

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

KONGKHAM SILAPAXAY, A#  Civil Action No. _____

Petitioner,

v.

**PETITION FOR WRIT OF HABEAS
CORPUS PURSUANT TO 28 U.S.C. §
2241**

**TONY NORMAND, WARDEN,
FOLKSTON ICE DETENTION
FACILITY; ATLANTA FIELD OFFICE
DIRECTOR, Enforcement and Removal
Operations, U.S. Immigration and Customs
Enforcement; KRISTI NOEM, Secretary,
U.S. Department of Homeland Security**

Respondents,

Petitioner Kongkham Silapaxay, by counsel, petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and alleges as follows:

INTRODUCTION

1. Petitioner Kongkham Silapaxay ("Mr. Silapaxay") brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 to challenge his unlawful re-detention by the Department of Homeland Security ("DHS") and U.S. Immigration and Customs Enforcement ("ICE") in Folkston, Georgia.
2. Mr. Silapaxay is currently confined in ICE custody at the Folkston ICE Processing Center (Main) in Folkston, Georgia and is in the physical custody of the Warden of the detention facility where he is held, his immediate custodian.
3. Mr. Silapaxay is a citizen of Laos and a former lawful permanent resident. He has a final

1 order of removal from 2013.

- 2 4. After completing his federal criminal sentence, ICE placed an immigration hold on Mr.
3 Silapaxay and took him into custody in or about October 2013. ICE detained him until on
4 or about December 24, 2013, when ICE released him to live in the community under
5 conditions of ICE supervision.
- 6 5. From his release on or about December 24, 2013 through January 13, 2026, Mr.
7 Silapaxay complied with ICE supervision, including annual check-ins, and he incurred no
8 new criminal charges or convictions and did not miss check-ins.
- 9 6. On January 13, 2026, Mr. Silapaxay appeared as directed for a scheduled ICE check-in
10 and was abruptly taken into custody. ICE revoked his long-standing conditional liberty
11 without providing written notice of the reasons for revocation and without providing a
12 prompt informal interview after return to custody at which Mr. Silapaxay had a
13 meaningful chance to respond.
- 14 7. Mr. Silapaxay's abrupt re-detention, without adequate notice of any alleged basis to
15 terminate his previously granted liberty and without an opportunity to be heard, violates
16 the Due Process Clause of the Fifth Amendment and ICE's own binding regulations
17 governing revocation of release.
- 18 8. Mr. Silapaxay seeks habeas relief because this case concerns only his present physical
19 confinement and the constitutionally deficient process used to revoke his long-standing
20 supervised release and return him to custody.

21
22 **JURISDICTION AND VENUE**

- 23 9. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) because Mr. Silapaxay is "in
24 custody in violation of the Constitution or laws or treaties of the United States."
- 25 10. This Court has authority to issue an order to show cause and to require a prompt return
26 and hearing as provided by 28 U.S.C. § 2243.
- 27 11. Venue is proper in the Southern District of Georgia because Mr. Silapaxay is detained
28 within this District in Folkston, Georgia and his immediate custodian is located within

1 this District. See *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004).

2
3 **PARTIES**

4 12. Petitioner Kongkham Silapaxay is a noncitizen currently detained in ICE custody in
5 Folkston ICE Processing Center (Main) in Folkston, Georgia.

6 13. Respondent Tony Normand, Warden of the Folkston ICE Processing Center in Folkston,
7 Georgia is Petitioner's immediate physical custodian and is the proper respondent in this
8 core habeas challenge to present physical confinement. Respondent Warden is sued in his
9 official capacity.

10 14. Respondent Atlanta Field Office Director, Enforcement and Removal Operations, U.S.
11 Immigration and Customs Enforcement, exercises legal custody and supervisory
12 authority over Petitioner's immigration detention and release decisions and is sued in his
13 or her official capacity.

14 15. Respondent Kristi Noem, Secretary, U.S. Department of Homeland Security, is sued in
15 her official capacity as the cabinet officer ultimately responsible for DHS detention and
16 removal operations and is a legal custodian of Petitioner.

17 16. All Respondents are named in their official capacities.

18
19 **FACTUAL BACKGROUND**

20 17. Mr. Silapaxay is a citizen of Laos and a former lawful permanent resident. He entered the
21 United States as a child and has lived in the United States for decades.

22 18. Mr. Silapaxay has a final order of removal issued in 2013.

