

The Honorable Tana Lin

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

OUCHO SAELEE and LAI CHIEM SAELEE,

Petitioners,

v.

JULIO HERNANDEZ,¹ Enforcement and
Removal Operations, Acting Seattle Field
Office Director, U.S. Immigration and Customs
Enforcement; KRISTI NOEM, Secretary, U.S.
Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY; TODD LYONS, Acting Director
and Senior Official Performing Duties of
Director of ICE; U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT,

Respondents.

Case No. 2:26-cv-00735-TL

FEDERAL RESPONDENTS'
RETURN

Noted for Consideration:
March 23, 2026

INTRODUCTION

Petitioners, who are subject to a final order of removal and are at liberty in the United States under an Order of Supervision (OSUP), ask this Court to prohibit federal immigration authorities from detaining them unless they receive “at least six months to one year” advance

¹ Pursuant to Fed. R. Civ. P. 25(d), Julio Hernandez is hereby substituted as Respondent for Laura Hermosillo.

1 notice and a hearing before a neutral decisionmaker where Respondents must show that detention
2 is necessary to secure their removal. Dkt. 1. In essence, Petitioners ask the Court to impose
3 judicially created procedures that do not exist in law and to restrict execution of final orders of
4 removal, which is clearly prohibited by caselaw. *See Rauda v. Jennings*, 55 F.4th 773, 777-78 (9th
5 Cir. 2022).

6 Petitioners are subject to final orders of removal to Laos. Dkt. 1, pg. 2. They fear that the
7 Department of Homeland Security (DHS) will obtain travel documents for them soon because
8 Laos has recently begun issuing travel documents. *Id.* They anticipate that once DHS obtains travel
9 documents, they will be taken into custody to effectuate their removal. *Id.* They seek an order from
10 this Court preventing this from happening unless they are detained under the terms they propose.
11 *Id.*

12 To be clear, DHS does not currently have travel documents for Petitioners and does not
13 intend to detain Petitioners without first securing a travel document. Nevertheless, when the
14 Government does obtain travel documents, they can effectuate Petitioners' removal and nothing
15 in the Constitution or the Immigration and Nationality Act (INA) requires DHS to comply with
16 Petitioner's terms, including providing them up to one-year advance notice and a pre-detention
17 hearing, before taking them into custody to execute these valid removal orders.

18 Thus, Petitioner's habeas petition should be denied and dismissed without an evidentiary
19 hearing. The claims raised in Petitioners' habeas petition are pending before another court in this
20 District. *See Phansisay v. Hermosillo*, 26-CV-00795-DGE.

21 FACTS

22 Petitioners were born in Laos and are citizens of Laos. *See Declaration of Deportation*
23 Officer Daniel Strzelczyk ("Strzelczyk Decl.") ¶ 3. Petitioner Oucho Saelee was ordered removed
24 by an Immigration Judge on April 27, 2000, and both parties waived appeal of that decision. *Id.* at

¶ 4. U.S. Immigration and Customs Enforcement (ICE) was unable to procure a travel document at that time and Petitioner was released on OSUP with reporting conditions. *Id.*

Petitioner Lai Saelee was ordered removed by an Immigration Judge on or about September 23, 1994. *Id.* at ¶ 5. She timely filed an appeal with the Board of Immigration Appeals (BIA). *Id.* The BIA dismissed the appeal on April 4, 1995, at which time the order of removal became administratively final. *Id.* ICE was unable to procure a travel document at that time and Petitioner was released on OSUP with reporting conditions. *Id.*

Both Petitioners have continued reporting since their release more than twenty years ago and are not currently in detention. *Id.* at ¶ 6. ICE does not intend to detain Petitioners without first securing a travel document. *Id.* at ¶ 8. ICE does not currently have travel documents for Petitioners and as such, does not intend to detain them at this time. *Id.*

LEGAL STANDARD

Title 28 U.S.C. § 2241 provides district courts the authority to grant habeas relief “within their respective jurisdictions.” To warrant a grant of habeas corpus, the burden is on the petitioner to prove that his or her custody is in violation of the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

ARGUMENT

A. This Court Lacks Jurisdiction to Enjoin the Execution of Petitioners’ Removal Orders.

Petitioners ask this Court to issue an order delaying the Government’s execution of their valid, final removal orders, but this Court lacks jurisdiction to grant that relief. 8 U.S.C. § 1252(g). Congress has expressly limited judicial review of the Executive Branch’s decisions regarding removal. “[N]o court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to ... execute removal orders.” 8 U.S.C.

