

THE HONORABLE TANA LIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

OUCHO SAELEE and LAI CHIEM SAELEE,

Petitioners,

v.

JULIO HERNANDEZ, 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.¹

No. 2:26-cv-00735-TL

PETITIONERS' TRAVERSE

NOTED FOR CONSIDERATION:
MARCH 23, 2026

I. INTRODUCTION

Petitioners Oucho Saelee and Lai Chiem Saelee seek only due process before detention and ask this Court to protect that "most elemental of liberty interests[.]" *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Respondents have repeatedly and suddenly re-detained countless other individuals released on Orders of Supervision, including stateless former refugees from Laos, without notice or cause. Over and over again, courts in this district have held that Respondents'

¹ Petitioners accept Respondents' representation that Julio Hernandez should be substituted for Laura Hermosillo as a Respondent under Fed. R. Civ. P. 25(d).

PETITIONER'S TRAVERSE
(No. 2:26-cv-00735-TL) – 1

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detention of individuals on Orders of Supervision without notice or a hearing violates procedural due process. *See, e.g., E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1321 (W.D. Wash. 2025); *Truong Vo v. Scott*, No. 2:26-CV-00135-JNW, 2026 WL 445046, at *6 (W.D. Wash. Feb. 17, 2026); *Aslan v. Wamsley et al.*, No. 2:25-cv-02698-JNW, 2026 WL 238675, at *3 (W. D. Wash. Jan. 29, 2026); *Tessema v. Bondi*, No. C25-2330-JNW-MLP, 2025 WL 4033288, at *1 (W.D. Wash. Dec. 11, 2025), *report and recommendation adopted*, No. C25-2330-JNW-MLP, 2026 WL 84922 (W.D. Wash. Jan. 12, 2026); *Tesara v. Wamsley*, Case No. C25-1723-KKE-TLF, 2025 WL 3288295, at *1, *6 (W.D. Wash. Nov. 25, 2025); *Yildirim v. Hermosillo*, No. C25-2696-KKE, 2026 WL 111358 at *5 (W. D. Wash. Jan. 19, 2026). These courts have frequently ordered Respondents to release the petitioner from custody and granted injunctive relief to prevent the petitioner's re-detention absent written notice and a hearing to determine whether detention is appropriate. *See, e.g., Yildirim*, 2026 WL 111358 at *5; *Amhirra v. Warden*, No. 2:25-cv-01376-TL, 2025 WL 3718994, at *10 (W. D. Wash. Dec. 23, 2025) (having granted habeas relief, "the Court may order injunctive relief to protect Petitioner's due process rights"); *Arroyo Silva v. Hermosillo*, No. 2:26-CV-00179-GJL, 2026 WL 445003, at *6 (W.D. Wash. Feb. 17, 2026) (the habeas statute authorizes courts "not only to remedy unlawful detention through release, but also to craft forward-looking relief necessary to prevent recurrence of the constitutional violation").

Petitioners seek the same relief. They seek the exact same pre-detention protections: written notice of the basis for the proposed re-detention and a hearing to determine whether detention is appropriate. The only difference is that they seek that relief *before* their rights are violated by being unlawfully re-detained. Notably, Respondents do not dispute—and thus concede—that Petitioners are "in custody" of the United States for the purposes of a habeas corpus petition. Nor do Respondents dispute that habeas relief can be granted before Petitioners are re-detained in violation of their due process rights. *Compare* Dkt. 1 ¶¶ 56–64 *with* Respondent's Response, Dkt. 5; *see also Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N. D. Cal. Nov. 22, 2019). Petitioners have shown that their unlawful re-detention is both imminent and likely. Respondents'

1 assertions to the contrary provide no reassurance; rather, they underline that Petitioners *will* be re-
2 detained in violation of their due process rights as soon as travel documents are obtained. *See* Dkt.
3 5 at 2. For this reason, Petitioners respectfully request this Court grant their request and enjoin
4 Respondents from re-detaining them without prior notice and a hearing before a neutral
5 decisionmaker to determine whether detention is legally warranted.

