant likelihood of removal in the reasonably
24 foreseeable future.” *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

25 **A. Claim One: Assuming that ICE did not advise Mr. Soryadvongsa**
26 **that it had a travel document or give him an informal interview,**
the Court may grant on that basis alone.

27 Mr. Soryadvongsa’s recollection of his redetention is that the ICE officer
28 “told me they were arresting me because I had been ordered removed by the

1 immigration judge”—*not* because they had a travel document. Exh. A at ¶ 5.
2 Nor did they provide him an informal interview. *Id.* Unless the government’s
3 records show that he was advised ICE had a travel document for him and
4 provided him an informal interview, the Court may grant the habeas petition on
5 this basis alone.

6 The regulations provide noncitizens with a chance to contest a re-detention
7 decision. ICE must “notif[y] [the person] of the reasons for revocation of his or
8 her release.” *Id.* § 241.13(i)(3). ICE must then “conduct an initial informal
9 interview promptly” after re-detention “to afford the alien an opportunity to
10 respond to the reasons for revocation stated in the notification.” *Id.* During the
11 interview, the person “may submit any evidence or information” showing that the
12 prerequisites to re-detention have not been met, and the interviewer must evaluate
13 “any contested facts.” *Id.* Neither regulation allows ICE to re-detain someone with
14 no interview and no chance to contest the decision. *Zhu v. Genalo*, No. 1:25-CV-
15 06523 (JLR), 2025 WL 2452352, at *8 n.3 (S.D.N.Y. Aug. 26, 2025) (finding that
16 either § 241.4 or § 241.13 led to the same result). Unless the government’s
17 records show these regulations were followed, the Court should order release on
18 this basis.

19 Indeed, this is precisely the reason this Court granted Mr. Soryadvongsa’s
20 petition several months ago. There, the Court noted that, “When immigration
21 officials arrested petitioner, a regulation required them to ‘promptly’ conduct an
22 informal interview, so he could contest the basis for his detention.” *Soryadvongsa*,
23 *v. Noem*, 25-cv-2663-AGS-DDL, Dkt. 11 at 1. The Court considered whether “an
24 interview 29 days after arrest qualifies as prompt under that regulation” and
25 concluded, “[i]t does not.” *Id.* Because Mr. Soryadvongsa has again been detained
26 for 29 days without an interview, this Court should again order his release.

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1 **B. Claim Two: A material issue of fact exists as to whether local**
2 **ICE officials actually have a travel document for**
3 **Mr. Soryadvongsa.**

4 Alternatively, the applicable regulations permit ICE to revoke an
5 individual’s order of supervised release in two circumstances: 1) when the person
6 “violate[d] any of the conditions of release,” 8 C.F.R. §§ 241.13(i)(1), 241.4(l)(1),
7 or; 2) if an appropriate official “determines that there is a significant likelihood
8 that the alien may be removed in the reasonably foreseeable future,” and makes
9 that finding “on account of changed circumstances,” 8 C.F.R. § 241.13(i)(2).

10 Here, Mr. Soryadvongsa has not violated the conditions of his supervised
11 release since this Court granted his habeas petition several months ago. So the
12 only question is whether there are “changed circumstances”—i.e., whether ICE
13 has obtained a travel document for Mr. Soryadvongsa—that could show a
14 “significant likelihood that [he] may be removed in the reasonably foreseeable
15 future.” 8 C.F.R. § 241.13(i)(2). The question of whether local ICE officials do, in
16 fact, have a travel document for Mr. Soryadvongsa is a material issue of fact, for
17 at least three reasons.

18 First, Mr. Soryadvongsa does not remember ICE officials telling him that
19 they have a travel document for him. *Id.* at ¶ 5. All he remembers ICE telling him
20 is that he was arrested because he was ordered removed by the immigration judge.
21 *Id.*

22 Second, ICE has made similar inconsistent representations about travel
23 documents in other recent cases. Three individuals who were redetained around
24 the same time as Mr. Soryadvongsa have declared under penalty of perjury that
25 they also received conflicting messages from ICE officials. One individual states
26 that ICE told him, “We don’t have your travel document. I don’t know why they
27 took you in.” Exh. B, Thai declaration at ¶ 5. Another individual remembers that
28 ICE told him at the downtown check in that they had a travel document but that a
different ICE official at Otay Mesa said, “I don’t see your travel document.” Exh.

1 C, Lnu declaration at ¶ 5. And one individual remembers the official saying, “I
2 don’t have nothing on you,” which he took to mean that ICE did not have a travel
3 document for him. Exh. D, Rasakhamdee declaration at ¶ 5. Thus, ICE appears to
4 be routinely redetaining individuals when local officials disagree on whether a
5 travel document exists.

