Chief District Judge David G. Estudillo

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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| SOONTHAI DOUANGDALA,<br><br>Petitioner,<br><br>v.<br><br>TODD BLANCHE[1], *et al.*,[2]<br><br>Respondents. | Case No. 2:26-cv-00963-DGE<br><br>FEDERAL RESPONDENTS'[3] RETURN AND OPPOSITION TO PETITIONER'S MOTION FOR TEMPORARY RESTRAINING ORDER<br><br>Noted for consideration:<br>April 8, 2026 |

## I. INTRODUCTION

This Court should deny Petitioner Soonthai Douangdala's Petition for Writ of Habeas Corpus as well as his Motion for Temporary Restraining Order ("TRO"). Dkt. 1, 7. Petitioner is a noncitizen subject to a final order of removal. U.S. Immigration and Customs Enforcement ("ICE") lawfully detains him pursuant to 8 U.S.C. § 1231(a)(6) following the revocation of his Order of Supervision ("OSUP") previously issued by the Department of Homeland Security ("DHS"). Petitioner challenges his March 2, 2026, re-detention as violative of his right to

[1] Pursuant to Fed. R. Civ. P. 25(d), Federal Respondents substitute Acting United States Attorney General Todd Blanche for Pamela Bondi.

[2] Pursuant to Federal Rule of Civil Procedure 25(d), Federal Respondents substitute Julio Hernandez for Laura Hermosillo, and Markwayne Mullin for Kristi Noem.

[3] Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.



UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

procedural due process and his post-order detention at the Northwest ICE Processing Center ("NWIPC") as unlawful. Dkt. 1 at 6-8. He asks this Court to order his immediate release from detention and requests an injunction preventing Respondents from taking him into custody without prior notice and a meaningful hearing. *Id.* at 8, Prayer for Relief.

Petitioner's requests should be denied because his detention is consistent with statute and the standards articulated by the Supreme Court. *Zadvydas v. Davis*, 533 U.S. 678, 689-701 (2001). Congress has authorized post-order detention to effectuate removal, and the Supreme Court has held that such detention is lawful so long as there is a significant likelihood of removal in the reasonably foreseeable future. *Id.* at 701. Here, Petitioner's removal to Laos is not only reasonably foreseeable but imminent, and his generalized assertions to the contrary do not satisfy his initial burden of demonstrating "good reason" to conclude otherwise. *Id.* Moreover, as explained below, ICE did not violate Petitioner's right to due process because it followed appropriate agency regulations in revoking his OSUP. Finally, because removal is reasonably foreseeable, Petitioner's detention is clearly related to a legitimate Government purpose. *Id.* at 690.

Petitioner also asks this Court to halt the execution of his removal order pending a decision on his habeas petition. Dkt. 7. The Court lacks jurisdiction to grant such relief under 8 U.S.C. § 1252(g). *See Rauda v. Jennings*, 55 F.4th 773, 777–78 (9th Cir. 2022). Even if jurisdiction existed, Petitioner has not carried his burden under *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008). Likelihood of success on the merits is the most important factor in the analysis, and Petitioner cannot satisfy that threshold requirement. *See Geo Group v. Inslee*, 151 F.4th 1107, 1114 (9th Cir. 2025).

Accordingly, Federal Respondents respectfully request that the Court deny the petition and motion for TRO.



UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

## II. BACKGROUND

### A. Legal Background

Congress significantly expanded the scope and definition of an "aggravated felony" under the Immigration and Nationality Act ("INA") through the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Division C of Pub. L. No. 104- 208, 110 Stat. 3009-546 ("IIRIRA"). *See Matter of Lettman*, 22 I&N Dec. 365, 367-68 (BIA 1998) (discussing the evolution of the aggravated felony ground of removability under the INA); *see also Matter of Truong*, 22 I&N Dec. 1090, 1094-96 (BIA 1999) (same). As relevant here, IIRIRA rendered noncitizens convicted of an aggravated felony statutorily ineligible for most forms of discretionary relief from removal. *See* Declaration of Barbara Andrade ("Andrade Decl."), Ex. D at 2-3 (Order of the Board of Immigration Appeals).