6 II. ARGUMENT

7 A. This Court Has Jurisdiction to Enjoin the Respondents' Impending Violations of 8 Petitioners' Due Process Rights.

9 Respondents argue that the Petitioners have asked this Court to “issue an order delaying
10 the Government’s execution of their valid, final removal orders[.]” Dkt. 5 at 3. Not so. Petitioners
11 seek protection from re-detention in violation of their due process rights, not any interference with
12 their removal orders or Respondents’ legal rights to enforce them. Similar to the plethora of other
13 habeas petitioners in this district and others, Petitioners do “not seek review of the Government’s
14 decision to commence removal proceedings or to take an action to remove [Petitioners] from the
15 United States, nor do [they] seek to challenge the removal process writ large.” *Tesara*, 2025 WL
16 3288295 at *3. Rather, they “seek[] judicial review of the procedure by which” they may be re-
17 detained, a question squarely within this Court’s jurisdiction. *Id.*; *see also Jennings v. Rodriguez*,
18 583 U.S. 281, 293 (2018); *Munoz Materano v. Arteta*, 804 F. Supp. 3d 395, 411 (S.D.N.Y. Sept.
19 12, 2025).

20 Respondents’ reliance on *Rauda v. Jennings*, 55 F.4th 773, 777-78 (9th Cir. 2022), is thus
21 inapposite. In *Rauda*, an individual in removal proceedings filed a habeas petition “asking the
22 court to enjoin the government from removing him until the BIA ruled on his motion to reopen
23 and the court ruled on his habeas petition.” *Id.* at 776. The petitioner in *Rauda* thus sought an
24 indefinite stay of removal pending review of his final order of removal, not review of the
25 procedures used to secure his detention. *Id.* at 777-78. The Ninth Circuit held that 8 U.S.C.
26 § 1252(g), which states that no court has jurisdiction to enjoin any “action by the Attorney General

1 to [...] execute removal orders against any alien,” deprived it of jurisdiction to review his claims.
 2 *Id.* at 777. As the Supreme Court held in *Reno v. American-Arab Anti-Discrimination Committee*,
 3 this jurisdictional bar in § 1252(g) applies “only to three discrete actions that the Attorney General
 4 might take: her ‘decision or action’ to ‘commence proceedings, *adjudicate* cases, or *execute*
 5 removal orders.’” 525 U.S. 471, 482 (1999) (emphasis original). It is therefore *not* a “general
 6 jurisdictional limitation[.]” *Id.*

7 Unlike *Rauda*, Petitioners here do not challenge their final orders of removal. Instead,
 8 Petitioners seek procedural protections against inappropriate and unlawful detention. Specifically,
 9 Petitioners seek 1) advance notice of the basis for any proposed re-detention, and 2) a hearing to
 10 determine whether re-detention is necessary to prevent flight and protect against danger to the
 11 community.² Nothing in 8 U.S.C. § 1252(g) strips courts of their jurisdiction to review challenges
 12 to due process in this context. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 693-94 (2001)
 13 (individuals subject to final removal orders do not cede their due process rights simply because
 14 DHS is authorized to remove them); *cf. Jennings*, 583 U.S. 281 at 293 (rejecting “extreme”
 15 interpretation of jurisdictional bar that would “make claims of prolonged detention effectively

16 ² Importantly, the same would be true if Petitioners were seeking to enforce their procedural due process
 17 rights in the context of challenging their removal itself. Section 1252(g) “does not prohibit challenges to unlawful
 18 practices merely because they are in some fashion connected to removal orders,” including due process challenges to
 19 the removal proceedings. *Ibarra-Perez v. United States*, 154 F.4th 989, 997 (9th Cir. 2025). It is well established that
 20 due process rights protect Petitioners against surprise removals, and that meaningful notice is required, especially
 21 when circumstances have changed and an individual has claims for protection against removal. *See Andriasian v.*
 22 *I.N.S.*, 180 F.3d 1033, 1041 (9th Cir. 1999) (last-minute designation of country of removal without opportunity to
 23 present arguments and evidence to claim protection violated due process); *Najjar v. Lynch*, 630 Fed. App’x. 724 (9th
 24 Cir. 2016) (“[L]ast minute orders of removal to a country may violate due process if an immigrant was not provided
 25 an opportunity to address his fear of persecution in that country.”); *Aden v. Nielsen*, 409 F.Supp.3d 998, 1009 (W.D.
 26 Wash. 2019) (“A noncitizen must be given sufficient notice of a country of deportation that, given his capacities and
 circumstances, he would have reasonable opportunity to raise and pursue his claim for withholding of deportation.”).
 Here, as in *Aden*, the circumstances have entirely changed since the Petitioners were ordered removed many decades
 ago. Indeed, Laos never accepted deportations until now and it is only doing so under coercive conditions imposed by
 the United States that create and impose significant harm on deportees. Laos treats all deportees as stateless, subjects
 them to arbitrary detention upon arrival, and denies them the rights and privileges of citizens and nationals, among
 other things. Immigration regulations provide that the numerical and time limitations to filing a motion to reopen do
 not apply where there are changed country conditions and a person has a withholding of removal or Convention
 Against Torture claim. 8 C.F.R. § 1003.23(b)(4)(i). In other words, due process requires a meaningful opportunity to
 file claims for relief from removal—an impossibility if an individual is not notified in advance that circumstances
 have changed and they can now be removed.