1 § 1252(g). The Supreme Court has explained that this provision applies specifically to the
2 Government's decisions to commence proceedings, adjudicate cases, or execute removal orders.
3 *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999).

4 The Ninth Circuit has confirmed that district courts may not interfere with the execution of
5 removal orders. In *Rauda*, the court held that district courts lack jurisdiction to enjoin removal
6 while a noncitizen seeks to reopen immigration proceedings. *Rauda*, 55 F.4th at 777-78. The court
7 explained that the Attorney General's discretion to execute removal orders necessarily includes
8 the discretion to decide both "whether" and "when" removal occurs. *Id.* (quoting *Tazu v. Att'y*
9 *Gen. of the United States*, 975 F.3d 292, 297 (3d Cir. 2020)).

10 There is no meaningful distinction between *Rauda* and Petitioners' request that execution
11 of their removal orders be stayed for up to one year to allow them to pursue legal relief and put
12 their personal affairs in order. Petitioners seek this extraordinary delay to allow them time to
13 contact attorneys, file necessary petitions, and pursue legal relief connected to their detention. *See*
14 Dkt. 1, pg. 26. They also want time "to say goodbye to their families, notify their employers,
15 coordinate necessary medical care, and avoid further disruption to their lives and the lives of their
16 children and grandchildren." *Id.* The Court lacks jurisdiction to enjoin the Government from
17 executing Petitioners' removal orders and granting them this extraordinary delay.

18 Courts in this District have applied the same rule, concluding that requests to delay or
19 enjoin removal are barred by Section 1252(g). *See Guarcas Martin v. Bondi*, No. 2:26-CV-00749-
20 DGE, 2026 WL 638769 (W.D. Wash. Mar. 7, 2026); *Saechao v. Scott*, No. 2:26-CV-00548-TMC,
21 2026 WL 626765 (W.D. Wash. Mar. 5, 2026); *Aleman v. Bondi*, No. 2:25-CV-02346-JNW,
22 2026 WL 102457 (W.D. Wash. Jan. 14, 2026). That is exactly what Petitioners seek here. Their
23 habeas petition asks this Court to prohibit DHS from detaining them and executing their removal
24 orders unless they are given an extraordinary amount of time to prepare and seek legal remedies.

1 Such relief would directly interfere with the Executive's decision whether and when to execute the
2 removal orders and would address a near-exact issue already decided by the Ninth Circuit.

3 Furthermore, Petitioners request relief from this Court despite having neither sought relief
4 through the administrative process nor requested an emergency stay of removal. *See* Dkt. 1.
5 Administrative remedies remain available to them, yet they have not, to date, pursued them.
6 Nevertheless, they ask this Court to resolve the matter on their behalf, even though the Court lacks
7 jurisdiction to do so.

8
9 **B. Petitioners Are Not Entitled to One-Year Notice And A Pre-Detention Hearing If
and When Their OSUPS Are Revoked.**

10 The right to remain under an OSUP is not unlimited. Revocation of an OSUP is governed
11 by 8 C.F.R. §§ 241.13(i), 241.4(l), and may occur if either: (1) the noncitizen "violates any of the
12 conditions of release," or (2) it is determined "that there is a significant likelihood that the alien
13 may be removed in the reasonably foreseeable future." *Id.* §§ 241.13(i)(1), (2), 241.4(l)(1). The
14 regulations provide sufficient due process where noncitizens are provided notice of revocation of
15 the OSUP and a post-detention interview.

16 Furthermore, even assuming *arguendo* that DHS fails to provide any pre-detention process
17 in any future detention, the *Mathews* factors would favor the Government because DHS seeks to
18 detain Petitioners only after establishing a significant likelihood of removal by obtaining a travel
19 document. *See Mathews v. Eldridge*, 424 U.S. 319, 334-35 (1976). ICE does not intend to detain
20 Petitioners without first securing a travel document. Strzelczyk Decl. at ¶ 8. Thus, any resulting
21 consequences from any future detention would stem from the lawful execution of Petitioners'
22 removal orders, not from any procedural deficiency.