The INA governs the detention and release of noncitizens during and following their removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). The general detention periods are generally referred to as "pre-order" (meaning before the entry of a final order of removal) and, relevant here, "post-order" (meaning after the entry of a final order of removal). *Compare* 8 U.S.C. § 1226 (authorizing pre-order detention) *with* § 1231(a) (authorizing post-order detention).

Section 1231(a)(6) authorizes ICE to continue detention of noncitizens after the expiration of the 90-day removal period if necessary to effectuate removal. Unlike Section 1231(a)(2), Section 1231(a)(6) does not mandate detention and does not place any temporal limit on the length of detention under that provision:

> [A noncitizen] ordered removed who is inadmissible under section 1182, removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or who has been determined by the [the Secretary of Homeland Security] to be a risk to the community or unlikely to comply with the order of removal, *may* be detained



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700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

> *beyond the removal period* and, if released, shall be subject to the terms of supervision in paragraph (3).

8 U.S.C. § 1231(a)(6) (emphasis added).

Although there is no statutory time limit on detention pursuant to Section 1231(a)(6), the Supreme Court has construed this provision to authorize detention only "for a period reasonably necessary to bring about that [noncitizen's] removal from the United States." *Zadvydas*, 533 U.S. at 689. The Supreme Court has identified six months as a presumptively reasonable time to bring about a noncitizen's removal. *Id.* at 701. The *Zadvydas* Court recognized that as the length of detention grows, a sliding scale of burdens is applied to assess the continuing lawfulness of a noncitizen's post-order detention. *Id.* (stating that "for detention to remain reasonable, as the period of post-removal confinement grows, what counts as the 'reasonably foreseeable future' conversely would have to shrink"). Thus, the Supreme Court implicitly recognized that six months is the *earliest* point at which a noncitizen's post-order detention could raise constitutional issues. *Id.*

Beyond six months, continued detention is permissible so long as there is a significant likelihood of removal in the reasonably foreseeable future. *Id.* at 701; *see also Clark v. Martinez*, 543 U.S. 371, 378 (2005) (extending *Zadvydas* to inadmissible noncitizens). The "reasonably foreseeable future" is evaluated based on concrete evidence of progress, such as diplomatic communications, travel document requests, or interviews with the home country. *Zadvydas*, 533 U.S. at 701. The noncitizen bears the initial burden to show "good reason" that removal is unlikely, after which the government must rebut with evidence of likely removal. *Id.*

If it is determined that there is no significant likelihood of removal in the reasonably foreseeable future, DHS may release noncitizens on an OSUP. 8 C.F.R. § 241.13(h). The right



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700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

to remain under an OSUP is not unlimited. Revocation of an OSUP is governed by 8 C.F.R. §§ 241.13 and 241.4(l).

**B. Petitioner Soonthai Douangdala**

On May 11, 1981, Petitioner was admitted to the United States as a refugee through the San Francisco, California, port of entry. *See* Andrade Decl., Ex. A, Notice to Appear ("NTA").[4] Petitioner was born in a refugee camp in Thailand in 1980.[5] Dkt. 1, ¶ 15. His family is originally from Laos. *Id.*, ¶ 4. On September 18, 1985, Petitioner became a Lawful Permanent Resident. Andrade Decl., Ex. A (NTA).

On September 26, 1997, the former Immigration and Nationality Service ("INS") issued Petitioner an NTA.[6] *Id.* The NTA charged Petitioner with removability under § 1227(a)(2)(A)(iii) of the INA, as amended, as a noncitizen who has been convicted of an aggravated felony due to his July 11, 1997, conviction for first degree robbery with a deadly weapon. *See* Declaration of Deportation Officer Andre Ouk ("Ouk Decl."), ¶ 6; Andrade Decl., Ex. A (NTA). Petitioner was a juvenile at the time of the offense; he was tried as an adult. Dkt. 1, ¶ 16.