23 19. Mr. Silapaxay has a federal criminal history dating back to approximately 2007 involving
24 a drug related offense. He served a custodial sentence of approximately five years and
25 eight months. He has had no new criminal charges or convictions since completing that
26 sentence.

27 20. When Mr. Silapaxay completed his federal sentence, ICE placed an immigration hold on
28 him. ICE took him into custody in or about October 2013 and detained him until on or

1 about December 24, 2013.

2 21. On or about December 24, 2013, ICE released Mr. Silapaxay from custody under
3 conditions of supervision. ICE required him to report as directed, and over time his
4 reporting requirement was reduced to annual check ins.

5 22. Mr. Silapaxay remained in the community from his release on or about December 24,
6 2013 through January 13, 2026. During that time, he complied with ICE reporting
7 requirements, attended annual check ins, and remained available to ICE. He did not
8 abscond and he did not miss check ins.

9 23. On January 13, 2026, Mr. Silapaxay appeared for a scheduled ICE check in appointment
10 as directed. At that appointment, without advance notice, without any meaningful written
11 explanation, and without any intervening violation of supervision conditions, ICE took
12 Mr. Silapaxay into custody.

13 24. ICE has not provided Mr. Silapaxay written notice explaining the reasons for revoking
14 his supervised release and returning him to custody.

15 25. ICE has not provided Mr. Silapaxay a prompt informal interview after return to custody
16 at which he had a meaningful chance to respond to the alleged basis for revocation.

17 26. Mr. Silapaxay remains detained in ICE custody in Folkston, Georgia.

18
19 **LEGAL STANDARD**

20 27. "Once an alien enters the country, the legal circumstance changes, for the Due Process
21 Clause applies to all persons within the United States, including aliens, whether their
22 presence is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S.
23 678, 693 (2001).

24 28. "Procedural due process imposes constraints on governmental decisions which deprive
25 individuals of 'liberty' . . . interests." *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976).
26 Determining what process is due generally requires balancing: (1) the private interest
27 affected; (2) the risk of erroneous deprivation and the value of additional safeguards; and
28 (3) the government's interests. *Id.* at 335.

29. Courts recognize that revocation of conditional liberty requires constitutionally adequate process. See *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (termination of conditional liberty “inflicts a ‘grievous loss’” and “calls for some orderly process”).

30. ICE’s own regulations independently require minimum procedures when ICE revokes release and returns a person to post order custody, including written notice of the reasons for revocation and a prompt informal interview after return to custody to allow the person to respond. See 8 C.F.R. § 241.4(l)(1). Similar revocation procedures apply to release under 8 C.F.R. § 241.13, including notice and a prompt informal interview and permitting the noncitizen to submit evidence. See 8 C.F.R. § 241.13(i)(3).

31. Agencies must follow their own binding regulations. See *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266–68 (1954); *Service v. Dulles*, 354 U.S. 363, 388–89 (1957).

32. Recent decisions confirm that the dispositive issue in re-detention cases is whether ICE complied with the revocation procedures in 8 C.F.R. § 241.4(l) (and, as applicable, § 241.13(i)). Those procedures require written notice of the reasons for revocation and then a prompt informal interview or other opportunity to respond. Where ICE fails to establish compliance, the appropriate remedy is release under the prior Order of Supervision.

ARGUMENT

I. ICE’S RE DETENTION OF MR. SILAPAXAY WITHOUT NOTICE AND A MEANINGFUL OPPORTUNITY TO BE HEARD VIOLATES PROCEDURAL DUE PROCESS.

33. Mr. Silapaxay has a profound liberty interest in being free from physical detention. See *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (the interest in being free from physical detention is “the most elemental of liberty interests”).

34. ICE affirmatively granted Mr. Silapaxay conditional liberty on or about December 24, 2013, releasing him from post order immigration custody under conditions of supervision. For more than twelve years, Mr. Silapaxay lived in the community and

1 complied with ICE supervision, including annual check ins, with no new criminal
2 conduct and no missed appointments.

3 35. Revocation of long-standing conditional liberty inflicts a grievous loss and requires
4 constitutionally adequate process. *Morrissey v. Brewer*, 408 U.S. at 482. At a minimum,
5 due process requires notice of the reasons for revocation and a meaningful opportunity to
6 be heard at a meaningful time. See *Mathews*, *supra* at 332–35.

7 36. Here, ICE revoked Mr. Silapaxay’s conditional liberty at a scheduled check in on January
8 13, 2026, without providing written notice of the reasons for revocation and without
9 providing a prompt opportunity to respond through any meaningful interview or hearing
10 process.