6 Third, ICE has not removed Mr. Soryadvongsa (or the three other
7 individuals) in the month since they were redetained. If ICE had a travel
8 document for Mr. Soryadvongsa, it would presumably schedule him on the next
9 available flight, yet it has not done so. In fact, a flight departed for Vietnam and
10 Laos on January 13, 2025, a month after Mr. Soryadvongsa’s redetention, yet he
11 was not on it. Not only does this raise suspicions about the existence of a travel
12 document, it calls into question why the government redetained Mr.
13 Soryadvongsa at all when he was not even scheduled for a flight.

14 Given that a material issue of fact exists as to whether ICE has a travel
15 document, this Court should hold an evidentiary hearing to allow local ICE
16 officers to be questioned under oath about the existence of a travel document and
17 flight for Mr. Soryadvongsa. This is the remedy the Ninth Circuit found
18 appropriate when a material issue of fact existed in a similar habeas petition. *See*
19 *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009).

20 In *Owino*, an immigrant detainee filed a habeas petition challenging his
21 detention under *Zadvydas* on the basis that his removal was not significantly
22 likely in the reasonably foreseeable future. 575 F.3d at 954. The government filed
23 a declaration from a deportation officer stating that “the consulate first said that
24 Kenya would not accept Owino” but then “changed course” and advised it that it
25 would “issue him a travel document” under certain circumstances. *Id.* On the
26 basis of this declaration, the district court “denied [the] habeas petition on the
27 parties’ filings without holding an evidentiary hearing.” *Id.*

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1 The Ninth Circuit remanded for an evidentiary hearing. *Id.* at 955. It noted
2 the parties’ competing evidence—particularly the fact that “[t]he government
3 relies on the Hayes declaration to show Owino can be removed,” while the
4 petitioner “argues that the Hayes declaration only illustrates the Kenyan
5 consulate’s shifting and unpredictable official position about the prerequisites of
6 returning to Kenya.” *Id.* at 956. The Ninth Circuit held that, “under these
7 circumstances, the question of whether Owino faces a significant likelihood of
8 removal cannot be resolved without an evidentiary hearing.” *Id.* It thus remanded
9 and held that “[o]n remand, the district court may accept evidence other than the
10 Hayes declaration relevant to whether Owino is entitled to habeas relief.” *Id.*

11 *Owino* thus establishes two important principles relevant to this case. First,
12 a deportation officer’s declaration alone cannot resolve a disputed and material
13 issue of fact. *See id.* at 956. So here, while the government’s return is likely to
14 include a declaration from a deportation officer purporting to have a travel
15 document, that declaration alone does not resolve the question of whether there
16 are “changed circumstances.”

17 Second, when a material issue of fact exists in the context of an
18 immigration habeas petition, an evidentiary hearing is appropriate to resolve it.
19 *See id.* at 956. Here, ICE’s inconsistent statements of whether it has travel
20 documents for multiple individuals, combined with its failure to remove those
21 individuals after redetention, creates a material issue of fact that can only be
22 resolved through an evidentiary hearing. Thus, this Court should order such an
23 evidentiary hearing to determine whether local ICE officials have a travel
24 document for Mr. Soryadvongsa.

25 **C. Claim Three: Mr. Soryadvongsa’s detention violates *Zadvydas***
26 **and 8 U.S.C. § 1231.**

27 Given ICE’s failure to timely remove Mr. Soryadvongsa, as well as the
28 government’s cancelled contract with its primary airline carrier, this Court should

1 alternatively release Mr. Soryadvongsa under *Zadvydas v. Davis*, 533 U.S. 678
2 (2001), or at least hold an evidentiary hearing to determine whether his removal is
3 significantly likely in the reasonably foreseeable future.

4 In *Zadvydas*, the Supreme Court held that 8 U.S.C. § 1231(a)(6)
5 presumptively permits the government to detain an immigrant for 180 days after
6 his or her removal order becomes final. After those 180 days have passed, the
7 immigrant must be released unless his or her removal is reasonably foreseeable.
8 *Zadvydas*, 533 U.S. at 701. After six months have passed, the petitioner must only
9 make a prima facie case for relief—that there is “good reason to believe that there
10 is no significant likelihood of removal in the reasonably foreseeable future.” *Id.*
11 Then the burden shifts to “the Government [to] respond with evidence sufficient
12 to rebut that showing.” *Id.* Further, even before the 180 days have passed, the
13 immigrant must still be released if he *rebut*s the presumption that his detention is
14 reasonable. *See, e.g., Trinh v. Homan*, 466 F. Supp. 3d 1077, 1092 (C.D. Cal.
15 2020) (collecting cases on rebutting the *Zadvydas* presumption before six months
16 have passed); *Zavvar v. Scott*, Civil No. 25-2104-TDC, 2025 WL 2592543, *6 (D.
17 Md. Sept. 8, 2025) (finding the presumption rebutted for a person who was
18 immediately released after being ordered removed and, years later, re-detained for
19 less than six months).