On May 6, 1998, following a brief hearing at which Petitioner appeared *pro se*, an immigration judge concluded that Petitioner was ineligible for any form of relief from removal. Andrade Decl., Ex. B at 5 (Hearing Transcript); Ouk Decl., ¶ 7. The immigration judge ordered Petitioner removed to Thailand that same day. Andrade Decl., Ex. C (Order of the Immigration

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[4] Petitioner's NTA, as well as many of the official documents in the administrative record, incorrectly reflect Petitioner is a citizen of Thailand. *See, e.g.*, Andrade Decl., Ex A. At his May 6, 1998, individual hearing, Petitioner was questioned by the Immigration Judge regarding his citizenship. *Id.*, Ex. B at 5 (May 6, 1998, Hearing Transcript). While pleading to the allegations and sole charge of removability in his NTA, Petitioner indicated that he was born in Thailand and is considered a citizen of Thailand. *Id.* At that same hearing, when asked to name the country to which he wished to return, Petitioner stated Thailand. *Id.*, at 6.

[5] Respondents also note several documents incorrectly list Petitioner's birthyear as 1979. *See* Andrade Decl., Ex. K (March 1, 2026, Form I-213); Ex. M (Lao Travel Document).

[6] The INS was abolished and its functions transferred to the DHS pursuant to the Homeland Security Act of 2002. *See Hernandez v. Ashcroft*, 345 F.3d 824, 828 n.2 (9th Cir. 2003).



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(206) 553-7970

Judge); Ouk Decl., ¶ 7. Petitioner appealed the immigration judge's decision to the Board of Immigration Appeals ("Board"). *Id.*

On June 28, 1999, the Board affirmed Petitioner's removal order, finding that his aggravated felony conviction precluded his eligibility for most forms of relief from removal. Andrade Decl. Ex. D at 2-3 (Board Order). Although the Board clarified that Petitioner's conviction did not foreclose his eligibility for withholding of removal under the INA, it conducted its own analysis of the underlying facts and circumstances of Petitioner's robbery conviction and concluded that his conviction constitutes a particularly serious crime. *Id.* at 2.

The Board also addressed Petitioner's potential claim to citizenship, explaining that because Petitioner's parents are married, both of his parents would have had to naturalize before his eighteenth birthday for him to derive citizenship. *Id.* As Petitioner's eighteenth birthday occurred during the pendency of his appeal, prior to his mother's naturalization, the Board found that he was unable to derive citizenship through his parents. *Id.* Accordingly, the Board dismissed Petitioner's appeal. *Id.* Petitioner did not seek further judicial review of the Board's decision. Ouk Decl., ¶ 7.

On July 9, 2000, INS released Petitioner on an OSUP due to its inability to effectuate his removal within the period prescribed by law. Andrade Decl., Ex. E (June 9, 2000, OSUP); Ouk Decl., ¶ 8. Petitioner's OSUP imposed reporting requirements and other conditions on his release. Andrade Decl., Ex. E at 1-2.

On February 10, 2007, ICE encountered Petitioner at the Snohomish County Jail; Petitioner was in state custody on charges of attempting to elude police and probation violations. Andrade Decl., Ex. F at 1 (July 17, 2007, Form I-213); Ouk Decl., ¶ 9. ICE lodged a detainer with the county jail to bring Petitioner into custody upon his release from state custody. Andrade Decl., Ex. F at 2.



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On February 9, 2009, ICE detained Petitioner. Andrade Decl., Ex. G at 1 (February 9, 2009, Form I-213). ICE revoked Petitioner's first OSUP due to his failure to comply with the terms of his release. *Id.*, at 1-2. On March 4, 2009, ICE again released Petitioner on an OSUP. Andrade Decl., Ex. H at 1 (March 4, 2009, OSUP); Ouk Decl., ¶ 10. Although Petitioner's March 4, 2009, OSUP contains a handwritten notation indicating he was "re-released on OSUP on March 20, 2013," the record does not reflect that Petitioner was re-detained by immigration officials following his 2009 OSUP. Andrade Decl., Ex. H at 1 (March 4, 2009, OSUP); Ouk Decl., ¶ 10.

On March 1, 2026, an authorized DHS official issued a warrant for Petitioner's arrest. Andrade Decl., Ex. I (Warrant); Ouk Decl., ¶ 15. On March 2, 2026, Petitioner reported to the local ICE field office; ICE arrested Petitioner that same day. [7] Andrade Decl., Ex. K at 2 (March 2, 2026, Form I-213); Ouk Decl., ¶ 16.