1 unreviewable”). Respondents’ duty to provide Petitioners notice and a hearing prior to their re-
2 detention is an entirely separate matter from their ability to remove Petitioners, as courts in this
3 District have repeatedly held. *See, e.g., Yang v. Scott*, No. 2:26-cv-00469-JNW, 2026 WL 632661
4 at *2 (W. D. Wash. Mar. 6, 2026) (constitutional claims challenging the legality of detention “fall
5 comfortably outside Section 1252(g)”; *Arenado-Borges v. Bondi*, No. 2:25-cv-02193-JNW, 2025
6 WL 3687518 at *2-3 (W. D. Wash. Dec. 19, 2025) (“Many courts have held that challenges to the
7 length of detention or the revocation of supervised release fall outside Section 1252(g) because
8 they do not implicate one of the statute’s three enumerated actions”).

9 Respondents also contend that Petitioners are barred from seeking habeas relief because
10 they have not exhausted their administrative claims. Of course, Petitioners’ desire to pursue legal
11 relief from removal is one reason Petitioners request a significant notice period prior to their re-
12 detention. In addition, on habeas review, exhaustion is a prudential consideration, not a
13 jurisdictional requirement. *See Acevedo-Carranza v. Ashcroft*, 371 F.3d 539, 541-42 (9th Cir.
14 2004). Where exhaustion is a prudential requirement, a court has discretion to waive the
15 requirement. *Id.* Courts may require prudential exhaustion if “(1) agency expertise makes agency
16 consideration necessary to generate a proper record and reach a proper decision; (2) relaxation of
17 the requirement would encourage the deliberate bypass of the administrative scheme; and
18 (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude
19 the need for judicial review.” *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007). Even if these
20 factors weigh in favor of prudential exhaustion, the court may waive the exhaustion requirement
21 if “administrative remedies are inadequate or not efficacious, pursuit of administrative remedies
22 would be a futile gesture, irreparable injury will result, or the administrative proceedings would
23 be void.” *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017).

24 None of the factors requiring prudential exhaustion are present here—there is no agency
25 expertise or consideration needed to determine that Petitioners are entitled to due process before
26 re-detention. And even if there were, the exhaustion requirement should be waived because

1 irreparable injury will result from the violation of Petitioners' due process rights through unlawful
2 re-detention. For that reason, this Court is clearly not barred from hearing these claims on a theory
3 of administrative exhaustion.

4 **B. Petitioners Are Entitled to Adequate Notice and a Hearing as This Court Finds**
5 **Equitable and Appropriate.**

6 Respondents' arguments concerning Petitioners' right to notice and hearing rest on a
7 fundamentally flawed premise: that the existing regulatory framework—providing only notice of
8 the revocation of the OSUP and a post-detention interview—satisfies the constitutional demands
9 of procedural due process when ICE seeks to revoke a long-standing OSUP and re-detain
10 individuals who have lived freely in the United States for decades. This position has been squarely
11 and repeatedly rejected by courts across this district and beyond, highlighting that pre-deprivation
12 procedural protections are required and that courts have the equitable power to decide what notice
13 period is required to protect due process. *See* Dkt. 1 at ¶¶ 60, 77 (collecting cases). The
14 Constitution's guarantee of due process cannot be satisfied by the mere existence of bureaucratic
15 regulations that ICE may, in its unreviewable discretion, choose to follow or disregard. Under the
16 *Mathews v. Eldridge* balancing test, each of the three relevant factors—Petitioners' private liberty
17 interest, the risk of erroneous deprivation, and the Government's interest—weighs heavily in favor
18 of requiring adequate pre-deprivation notice and a hearing before a neutral decisionmaker. 424
19 U.S. 319, 334 (1976).