20 Here, the six-month grace period has long since ended. The *Zadvydas* grace
21 period is linked to the date the final order of removal is issued. It lasts for “*six*
22 *months* after a final order of removal—that is, *three months* after the statutory
23 removal period has ended.” *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th
24 Cir. 2001); *see also* 8 U.S.C. § 1231(a)(1)(B) (linking the statutory removal
25 period to issuance of the final order and other proceedings associated with the
26 original removal order). Because Mr. Soryadvongsa’s order of removal was
27 entered in 2002, the six months have long since expired. Exh. A at ¶ 2; *Tadros v.*
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1 *Noem*, 2025 WL 1678501, No. 25-cv-4108(EP), *2–*3.³ Moreover, he has been
2 detained for at least six months since his final order of removal issued.

3 Accordingly, Mr. Soryadvongsa satisfies the “significantly likely” standard
4 for two reasons. First, ICE has failed to deport him since he was ordered
5 removed—including during the months he has been detained this year. Second,
6 ICE’s primary airline carrier for deportations recently cancelled its contract with
7 the agency. *See* “Avelo Airlines to Halt Deportation Flights for ICE,” CBS News,
8 Jan. 8, 2026, *available at*: [https://www.cbsnews.com/news/avelo-stops-ice-](https://www.cbsnews.com/news/avelo-stops-ice-deportation-flights/)
9 [deportation-flights/](https://www.cbsnews.com/news/avelo-stops-ice-deportation-flights/). Importantly, “Avelo appears to be the only commercial
10 airline carrying out full aircraft deportation flights on a regular schedule for ICE.”
11 *See* “Key airline used by Trump for deportations cuts ties with ICE,” Axios, Jan.
12 8, 2026, *available at*: [https://www.axios.com/2026/01/07/ice-trump-avelo-airlines-](https://www.axios.com/2026/01/07/ice-trump-avelo-airlines-deportations)
13 [deportations](https://www.axios.com/2026/01/07/ice-trump-avelo-airlines-deportations). Given that the agency was not able to effectuate Mr. Soryadvongsa’s
14 removal *before* this airline cancelled its contract with ICE, it is doubtful that it
15 will be able to do so afterwards. Accordingly, Mr. Soryadvongsa has met his
16 initial burden to show that his removal is not significantly likely in the reasonably
17 foreseeable future.

18 Because Mr. Soryadvongsa has met his initial burden, the burden shifts to
19 the government to prove a “significant likelihood of removal in the reasonably
20 foreseeable future.” *Zadvydas*, 533 U.S. at 701. Because it cannot do so, this
21 Court should order Mr. Soryadvongsa released.

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25 ³ The government has sometimes argued that release and rearrest resets the six-
26 month grace period completely, taking the clock back to zero. “Courts . . . broadly
27 agree” that this is not correct. *Diaz-Ortega v. Lund*, 2019 WL 6003485, at *7 n.6
28 (W.D. La. Oct. 15, 2019), *report and recommendation adopted*, 2019 WL
6037220 (W.D. La. Nov. 13, 2019); *see also Sied v. Nielsen*, No. 17-CV-06785-
LB, 2018 WL 1876907, at *6 (N.D. Cal. Apr. 19, 2018) (collecting cases).

1 **IV. Prayer for relief**

2 For the foregoing reasons, Petitioner respectfully requests that this Court:

- 3 1. Order and enjoin Respondents to immediately release Petitioner from
4 custody;
- 5 2. Conduct an evidentiary hearing to determine the material issue of
6 whether local ICE officials have a travel document for Mr.
7 Soryadvongsa;
- 8 3. Enjoin Respondents from re-detaining Petitioner under 8 U.S.C.
9 § 1231(a)(6) unless and until Respondents establish the existence of a
10 travel document and confirm that Mr. Soryadvongsa is on a scheduled
11 flight no later than one week after his redetention;
- 12 4. Enjoin Respondents from re-detaining Petitioner without first following
13 all procedures set forth in 8 C.F.R. §§ 241.4(l), 241.13(i), and any other
14 applicable statutory and regulatory procedures;
- 15 5. Order all other relief that the Court deems just and proper.

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Respectfully submitted,

Dated: January 16, 2026

s/ Kara Hartzler
Federal Defenders of San Diego, Inc.
Attorneys for Mr. Soryadvongsa
Email: kara_hartzler@fd.org

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Proof of Service

I, the undersigned, caused to be served the within Petition for Writ of Habeas Corpus by email, at the request of Janet Cabral, Chief of the Civil Division, to:

U.S. Attorney’s Office, Southern District of California
Civil Division
USACAS.Habeas2241@usdoj.gov

Date: January 16, 2026

/s/ Kara Hartzler
Kara Hartzler