On the day of Petitioner's arrest, ICE served him with a Notice of Revocation of Release which informed him that the terms of his release had been served due to the issuance of a travel document for his removal.[8] Andrade Decl., Ex. J (Notice of Revocation), Ex. M (Laissez-Passer); Ouk Decl., ¶ 17. The revocation notice further indicated ICE had scheduled Petitioner's removal to take place during the month of April 2026. Andrade Decl., Ex. J (Notice of Revocation); Ouk Decl., ¶ 19. On March 2, 2026, ICE conducted an informal interview in order to afford Petitioner the opportunity to respond to the reasons for the revocation of his order of supervision, however,

[7] The phrase "Bag and Baggage," which is not a formal policy or standardized procedure, is an internal shorthand used by ERO personnel to refer to individuals who are subject to a final order of removal and who are being processed for imminent removal. Andrade Decl., Ex. K (March 2, 2026, Form I-213); *Tran v. Bondi*, No. 2:25-CV-02335-DGE-TLF, 2025 WL 3725677, at *1 n.1 (W.D. Wash. Dec. 24, 2025) (noting Respondents' repeated failure to explain what the phrase "Bag and Baggage" means). The use of this colloquial terminology does not reflect the existence of any separate policy or practice, nor does it alter Federal Respondents' obligations under 8 C.F.R. § 241.13(i).

[8] Federal Respondents acknowledge Petitioner's revocation notice is undated and there is no proof of service on the notice itself. Andrade Decl., Ex. J (Notice of Revocation). However, ICE records reflect Petitioner was properly served with the notice of OSUP revocation on the day of his March 2, 2026, arrest. Ouk Decl., ¶ 15.



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700 STEWART STREET, SUITE 5220
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(206) 553-7970

Petitioner did not provide any response. Andrade Decl., Ex. L (Record of Informal Interview); Ouk Decl., ¶ 17.

## III. LEGAL STANDARD

"The district courts of the United States … are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute." *Exxon Mobil Corp. v. Allopath Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). "[T]he scope of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present day." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 125 n.20 (2020). Title 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions. 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).

## IV. ARGUMENT

### A. Petitioner's Post-Order Detention is Consistent with Statute and the Framework Articulated by the Supreme Court in *Zadvydas*.

This Court should dismiss the petition because Petitioner has failed to carry his initial burden under *Zadvydas*, 533 U.S. at 701. Under *Zadvydas*, post-order detention is presumptively lawful for six months. *Zadvydas*, 533 U.S. at 701. After this period, Petitioner bears the burden to show "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* Only then does the burden shift to the Government to demonstrate that removal remains reasonably foreseeable.

Federal Respondents acknowledge that the presumptively reasonable six-month period of post-order detention has lapsed in the instant case. Petitioner's removal order became final on June 28, 1999, following the Board's dismissal of his appeal. Andrade Decl., Ex. D; 8 C.F.R.



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700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

1241.1(a). Because Petitioner remained in detention until his release on OSUP on June 9, 2000, his presumptively reasonable period of post-order detention ended on December 9, 1999. Ouk Decl., ¶ 8; Andrade Decl., Ex. D.

However, ICE has presented evidence of a valid Lao travel document issued to Petitioner and its intent to imminently enforce his removal order with this travel document. Ouk Decl., ¶¶ 14, 17; Andrade Decl., Ex. M. Thus, Petitioner's removal to Laos is not only feasible, but there is also a significant likelihood of removal in the reasonably foreseeable future. *Id.* Petitioner offers only unsubstantiated assertions that "there is no reason to believe that [he] can be removed to Laos or to any other country." Dkt. 1 at ¶ 26. Petitioner's claim that he "is not removable to any country" is belied by the evidence. *Id.* at ¶ 23.