20 The Government argues that the existing regulatory scheme, providing “notice of
21 revocation of the OSUP and a post-detention interview” provides “sufficient process” and that
22 Petitioners are therefore not entitled to “judicially created procedures.” *See* Dkt. 5 at 5. This
23 argument conflates regulatory compliance with constitutional sufficiency and cannot withstand
24 scrutiny. The fundamental requirement of due process is “the opportunity to be heard ‘at a
25 meaningful time and in a meaningful manner.’” *Mathews*, 424 U.S. at 333. That a regulation exists
26 does not end the inquiry. Where an “immigration regulation is promulgated to protect a

1 fundamental right derived from the Constitution or a federal statute, like the opportunity to be
 2 heard, and ICE fails to adhere to it, the challenged action is invalid.” *Ghiassi v. Murray*, 2026 WL
 3 622184, at *7 (E.D. Cal. Mar. 5, 2026). Moreover, the Respondents’ reliance on ICE’s regulatory
 4 framework as a ceiling—rather than a floor—of constitutional protection ignores that the Due
 5 Process Clause imposes its own requirements regardless of what any particular statute or regulation
 6 provides. As this Court in *E.A. T.-B. v. Wamsley* observed, even if “the Government may believe
 7 it has a valid reason to detain Petitioner [it] does not eliminate its obligation to effectuate the
 8 detention in a manner that comports with due process.” 795 F. Supp. 3d at 1322. Here, due process
 9 requires two components: an adequate notice period and a hearing before a neutral decision-maker
 10 to determine if detention is legally warranted.

11 **1. The Court Has Broad Discretion to Set a Notice Period Appropriate to**
 12 **Protect the Petitioners’ Substantial Private Liberty Interests.**

13 This Court has broad equitable discretion to grant such notice as it deems fit and necessary
 14 to protect Petitioners’ substantial due process interests. “Due process is flexible and calls for such
 15 procedural protections as the particular situation demands.” *Mathews*, 424 U.S. at 334 (citing
 16 *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972)). The due process analysis is not “a technical
 17 conception with a fixed content related to time, place and circumstances.” *Id.* (citing *Cafeteria*
 18 *Workers v. McElroy*, 367 U.S. 886, 895 (1961)). Instead, it requires a contextual analysis of the
 19 three *Mathews* factors—Petitioners’ private liberty interests, the risk of erroneous deprivation, and
 20 the Government’s interest, including the burden that additional procedural requirements would
 21 entail. *Id.*

22 Here, Petitioners’ extraordinary circumstances create a significant private liberty interest
 23 justifying an extended notice period. As the Supreme Court held in *A.A.R.P. v. Trump*, “[d]ue
 24 process requires notice that is ‘reasonably calculated, under all the circumstances, to apprise
 25 interested parties’ and that ‘afford[s] a reasonable time . . . to make [an] appearance.’” 605 U.S.
 26 91, 94-95 (2025). Here, the amount of advance notice constitutionally owed to Petitioners must

1 reflect the depth and duration of the liberty interest that has grown during their decades of free and
2 compliant life in the United States. *See, e.g., Chhoeun v. Marin*, 442 F.Supp.3d 1233, 1246 (C.D.
3 Cal. 2020) (the substantial number of years petitioners lived on release from immigration detention
4 “deepened their interest in remaining here” and justified providing notice “so that they may have
5 adequate time and opportunity” to pursue legal relief).