11 37. Under the *Mathews* balancing framework, the private interest at stake is at its apex:
12 physical liberty. The risk of erroneous deprivation is substantial where liberty is revoked
13 summarily, without notice, without an opportunity to be heard, and without any neutral
14 assessment of whether a legally valid basis exists to terminate long standing supervised
15 release. The government’s interests do not justify dispensing with basic process. Where
16 ICE believes a person has violated conditions of supervision or that changed
17 circumstances justify return to custody, ICE can provide notice and an opportunity to
18 respond on an expedited basis.

19 38. Because ICE withdrew Mr. Silapaxay’s liberty without constitutionally adequate process,
20 his continued detention violates the Due Process Clause of the Fifth Amendment and
21 warrants habeas relief.

22 **II. ICE’S RE DETENTION IS UNLAWFUL BECAUSE ICE FAILED TO COMPLY**
23 **WITH ITS OWN BINDING REVOCATION PROCEDURES.**

24 39. Independent of constitutional balancing, ICE’s own binding regulations require minimum
25 procedures when ICE revokes supervised release and returns a noncitizen to custody after
26 a final order. Those procedures include: (1) written notice of the reasons for revocation;
27 and (2) an initial informal interview promptly after return to custody to allow the person
28 to respond. 8 C.F.R. § 241.4(l)(1).

1 40. Where release was granted under or treated as a release under 8 C.F.R. § 241.13, similar
2 protections apply, including notice and a prompt informal interview and permitting the
3 noncitizen to submit evidence. 8 C.F.R. § 241.13(i)(3).

4 41. Here, ICE has not provided Mr. Silapaxay with written notice explaining the basis for
5 revoking his supervised release and re detaining him. ICE also has not provided the
6 prompt informal interview required by 8 C.F.R. § 241.4(l)(1) at which Mr. Silapaxay
7 could respond.

8 42. Under *Accardi* and *Service v. Dulles*, agencies must follow their own binding regulations.
9 Where ICE disregards mandatory revocation procedures, the resulting re detention is
10 unlawful and habeas relief is warranted. *Accardi, supra* at 266–68; *Service, supra* at 388–
11 89.

12 43. The appropriate remedy is release from unlawful custody, or at minimum an order
13 requiring ICE to restore Mr. Silapaxay to the same conditions of supervision that
14 governed his liberty prior to January 13, 2026 unless and until ICE provides
15 constitutionally adequate process and complies with the governing revocation procedures.
16

17 REQUEST FOR RELIEF

18 WHEREFORE, Petitioner respectfully requests that this Court:

- 19 A. Issue an Order to Show Cause under 28 U.S.C. § 2243 directing Respondents to show
20 cause why the writ should not be granted, and set an expedited schedule;
- 21 B. Declare that Petitioner's re-detention without adequate notice and a meaningful
22 opportunity to be heard violates the Due Process Clause of the Fifth Amendment;
- 23 C. Declare that ICE's re-detention is unlawful for failure to comply with ICE's binding
24 revocation procedures, including 8 C.F.R. § 241.4(l)(1) (and, as applicable, 8 C.F.R. §
25 241.13(i)(3));
- 26 D. Order Respondents to immediately release Petitioner from ICE custody under the same
27 conditions that governed his release on or about December 24, 2013 (or such other
28 reasonable non-custodial conditions the Court deems appropriate), and prohibit re-

1 detention absent constitutionally adequate process and compliance with the applicable
2 revocation procedures;

3 E. Order that Petitioner shall not be transferred outside the Southern District of Georgia
4 during the pendency of this Petition absent further order of this Court; and

5 F. Grant such other and further relief as this Court deems just and proper.
6

7 Dated: March 12, 2026
8

9 Respectfully submitted,
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DECLARATION OF LOCAL COUNSEL REGARDING VERIFICATION

I am local counsel for Petitioner in this matter. I have not yet had direct contact with Petitioner in order to verify this petition. The Petition for writ of habeas corpus is based on information provided by lead counsel and local counsel's review of all available records. Counsel will file a verification from Petitioner as soon as counsel receives it, or in the alternate, lead counsel will file a complete verification once admitted pro hac vice. Due to Petitioner being detained far from his counsel, it will take extra time to obtain verification from Petitioner directly, but because this is an urgent matter, counsel requests leave of the court to file the verification as soon as it is available.

Dated this 12th day of March, 2026.



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Report

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KONGKHAM SILAPAXAY

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A-Number: 

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