Furthermore, the noncitizens challenging their detention following final orders of deportation in *Zadvydas* were ones for whom removal was "no longer practically attainable." *Zadvydas*, 533 U.S., at 690. The civil confinement at issue was therefore not limited, "but potentially permanent." *Id.* at 691. Consequently, the Court observed that where "detention's goal is no longer practically attainable, detention no longer bears a reasonable relation to the purpose for which the individual was committed." *Id.* (internal quotation marks and citation omitted). By contrast, here, the acquisition of Petitioner's Lao travel document and ICE's intent to execute his removal order in April 2026 reflects that his current detention undoubtedly related to the Government's objective of effectuating his final order of removal. Ouk Decl., ¶ 17; *Guarcas Martin v. Bondi*, No. 2:26-CV-00749-DGE, 2026 WL 638769, at *4 (W.D. Wash. Mar. 7, 2026). Accordingly, Petitioner's detention is lawful under 8 U.S.C. § 1231(a)(6) and consistent with the standards articulated by the Supreme Court. *Zadvydas*, 533 U.S., at 699-701.

In sum, Petitioner's detention is lawful pursuant to 8 U.S.C. § 1231(a)(6) pending his removal. At this stage, the burden remains on Petitioner to present "good reason" to believe that



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700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

there is not a significant likelihood of his removal in the reasonably foreseeable future, and he has not done so. *Id.* at 701.

**B. Petitioner's OSUP Revocation Is Consistent with Due Process and Agency Regulations.**

Petitioner's sole due process argument insofar as his OSUP revocation is that Federal Respondents "violated their own regulations in revoking the order of supervision." Dkt. 1 at ¶ 28. Petitioner claims he was neither adequately notified of the reasons for his OSUP revocation nor afforded an informal interview promptly after his return to Service custody. Dkt. 1 at ¶ 23 (citing 8 C.F.R. §§ 241.13(i)(3), 241.4(l)(1)). This is factually inaccurate.

The regulatory framework in 8 C.F.R. § 241.13(i) sets forth the requirements and process for affecting an OSUP revocation. Agency regulations expressly contemplate a change in custody status where ICE determines that there is a "significant likelihood" a noncitizen can be removed from the United States within the "reasonably foreseeable future," nothing else is required for revocation under this circumstance. 8 C.F.R. §§ 241.13(i)(2); *see also Nizar Esmail v. Noem, et al.*, 2025 WL 3030590, at *2 (C.D. Cal. Sept. 12, 2025).[9] The regulations further provide that "upon revocation," *i.e.*, not before revocation, "the [noncitizen] will be notified of the reasons for the revocation" and to conduct an "initial interview promptly after his or return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification." 8 C.F.R. § 241.13(i)(3). These are precisely the procedures ICE followed when the agency revoked Petitioner's OSUP.

Petitioner's OSUP was revoked following an inquiry that reflected that circumstances in his case had changed because ICE obtained a valid travel document for his removal to Laos. Ouk

[9] While ICE may also revoke an OSUP as an act of discretion if revocation is in the public interest, pursuant to 8 C.F.R. § 241.4(l)(2), this is not what ICE has chosen to do in this case.

Decl., ¶¶ 14-15, 17. ICE properly took custody of Petitioner based on its determination that he could be removed expeditiously. Andrade Decl., Ex. J; Ouk Decl., ¶ 14. Upon revocation, ICE provided Petitioner with written notice of the specific reasons for its determination, which informed him that ICE had acquired a travel document and scheduled his removal to take place during April 2026. Andrade Decl., Ex. J; Ouk Decl., ¶ 17. That same day, ICE records reflect that an ICE Officer conducted an informal interview with Petitioner, giving him an opportunity to respond to ICE's determination. Ouk Decl., ¶ 15. At that interview, ICE documented that Petitioner declined to make any statement. Andrade Decl., Ex. J. Accordingly, Petitioner's unevidenced contentions that he was detained without cause, notice, and an opportunity to respond are simply incorrect. In revoking Petitioner's OSUP, ICE adhered to the requirements outlined in 8 C.F.R. § 241.13(i), consistent with foundational principals of procedural due process. *Mathews*, 424 U.S. at 333.