6 Petitioners have lived in the United States for forty-five years. Dkt. 1 ¶ 21. Although they
7 were ordered removed to Laos 31 years ago (in the case of Ms. Saelee) and 26 years ago (in the
8 case of Mr. Saelee), they could not be deported because Laos would not accept them. *Id.* ¶¶ 25-26.
9 Now, they face the possibility of removal for the first time. They cannot leave on their own because
10 Laos does not recognize them as citizens or nationals and Laos will not independently issue them
11 a travel document. *Id.* ¶ 13. The only travel document they can obtain to leave is one issued by
12 Laos to ICE. With significant medical needs and family dependencies, they cannot risk being
13 suddenly and arbitrarily detained. They need advance notice if and when ICE secures a travel
14 document so that they may pursue their legal claims to post-conviction relief and in reopened
15 removal proceedings. These legal processes take time, and the time should begin to run from the
16 moment that they are put on notice that Laos would actually accept them (a fact which is not yet
17 known).

18 In *Chhoeun*, the Central District of California granted a notice period sufficient for
19 Petitioners who had lived on orders of supervision for decades to “access the system that has been
20 constructed to prevent erroneous removals—a system that includes the thorough exhaustion of an
21 administrative process and judicial review by the appropriate court of appeals.” *Id.* at 1251. That
22 court noted that the extended notice period provided “the additional value of allowing Petitioners
23 to say goodbye to their families, and wrap up their affairs, including ensuring adequate care for
24 their loved ones and notifying their employers.” *Id.* As the court in *Chhoeun* recognized, these are
25 valid and meaningful private interests that justify an extended notice period under a *Mathews*
26 analysis.

Petitioners are similarly situated to the petitioners in *Chhoeun*, and their unique circumstances justify an extended notice period. Petitioners have lived for decades on the implicit promise that they will not be threatened with re-detention or deportation because Laos did not accept deportees. Petitioners had no reason to seek administrative remedies, such as an emergency stay of removal, when they were informed by the Respondents that they would not be removed, and lived for decades on Orders of Supervision. The Petitioners' "long-dormant removal orders, changes in the law and in Petitioners' lives, the sudden an unexpected threat of removal, and the barriers to accessing attorneys and documents while in detention" support an extended notice period for Petitioners to settle their affairs and seek legal relief, *even if* Respondents obtain travel documents for them. *Id.*

In short, this Court is fully empowered to issue equitable relief as it sees fit to protect the Petitioners' substantial due process rights, including Petitioners' request for six months to a year of notice prior to re-detention. However, in the event that this Court disagrees that this period is appropriate, Petitioners request that the Court modify the requested relief to grant whatever pre-detention notice period it determines is sufficient to allow Petitioners to manage their affairs, say goodbye to their loved ones, and seek legal and administrative relief.³

2. A Hearing is Required to Ensure that Detention is Legally Warranted.

A hearing is a similarly critical component of procedural due process. In this context, it is necessary to test the veracity of any Government claim that they have obtained a travel

³ Courts in this district have similarly imposed a quasi-notice period in the substantive due process context for individuals from Laos and Vietnam, who they have ordered may not be re-detained without first being provided any received travel documents and permitting them an opportunity to leave on their own within two months. Only if they do not leave within the designated period may they be re-detained. *See Do v. Scott*, No. C25-2187RSL, 2025 WL 3470327, at *3 (W.D. Wash. Dec. 3, 2025) (order on TRO); *Do v. Scott*, No. C25-2187RSL, 2025 WL 3496909, at *6 (W.D. Wash. Dec. 5, 2025) (order on habeas petition) ("Respondents may not re-detain petitioner unless. . . b. The government (1) obtains a valid travel document to Vietnam for her, (2) provides the valid travel document to her and counsel, (3) offers petitioner the opportunity to leave on her own within two months, and (4) petitioner does not leave."); *Tang v. Bondi*, No. 2:25-cv-01473-RAJ, 2025 WL 3551381, at *3 (W. D. Wash. Dec. 11, 2025) (same); *see also Nguyen v. Bondi*, No. 2:25-cv-02723-RAJ, 2026 WL 183819, at *7 (W.D. Wash. Jan. 23, 2026) (prohibiting any re-detention without ICE first obtaining a valid travel document); *Somsanuk v. Bondi*, 2026 WL 221139, at *6 (W.D. Wash. Jan. 28, 2026) (same).

