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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 PHET SAENGPRASEUTH,

Petitioner,

12 v.

13 KRISTI NOEM, Secretary of the
14 Department of Homeland Security, et al,

15 Respondents.
16

Case No. 26-cv-1356-RSH-SBC

**RETURN TO PETITIONER'S
HABEAS PETITION AND
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER**

17 **I. INTRODUCTION**

18 Petitioner has filed a habeas petition and a motion for temporary restraining
19 order. As the petition and motion assert the same claims and relief, Respondents respond
20 to both herein for the sake of judicial efficiency. For the reasons below, Respondents
21 ask the Court to deny Petitioner's habeas petition and request for interim relief.

22 **II. FACTUAL BACKGROUND**

23 Petitioner is a native and citizen of Laos. *See* Declaration of Ignacio Ramos
24 ("Ramos Decl.") at ¶ 3. On or about March 25, 1981, Petitioner was admitted to the
25 United States as a Lawful Permanent Resident. *See id.* at ¶ 4. On December 13, 2007,
26 Petitioner was convicted of assault with a deadly weapon in violation of California
27 Penal Code § 245(a)(1), for which he was sentenced to three years of imprisonment.
28 *See id.* at ¶ 5. On January 22, 2009, Petitioner was issued a Notice to Appear charging

1 him with removability under Immigration and Nationality Act § 237(a)(2)(A)(iii), for
2 having been convicted of an aggravated felony. *See id.* at ¶ 6. On March 10, 2009,
3 Petitioner was ordered removed to Laos. *See id.* at ¶ 8. On July 6, 2009, Petitioner was
4 released from ICE custody under an Order of Supervision (OSUP) because ICE was
5 unable to obtain a travel document at the time. *See id.* at ¶ 9.

6 On January 13, 2026, ICE re-detained Petitioner as it had determined that
7 Petitioner could be expeditiously removed from the United States pursuant to the
8 outstanding order of removal. *See Ramos Decl.* at ¶ 14. On January 13, 2026, ICE
9 initiated a travel document request. *See id.* at ¶ 15. On February 24, 2026, ICE secured
10 a travel document for Petitioner. *See id.* at ¶ 16. On February 27, 2026, ICE began the
11 process of identifying a removal flight for Petitioner. *See id.* at ¶ 17. ICE has a travel
12 document for the Petitioner to Laos and intends to execute the order of removal prior to
13 April 1, 2026. *See id.* at ¶ 18. ICE is not seeking to remove Petitioner to a third country.
14 *See id.* at ¶ 19. Since Petitioner's re-detention in January 2026, ICE has worked
15 diligently to effectuate his removal to Laos. *See id.* at ¶ 20. These removal efforts remain
16 ongoing. *See id.*

17 Compared to fiscal year 2024, where ICE removed no Laotian citizens, ICE
18 removed 177 Laotian citizens to Laos in fiscal year 2025 (as of September 8, 2025). *See*
19 *Ramos Decl.* at ¶ 21. ICE is routinely obtaining travel documents for Laotian citizens
20 and effectuating removal flights to Laos. *See id.* Since the start of fiscal year 2026 on
21 October 1, 2025, ICE has removed 111 Laotian citizens to Laos, most recently in
22 February 2026. *See id.* Once charter transportation is scheduled for Petitioner, his
23 removal can be effectuated promptly. *See id.* at ¶ 22. Under these circumstances, ICE
24 believes "there is a significant likelihood of Petitioner's removal to Laos in the
25 reasonably foreseeable future."

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A. Petitioner’s Claim Fails Because the Government Has Rebutted Any Showing that There is No Significant Likelihood of Removal to Laos in the Reasonably Foreseeable Future.

“Section 241(a) of the Immigration and Nationality Act (INA), codified at 8 U.S.C. § 1231(a), authorizes the detention of noncitizens who have been ordered removed from the United States.” *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 575 (2022). The INA provides that an alien ordered removed must be detained for 90 days pending the government’s efforts to secure the alien’s removal through negotiations with foreign governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General “shall detain” the alien during the 90-day removal period under subsection (a)(1)).

Section 1231(a)(6) “authorizes further detention if the Government fails to remove the alien during those 90 days.” *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001). The statute, however, is limited to “a period reasonably necessary to bring about the alien’s removal from the United States” and “does not permit indefinite detention.” *Id.* at 689. The Supreme Court has held that a six-month period of post-removal detention constitutes a “presumptively reasonable period of detention.” *Id.* at 701. Release is not mandated after the expiration of the six-month period unless “there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.*

Release is not mandated after the expiration of the six-month period unless “there is no significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701; *see also Clark*, 543 U.S. at 377. The Supreme Court limited the statute, allowing “post-removal-period detention to a period reasonably necessary to bring about that alien’s removal from the United States.” *Zadvydas*, 533 U.S. at 689. “[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699. Ultimately, “an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701.