Federal Respondents acknowledge that courts in this District have found that "[b]efore revoking supervised release and re-detaining a noncitizen, the Government must satisfy procedural due process." *Vo v. Scott*, No. 2:26-CV-00135-JNW, 2026 WL 445046, at *4 (W.D. Wash. Feb. 17, 2026). While Petitioner does not engage in any analysis of the *Mathews* factors, courts in the Ninth Circuit have considered procedural due process claims like Petitioner's under *Mathews v. Eldridge*, 424 U.S. 319 (1976). *See e.g., Ramirez Tesara v. Wamsley*, 800 F. Supp. 3d 1130, 1135 (W.D. Wash. 2025). *Mathews* requires courts to consider three factors when determining whether a government action complies with procedural due process:

> First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.



UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

*Mathews*, 424 U.S. at 334-35.

Here, an analysis of the *Mathews* test reflects ICE's actions in revoking his OSUP are consistent with due process. *Id.* As to the first *Mathews* factor, Federal Respondents recognize the "weighty liberty interests implicated by the Government's detention of noncitizens." *Reyes v. King*, No. 19-cv-8674, 2021 WL 3727614, at *11 (S.D.N.Y. Aug. 20, 2021). The Supreme Court has repeatedly recognized that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Fifth Amendment's Due Process Clause. *Zadvydas*, 533 U.S. at 690. However, a noncitizen's liberty interest in remaining in the community is reduced when they are subject to a final, executable order of removal. Petitioner's release on OSUP was always subject, in part, on ICE's ability to effectuate his removal. This is especially true when removal is reasonably foreseeable, and detention is in furtherance of removal as construed in *Zadvydas*.

Turning to the second *Mathews* factor, the risk of an erroneous deprivation of Petitioner's liberty through the procedures used does not weigh in his favor. While Petitioner alleges (notably, with very little support cited) that his right to due process was violated because Respondents failed to follow applicable agency regulations, as explained above, this assertion is unfounded. Dkt. 1 at ¶ 28. Here, the risk that Petitioner's detention is an erroneous deprivation of his liberty is significantly reduced because ICE secured a travel document and made concrete travel arrangements prior to his re-detention. Petitioner was also informed of these developments and provided him with an opportunity to respond promptly after his return to custody in accordance with agency regulations. Andrade Decl., Ex. L. The fact that Petitioner did not offer any response to the stated reasons for revocation does not undermine the adequacy of the process provided; due process requires an opportunity to be heard, it does not require that a Petitioner avails themselves of that opportunity. *Id.* These procedures are sufficient to protect Petitioner's liberty interest in



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700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

being free from indefinite detention when removal is not foreseeable. As such, the risk of erroneous deprivation through the procedures utilized is low.

The third and final factor similarly favors Federal Respondents. The Ninth Circuit has emphasized that the *Mathews* test and procedural safeguards "must account for the heightened government interest in the immigration detention context." *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022). The Government "has a legitimate interest in ensuring that a noncitizen subject to a final order of removal appears when necessary to facilitate removal." *See Saelee v. Bondi*, No. 2:25-CV-02677-TLF, 2026 WL 221513, at *6 (W.D. Wash. Jan. 28, 2026) (citing *Tran v. Bondi*, No. 2:25-CV-02335-DGE-TLF, 2025 WL 3725677, at *3 (W.D. Wash. Dec. 24, 2025)). Indeed, these factors are stronger where, as here, the Government has shown that removal is imminent, and concrete arrangements have been made.

In sum, the three *Mathews* factors demonstrate that Petitioner's detention comports with due process and that ICE adhered to its own regulations in revoking Petitioner's OSUP.

**C. Petitioner Has Not Demonstrated Entitlement to a Temporary Restraining Order.**

Petitioner has not made a clear showing of entitlement to a TRO. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). TROs are governed by the same standard applicable to preliminary injunctions. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, Inc., 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting that preliminary injunction and temporary restraining order standards are "substantially identical").

<u>1. This Court Lacks Jurisdiction to Halt the Execution of a Valid Order of Removal.</u>

Congress has spoken clearly, emphatically, and repeatedly, that "no court" has jurisdiction over "any cause or claim" arising from the execution of removal orders, "notwithstanding any other provision of law," whether "statutory or nonstatutory," including habeas, mandamus, or the All Writs Act. 8 U.S.C. § 1252(g).