document, and to establish whether detention is legally warranted. In addition to demonstrating to a neutral decisionmaker that a valid travel document has been obtained,⁴ it must also demonstrate that (1) detention is necessary to secure Petitioners' removal because the Petitioners are a flight risk, *see, e.g., Pineda v. Chestnut*, 25-cv-01970-DC, 2026 WL 25510, at *5 (E.D. Cal. Jan. 5, 2026) ("Although Respondents allege in their opposition that Petitioner repeatedly violated the terms of her release, no neutral arbiter has determined whether those facts show that Petitioner is a flight risk or danger to the community.") (cleaned up); (2) that the statute authorizes detention in the first place, *see* 8 U.S.C. § 1231(a); and (3) that any authorized detention is limited just to the "period reasonably necessary to secure removal," *Zadvydas*, 533 U.S. at 680.

None of these factors is likely to be met in this case. Petitioners are categorically not flight risks, as they have never violated the law or their orders of supervision in the many decades since they were ordered removed. Indeed, they have diligently sought to ensure their adherence to the law by seeking the protection of this Court. Further, it is an open question whether detention of a person who is compliant with their supervision conditions is authorized *at all* beyond the removal period. The applicable statute is silent on re-detention in such circumstances and the Supreme Court has interpreted the statute to include only a six-month grace period following entry of a removal order. 8 U.S.C. § 1231(a)(3) (a noncitizen who is not removed during the removal period "shall be subject to supervision under regulations"); *Zadvydas*, 533 U.S. at 701; *see Tran*, 2025 WL 3140462, at *3 (W.D. Wash. Nov. 10, 2025) (holding *Zadvydas* grace period ended six months after the entry of the order of removal, even though Petitioner had only been held for two months before being released). *Zadvydas* did not address re-detention many decades after the removal period expired.

⁴ Courts have questioned the ability of ICE to detain individuals when it claims to have obtained a travel document for a petitioner but has not produced that document upon request. *See, e.g., Sayaseng v. Scott*, No. 2:26-CV-00476-RAJ, 2026 WL 575126 (W.D. Wash. Mar. 2, 2026) (granting habeas to re-detained Laotian individual when a travel document allegedly existed, but Respondents "had not provided these documents to counsel for Petitioner").

1 Finally, even if the first two factors could be met, a hearing would serve to ensure that
2 detention was used solely for the limited purpose of securing removal “at the moment of
3 removal.” *Zadvydas*, 533 U.S. at 680. Merely obtaining a travel document does not mean
4 Petitioners will be immediately removed. Petitioners have submitted attestations from
5 individuals with personal knowledge that only 40-60 individuals per month are actually being
6 removed to Laos. Dkt. 1, Ex. A, Declaration of Thao Ha (“Ha Decl.”) ¶ 9. Despite the small
7 number of people actually being removed to Laos, there has been a surge in detentions of people
8 from Laos in recent months. *Id.* ¶ 10. Individuals have reported that there are more than a
9 hundred individuals with Laos removal orders detained in the El Paso, Texas ICE detention
10 center alone. *Id.* Those individuals have stated that in some cases, even when the U.S.
11 government claims it has received a travel document from Laos for a person it has in custody,
12 those individuals are not removed right away, and some individuals “sit in detention for three
13 months or more following ICE notifying the individuals that there was receipt of a travel
14 document. In many of these instances, ICE had to request a new travel document because the one
15 they had received expired.” *Id.* ¶ 13.

16 Respondents have made no assertion or claim to contradict Petitioners’ evidence of
17 delays in removals to Laos. They claim that courts have “repeatedly recognized that the
18 existence of a travel document demonstrates that removal is reasonably foreseeable,” yet they do
19 not provide a single citation for this broad assertion. Dkt. 5 at 7. To the contrary, *Zadvydas*
20 established a contextual approach to the “reasonably foreseeable” analysis, stating that
21 “[w]hether a set of particular circumstances amounts to detention within, or beyond, a period
22 reasonably necessary to secure removal is determinative of whether the detention is, or is not,
23 pursuant to statutory authority.” 533 U.S. at 699. Far from a bright-line rule, the *Zadvydas*
24 analysis measures reasonableness primarily based on whether detention is necessary to assure an
25 individual’s “presence at the *moment of removal*.” *Id.* (emphasis added). Therefore, even if
26 Respondents claim they have obtained a travel document for Petitioners, a pre-deprivation