1 The record does not support a finding that “there is no significant likelihood of
2 removal in the reasonably foreseeable future.” *Id.* ICE re-detained Petitioner for
3 removal on January 13, 2026. *See id.* at ¶ 14. Soon after his detention, on February 24,
4 2026, ICE secured a travel document for Petitioner. *See id.* at ¶ 16. ICE has a travel
5 document for the Petitioner to Laos and intends to execute the order of removal prior to
6 April 1, 2026. *See id.* at ¶ 18.

7 That ICE has re-detained Petitioner without a travel document in hand or a
8 specific removal date is not dispositive. *Zadvydas* does not require the government to
9 pre-arrange a noncitizen’s removal before arresting them; this would be extremely
10 difficult, if not impossible, in most cases, as “[t]he risk of a detainee absconding . . .
11 inevitably escalates as the time for removal becomes more imminent.” *Rodriguez Diaz*
12 *v. Garland*, 53 F.4th 1189, 1208–09 (9th Cir. 2022); *see Zadvydas*, 533 U.S. at 699
13 (emphasizing that § 1231(a)’s basic purpose is “assuring the alien’s presence at the
14 moment of removal.”). Moreover, the constitutional standard is whether there is “a
15 significant likelihood of removal in the reasonably foreseeable future”—not whether a
16 removal will occur imminently. *Zadvydas*, 533 U.S. at 701. The Supreme Court was
17 clear that the Constitution prevents only “indefinite” or “potentially permanent”
18 detention. *Id.* at 696, 699.

19 As it stands, it would be premature to conclude that there is no significant
20 likelihood of removal in the reasonably foreseeable future before permitting ICE an
21 opportunity to complete the diligent efforts it has taken to effect Petitioner’s removal.
22 ICE has taken the exact steps it needs to take to ensure their removal efforts bear fruit.
23 Evidence of progress, even slow progress, in negotiating a petitioner’s repatriation will
24 satisfy *Zadvydas* until the petitioner’s detention grows unreasonably lengthy. *See Kim*
25 *v. Ashcroft*, Case No. 02cv1524-J (LAB), ECF No. 25 at 8 (S.D. Cal. June 2, 2003)
26 (finding that petitioner’s one year and four-month detention does not violate *Zadvydas*
27 given respondent’s production of evidence showing governments’ negotiations are in
28 progress and there is reason to believe that removal is likely in the foreseeable future);

1 *see Sereke v. DHS*, Case No. 19-cv-1250-WQH-AGS, ECF No. 5 at 5 (S.D. Cal. Aug.
2 15, 2019) (“the record at this stage in the litigation does not support a finding that there
3 is no significant likelihood of Petitioner’s removal in the reasonably foreseeable
4 future.”); *Marquez v. Wolf*, Case No. 20-cv-1769-WQH-BLM, 2020 WL 6044080 at *3
5 (denying petition because “Respondents have set forth evidence that demonstrates
6 progress and the reasons for the delay in Petitioner’s removal”). Given ICE’s diligent
7 efforts and its demonstrated ability to execute removal orders to Laos, the circumstances
8 of Petitioner’s case at this point do not support a finding that his case would be stuck in
9 limbo such that his detention would be unreasonably lengthy—let alone indefinite.

10 **B. Petitioner’s Third Claim is Unsupported.**

11 Petitioner also asserts that he is afraid that once a third country is identified, ICE
12 will immediately deport him there without being given adequate time to investigate
13 whether he could be persecuted in that country. ICE attests, however, that “[it] is not
14 seeking to remove Petitioner to a third country.” Ramos Decl. at ¶ 19.

15 Moreover, Petitioner’s claim that he may not be removed to a third country
16 without adequate notice and an opportunity to be heard is subject to ongoing litigation,
17 with the Supreme Court staying an injunction imposed by a district court ordering the
18 government to provide notice and an opportunity to be heard like that requested here.
19 *See Dep’t of Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153 (2025). Given the Supreme
20 Court’s reversal of that injunction, Respondents’ position is that imposition of a similar
21 injunction would be reversed here.

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1 **IV. CONCLUSION**

2 For the reasons stated herein, Respondents respectfully request the Court to deny
3 the habeas petition and motion for temporary restraining order.

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5 DATED: March 16, 2026

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