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700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

Congress repealed the existing scheme for judicial review of final orders of deportation and replaced it with a more restrictive scheme through the enactment of IIRIRA. *See Reno v. American-Arab Anti-Discrimination Committee* (*"AADC"*), 525 U.S. 471, 474 (1999). In the 2005 REAL ID Act, Congress further amended Section 1252(g) to clarify that the statute's proscription against jurisdiction applies to habeas and mandamus actions. *See* REAL ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 231, 310-11 (amending 8 U.S.C. § 1252(g)). As amended by the REAL ID Act, Section 1252(g), now provides that:

> Except as provided in this section and notwithstanding any other provision of law, *(statutory or nonstatutory), including section 2241 of Title 28*, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no 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 commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.

8 U.S.C. § 1252(g) (2017) (emphasis added).

In *AADC*, the Supreme Court held that Section 1252(g) precludes judicial review of three discrete actions that DHS may take: the "'decision or action' to '*commence* proceedings, *adjudicate* cases, or *execute* removal orders.'" 525 U.S. at 482 (original emphasis). Petitioner is subject to a long-standing removal order, and ICE's decision to execute that removal order falls squarely within one of the discrete actions precluded from judicial review under Section 1252(g).

Petitioner does not address this jurisdictional bar, or the cases in this district recognizing the same, anywhere in his petition or the instant motion. *See e.g., Saechao v. Scott*, No. 2:26-CV-00548-TMC, 2026 WL 626765, at *5 (W.D. Wash. Mar. 5, 2026); *Aleman v. Bondi*, No. 2:25-CV-02346-JNW, 2026 WL 102457, at *4 (W.D. Wash. Jan. 14, 2026); *Velasco Gomez v. Scott*, No. C25-0522JLR-BAT, 2025 WL 1726465, at *4-6 (W.D. Wash. June 20, 2025); *Martin v. Bondi*, 2:26-CV-00749-DGE, 2026 WL 699354, at *1 (W.D. Wash. Mar. 12, 2026). Respondents also note that this case does not involve any "collateral legal challenges" or similar circumstances



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700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

as analyzed by this Court in other cases. *See e.g., Garcia v. Noem*, No. 3:25-cv-06008-DGE, 2025 LX 522509, at *5 (W.D. Wash. Nov. 22, 2025). Petitioner does not have a pending application for relief from removal, motion to reopen his removal proceedings, nor has he asserted any fear of removal to Laos. *Cf. Yang v. Scott*, 2:26-CV-00469-JNW, 2026 WL 523277, at *2 (W.D. Wash. Feb. 25, 2026); Ouk Decl., ¶ 16. Accordingly, Petitioner's motion for TRO presents a straightforward challenge to ICE's decision to execute his removal order.

The Ninth Circuit has made clear that § 1252(g)'s jurisdictional bar "does not include any temporal caveats." *Rauda*, 55 F. 4th at 777 (holding that § 1252(g) bars any challenge to the discretionary decision to execute a removal order "[n]o matter how [a petitioner] frames it[.]"). That is, "'the discretion to decide *whether* to execute a removal order includes the discretion to decide *when* to do it. Both are covered by the statute.'" *Id.* (quoting *Tazu v. Att'y Gen. United States*, 975 F.3d 292, 297 (3d Cir. 2020)). As in *Rauda*, Petitioner's request for relief here is foreclosed by § 1252(g)'s plain language.

2. Petitioner is Unlikely to Succeed on the Merits

To succeed on a habeas petition, Petitioner must show that he is "in custody in violation of the Constitution or laws or treaties of the United States." *See* 28 U.S.C. § 2241. ICE lawfully detains him pursuant to 8 U.S.C. § 1231(a)(6), which governs detention pending the execution of a removal order. Petitioner does not dispute that he is subject to a final removal order.

As explained above, Petitioner's current detention is lawful under 8 U.S.C. § 1231(a)(6) pending his removal, and ICE did not violate his right to due process when revoking his OSUP. *See supra* §IV(A)-(B). Thus, Petitioner is unlikely to succeed on the merits of his claims.