1 hearing is still justified to ensure that (1) the travel document is exists and is valid, (2) removal is
2 reasonably foreseeable and Petitioners will not be required to languish in detention for months,
3 separated from their families and necessary medical care while awaiting removal, and
4 (3) Respondents cannot effectuate removal through another method (i.e., by allowing Petitioners
5 to self-deport). Petitioners' uncontroverted evidence that the United States is deporting only a
6 handful of individuals to Laos a month, and that some Laotians have been detained on the
7 premise that a travel document exists even when it does not, compel the conclusion that a pre-
8 deprivation hearing is required to protect Petitioners' due process rights against indefinite
9 detention. Ha Decl. ¶¶ 9-13.

10 **C. Petitioners Are Entitled to a Writ of Habeas Corpus, Including Injunctive Relief.**

11 Respondents claim that that Petitioners are not entitled to injunctive relief because there is
12 no "cognizable danger of recurrent violation" warranting an injunction. *See Torres v. Hermosillo*,
13 No. 2:25-cv-02687-LK, 2026 WL 145715 (W. D. Wash. Jan. 20, 2026). But that is not the case:
14 unlike the petitioner in *Torres*, Petitioners *have* alleged that re-detention is likely and *have* alleged
15 that re-detention is likely to occur without proper notice and an opportunity to be heard. *Id.* at *8.

16 Petitioners have submitted evidence showing that Respondents are routinely re-detaining
17 refugees from Laos released on Orders of Supervision without notice or a hearing, that these
18 individuals do not always have travel documents procured by Respondents, and that these
19 individuals are not being removed in a timely manner. *See* Ha Decl. ¶¶ 10-13; Dkt. 1, Ex. C,
20 Declaration of Gail Brashear ("Brashear Decl.") ¶ 6. Petitioners' evidence and allegations
21 therefore demonstrate more than a "mere possibility" of their re-detention. They establish a clear
22 and obvious pattern, which is also shown by the sheer number of habeas cases in this District in
23 which refugees from Laos have been ordered released because their due process rights were
24 violated. Many of these cases have granted injunctive relief to prevent further illegal re-detention.
25 *See, e.g., Somsanuk v. Bondi*, No. C26-48-MLP, 2026 WL 221139 (W. D. Wash. Mar. 5, 2026)
26 (ordering release from custody of Laotian refugee and granting injunctive relief because petitioner

1 “falls within a group that ICE has treated as a priority for enforcement”); *Saelee v. Bondi*, No.
 2 2:25-cv-02677-TLF, 2026 WL 221513 at *7-8 (W. D. Wash. Jan. 28, 2026) (granting habeas
 3 petition of Laotian refugee and stating that “[p]rior to any future detention by ICE, petitioner is
 4 entitled to notice and a pre-deprivation hearing at which a neutral decision-maker must determine
 5 whether there is any valid basis for their detention”); *Yang*, 2026 WL 632661 at *5 (granting
 6 injunctive relief against future re-detention of Laotian refugee without notice and an opportunity
 7 to be heard); *Phetsadakone v. Scott*, No. 2:25-cv-01678-JNW, 2025 WL 2579569 (W. D. Wash.
 8 Sept. 5, 2025) (granting injunctive relief to Laotian refugee prohibiting re-detention);
 9 *Simmaphilavong v. Noem*, No. 2:26-cv-00458-JHC, 2026 WL 593146 at *6 (W. D. Wash. Mar. 3,
 10 2026) (granting injunctive relief to Laotian petitioner and ordering “[p]etitioner shall not be re-
 11 detained until after a hearing before a neutral decisionmaker and adequate notice of his alleged
 12 imminent removal”).

13 Petitioners are doubly at risk for re-detention because their previous criminal conviction
 14 makes them targets for immigration enforcement. This makes the cognizable danger of a recurrent
 15 violation even more likely, justifying an injunction. *See, e.g., Somsanuk*, 2026 WL 221139 at *4
 16 (granting an injunction for a petitioner because “noncitizens with prior criminal convictions” are
 17 a targeted group, making future re-detention more likely); *Nguyen v. Bondi*, No. 2:25-cv-02723-
 18 RAJ, 2026 WL 183819 at *6 (W. D. Wash. Jan. 23, 2026) (granting injunction against future re-
 19 detention because petitioner “appears to fall into a target group for immigration arrests (noncitizens
 20 with past criminal convictions) and because he is from a country that is the subject of the
 21 government’s increased removal efforts”).