23 Under *Mathews*, the question is whether additional procedures are constitutionally required
24 before the Government may detain Petitioners to execute final removal orders. Here, Petitioners

ask this Court to impose additional procedures that the INA does not require; namely, up to one-year advance notice and a pre-detention hearing. But where DHS has already obtained a travel document and removal is reasonably foreseeable, the existing regulatory framework governing revocation of an OSUP provides sufficient process. *Mathews* requires the petitioner to demonstrate flaws in the government's deportation procedures, rather than the substance of the Immigration Judge's removal order or the Executive's decision to enforce it. *Id.* Petitioners here fail to make a showing of the risk for erroneous deprivation created by the procedure itself. *See id.* at 335.

C. Petitioners Are Not Entitled to Permanent Injunctive Relief.

Petitioners' request to permanently enjoin ICE from detaining them while they are on an OSUP absent one-year advance notice and a re-detention hearing should be denied. *See Torres v. Hermosillo*, No. 2026 WL 145715, at *8 (W.D. Wash. Jan. 20, 2026). Permanent injunctive relief can only be granted if "there exists some cognizable danger of recurrent violation, something more than the mere possibility which serves to keep the case alive." *See id.*

Petitioners have not demonstrated that there is more than a "mere possibility" that they will be detained without sufficient process. ICE has confirmed that it does not intend to detain Petitioners without first securing a travel document. Strzelczyk Decl. at ¶ 8. Thus, Petitioners cannot demonstrate that any future detention would not comply with 8 C.F.R. §§ 241.13(i)(1), (2), 241.4(l)(1), because once ICE obtains travel documents, there will be a significant likelihood that Petitioners may be removed in the reasonably foreseeable future. Petitioners' request for permanent injunctive relief should be denied because they have failed to make the proper showing for such relief.

D. Petitioners' Argument That Removal Will Not Be Imminent Is Incorrect.

Petitioners anticipate that DHS will detain them once they obtain a travel document from Laos, but they argue that there is "no guarantee" they will be deported in the near future, based on

1 hearsay reports regarding the current volume of Laos removals. Dkt. 1, pg. 14. That premise is
2 incorrect. ICE does not intend to detain Petitioners without first securing a travel document.
3 Strzelczyk Decl. at ¶ 8. And once a travel document has been issued, removal is no longer
4 speculative; rather, it reflects concrete arrangements to execute the removal order.

5 Courts in this District have repeatedly recognized that the existence of a travel document
6 demonstrates that removal is reasonably foreseeable and that detention in furtherance of removal
7 is lawful. Indeed, Petitioners themselves seemingly imply that the government could detain them
8 after procuring a travel document, they are just asking this Court to Order the government enjoin
9 DHS from detaining them unless it occurs on their terms, not the Government's. Dkt. 1.

10
11 **E. This Court Lacks Jurisdiction Over Petitioners' Arguments Regarding Laos' Country Conditions.**

12 Petitioners raise concerns regarding country conditions and the availability of medical
13 treatment for deportees in Laos. Dkt. 1, pgs. 13-14. Those arguments do not provide a basis for
14 relief in this Court. Claims regarding fear of harm or country conditions must be presented through
15 the immigration court system and reviewed through the exclusive petition-for-review process in
16 the courts of appeals. *See* 8 U.S.C. § 1252(a)(5).

17 District courts do not have jurisdiction to halt removal based on such claims. As courts in
18 this District have recognized, challenges to the substance or consequences of removal must be
19 raised through the immigration courts and the exclusive review of the Ninth Circuit—not through
20 habeas proceedings by the District Court or by seeking to block execution of a valid removal
21 order. Even if the Petitioner filed a motion to reopen on these grounds, this Court would not have
22 jurisdiction to halt his removal on those grounds as stated above. *See Rauda*, 55 F.4th at 777.

23 The same is true of Petitioners' assertions regarding medical care in Laos. Those concerns
24 relate to the consequences of removal and therefore fall outside the jurisdiction of this Court. These

1 are matters for the immigration courts and the court of appeals. Petitioners remain free to pursue
2 any such claims through the immigration system. But this Court lacks authority to delay or prevent
3 Petitioners' removal based on them.

4 **CONCLUSION**

5 Petitioners seek extraordinary relief and ask this Court to impose conditions on the
6 Government that are unsupported by statute, precedent, or the Constitution. Their habeas petition
7 should be denied and dismissed.

8 DATED this 17th day of March, 2026.

9 Respectfully submitted,

10 s/ Kristin B. Johnson

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