3. The Balance of Equities and Public Interests Favor the Government

It is well settled that the public interest in enforcement of United States' immigration laws is significant. *See, e.g., United States v. Martinez-Fuerte*, 428 U.S. 543, 556-58 (1976); *Blackie's*



UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

*House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) ("The Supreme Court has recognized that the public interest in enforcement of the immigration laws is significant.") (citing cases); *see also Nken v. Holder*, 556 U.S. 418, 435 (2009) ("There is always a public interest in prompt execution of removal orders). The Government has a strong interest in the enforcement of final orders of removal and in the orderly administration of immigration law under the framework established by Congress. *See* 8 U.S.C. § 1252(g).

Granting the requested relief would intrude upon the statutory scheme governing execution and adjudication of removal orders. Where Congress has expressly limited jurisdiction and the Ninth Circuit has applied those limits to similar circumstances, the public interest does not favor judicial intervention.

Additionally, Petitioner's motion for TRO should be denied because it would violate a clear congressional mandate and impose an undue hardship on immigration enforcement. These burdens, coupled with the financial cost to the Government of releasing Petitioner to simply re-detain him again in the future to effectuate removal, weigh against granting Petitioner's motion for TRO. Therefore, the balance of equities and the public interest weigh against the extraordinary relief Petitioner seeks here. *Winter*, 555 U.S. at 20.

**D. Petitioner Has Not Properly Verified His Habeas Petition.**

Petitioner's requests should be denied for the additional reason that the habeas petition is not properly verified. Habeas petitions must be verified "by the person for whose relief it is intended or by someone acting in his behalf." 28 U.S.C. § 2242. Local Civil Rule 100(e) permits third parties to verify a petition on behalf of someone in custody, but that person "shall set forth therein the reason why [the petition] is not made and verified by the party in custody, and ***shall state he or she knows the facts set forth therein***, ***or*** if upon information and belief, ***the sources of his or her information shall be stated***." (emphasis added).



UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

Here, Petitioner has not signed his petition, and his attorney of record, who signed the petition, did not verify it in accordance with Local Civil Rule 100(e). *See* Dkt. 1, Verification of Petitioner. The filing attorney did not personally verify the petition, nor did Petitioner himself. Thus, it is unclear whether the purported verifying attorney had the requisite personal knowledge or direct authorization to attest to the truth of the allegations contained in the petition. This is particularly troublesome in light of the fact Petitioner has not filed a declaration attesting to the facts relevant to his claims, which further compounds the problematic absence of a compliant verification. *Compare Manjit Singh v. Bondi*, No. C26-0477-KKE, 2026 WL 586230, at *2 (W.D. Wash. Mar. 2, 2026) (considering petition properly verified when Petitioner's counsel complied with Local Civil Rule 100(e)), *with Pogosian v. Santacruz*, No. 5:26-cv-00540-SRM-E, 2026 WL 413639, at *3 (C.D. Cal. Feb. 11, 2026) (denying motion for temporary restraining order when "the facts in the Petition are not verified, there is no statement addressing 28 U.S.C § 2242 or [the local civil rule], and the facts in the exhibits and declaration d[id] not inform th[e] inquiry"). Allowing for an attenuated verification such as this effectively dilutes the statutory requirement of 28 U.S.C. § 2242. Accordingly, the Court should dismiss this petition for this additional reason.

## V. CONCLUSION

Federal Respondents acknowledge that Petitioner's final removal order remained wholly unenforced for more than twenty-five years, reflecting a decades-long period of administrative inaction. Federal Respondents further recognize the hardships Petitioner is likely to face upon removal to Laos, a country he has never known. Nevertheless, any relief based on these considerations must come from Congress rather than the courts, as modifying the statutory framework for individuals in Petitioners' position is a legislative, not judicial, function. Accordingly, Federal Respondents respectfully request that the Court deny the petition and motion for temporary restraining order.



UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

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Respectfully submitted,

s/ Barbara Andrade
BARBARA ANDRADE, Fla. No. 1025074
Special Assistant United States Attorney
United States Attorney's Office
Western District of Washington
700 Stewart Street, Suite 5220
Seattle, Washington 98101-1271
Phone: 206-553-7970
Fax: 206-553-4067
Email: barbara.andrade@usdoj.gov

*Attorney for Federal Respondents*

*I certify that this memorandum contains 5,426 words, in compliance with Local Civil Rules*