22 Finally, Petitioners have alleged facts related to their own specific circumstances that show
 23 they are at risk of being re-detained. Both Petitioners have been asked to fill out paperwork for
 24 travel documents. Dkt. 1 ¶ 52. Further, Petitioner Oucho has alleged that unmarked ICE vehicles
 25 were recently seen surveilling his home, an allegation which Respondents have not rebutted or
 26

1 contradicted. Dkt. 1 ¶¶ 2, 52. The Petitioners' allegations regarding their individual, particularized
2 circumstances demonstrate that an illegal re-detention is a concrete and imminent risk.

3 Indeed, Respondents' own return demonstrates that Petitioners are at imminent risk of
4 being detained without proper due process. Dkt. 5 at 6-7; Dkt. 6 (Declaration of Daniel Strzelczyk)
5 ¶ 8. Respondents claim that DHS does not currently have travel documents for Petitioners but go
6 on to state that "when the Government does obtain travel documents, they can effectuate
7 Petitioners' removal and nothing in the Constitution or the Immigration and Nationality Act (INA)
8 requires DHS to comply" with Petitioner's request for basic due process. Dkt. 5 at 2. In other
9 words, Respondents have made clear that once they obtain travel documents, they *will* re-detain
10 the Petitioners—whether or not that detention meets the requirements of due process. As
11 previously discussed, Respondents' claim of obtaining a travel document is not enough to legally
12 detain the Petitioners; Petitioners still must be afforded a hearing to determine whether that
13 detention is legally warranted.

14 In short, Petitioners' specific, verified allegations, the declarations attached to their
15 petition, the circumstances facing individuals in Petitioners' position (both as citizens of Laos and
16 as individuals with prior criminal convictions), the Respondents' own statements, and the evidence
17 of widespread illegal action on the part of the Respondents makes clear that there is a "cognizable
18 danger of recurrent violation, something more than the mere possibility which serves to keep the
19 case alive." *Torres*, 2026 WL 145715 at *8. It is both appropriate and lawful for this Court to
20 enjoin Respondents from re-detaining Petitioners without adequate notice and a hearing.

21 **D. Information Regarding Country Conditions Adds Weight to the Due Process**
22 **Analysis.**

23 Respondents claim that the information Petitioners have provided regarding country
24 conditions in Laos "do not provide a basis for relief in this Court." Dkt. 5 at 7. But Respondents
25 misinterpret Petitioners' claims. Petitioners do not here seek to "halt removal" based on country
26 conditions. *Id.* But information regarding the availability of housing, medical care, and contact

1 with attorneys and family members in Laos do contribute to Petitioner's due process analysis,
2 supporting an extended notice period to allow Petitioners to put their affairs in order and arrange
3 a sponsor in Laos so that they will not remain in detention in Laos indefinitely. For this reason, the
4 country conditions in Laos are relevant to the Petitioners' private liberty interest, as re-detention
5 without proper notice and a hearing could unlawfully remove Petitioners from their families, their
6 assets, and their support systems in a way that substantially impairs their private liberty interest
7 upon an eventual removal. It is thus imperative that Petitioners, who have lived in the United States
8 for all of their adult lives, are given reasonable notice of their re-detention and potential removal.

9 III. CONCLUSION

10 Petitioners have asked this Court only for the legal protections to which they are entitled.
11 Petitioners face an imminent and well-founded risk of immediate re-detention, an action which
12 would immediately strip them of their due process rights if it occurred without notice and a hearing,
13 with potentially catastrophic consequences for their health and well-being in light of their age and
14 medical conditions. This Court has full jurisdiction to hear their petition, and it has full equitable
15 power to fashion an appropriate due process remedy to protect their significant due process rights.
16 For this reason, Petitioners respectfully request that this Court grant their request to *enjoin* the
17 Respondents from re-detaining them at any future point without (1) a notice period of six months
18 to one year; and (2) a pre-deprivation hearing to show that re-detention is legally warranted.

1 Dated: March 23, 2026

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