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8 UNITED STATES DISTRICT COURT FOR THE
9 WESTERN DISTRICT OF WASHINGTON
10 SEATTLE DIVISION

11 CHA, Sanit Va,

12 Petitioner,

13 v.

14 Bruce SCOTT, Warden, Northwest ICE
15 Processing Center; Julio HERNANDEZ,
16 Enforcement and Removal Operations, Seattle
17 Field Office Director, U.S. Immigration and
18 Customs Enforcement; Markwayne Mullin,
19 Secretary, U.S. Department of Homeland
20 Security; U.S. DEPARTMENT OF
21 HOMELAND SECURITY; Todd LYONS,
22 Acting Director and Senior Official
23 Performing Duties of Director of ICE;
24 U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Respondents.

Case No. 2:26-cv-01137

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

INTRODUCTION AND BACKGROUND

1. This case challenges the unlawful re-detention of Petitioner, Mr. Sanit Va Cha. Petitioner is a 51-year-old ethnic Hmong who was born in Laos but holds no birth certificate or evidence of Lao citizenship pursuant to the country's laws. Exh "C," p. 5-8. He is now held in the Respondents' custody at Northwest ICE Processing Center in Tacoma, Washington. Although he is believed to be born in Laos, Petitioner arrived in the United States as a four-year-old refugee; before this, his family was placed by the United States into Thailand refugee camp. For all intents and purposes, he should be considered stateless.

2. Petitioner was lawfully paroled into the United States in 1978 and was soon after granted permanent resident status. He remained a permanent resident until November 5, 2002, when he was ordered removed by the Portland Immigration Court after convictions for Assault in the Second Degree (ORS 163.175) and Unlawful Use of a Weapon (ORS 166.220(b)). The date of the convictions was April 3, 1997, with both arising from the same act that occurred on October 6, 1996. Ex. "A," p. 154-55. Petitioner was charged with removability under Sections 237(a)(2)(A)(iii) and 237(a)(2)(C) of the Immigration and Nationality Act.

3. Due to Laos' ongoing recalcitrance and poor diplomatic relations with the United States, Petitioner was never physically removed. He completed his sentence in 2003 and was taken into the custody of Enforcement and Removal Operations ("ERO"). On March 9, 2005, ERO released him on an Order of Supervision ("OSUP"). See Exh "A," p. 175-77.

4. For over twenty-one years, Petitioner had been checking in with ERO annually at the ICE Field Office in Portland, Oregon. *Id.* Since the criminal convictions in April of 1997, he has not been arrested again or charged with any new offenses. He states that he never failed to violate the terms of his supervision with ICE, attending each check-in and (unsuccessfully)

1 attempting to contact a Laotian embassy for issuance of a travel document, at the direction of his
 2 Deportation Officer. Nonetheless, he received a letter on March 19, 2026, ordering him to come
 3 to the ICE Field Office in eight days. This letter did not detail the reason for the meeting. On
 4 March 27, 2026, Petitioner appeared at the Field Office and was detained by ICE officers, who
 5 claimed they now had a travel document to facilitate his removal. Respondent was not provided
 6 with a copy of the document, nor was he given notice of this abrupt change, an opportunity to
 7 seek counsel, or the ability to contest the decision to detain him. He was also given no
 8 explanation as to why he now presented as a flight risk or danger to the community such that
 9 detention was warranted, issues that could easily be mitigated through electronic monitoring.

10 5. Petitioner's is the father to five U.S. Citizen children, with two being minors. He
 11 also resides with and is the caretaker to his elderly U.S. Citizen father, who suffers from a heart
 12 condition and dementia.

13 6. Making matters more difficult is that Petitioner cannot seek a release through the
 14 Tacoma Immigration Court, since he is the subject of an unexecuted final order of removal and
 15 was found deportable for commission of an aggravated felony. An Immigration Judge would
 16 have no jurisdiction over his custody per 8 U.S.C §§ 1231(a)(3) and 1226(c).

17 7. On April 3, 2026, Petitioner filed motions to reopen his removal proceedings and
 18 for a stay of removal with the Portland Immigration Court. *See gen.* Exhs. "A" and "B." In his
 19 motion to reopen, he alleges that significant changes in law, including a recent Ninth Circuit
 20 decision filed on January 13, 2026, merit the reopening and termination of his removal
 21 proceedings – which would restore his prior status as a Lawful Permanent Resident. *United*
 22 *States v. Gomez*, 165 F. 4th 1199 (9th Cir. Jan. 13, 2026) (en banc) (holding that California Penal
 23 Code § 245(a)(1), which criminalizes assault with a deadly weapon, is not a "crime of violence"

1 under § 4B1.1(a) of the U.S.S.G.) Petitioner's motion further alleges that changed circumstances
2 have recently developed in Laos, such that the country is now accepting certain deportees by
3 means of a "laissez-passer" travel document which does not recognize citizenship or nationality
4 and may result in deportees being held under conditions amounting to torture upon their arrival.
5 He argues therein that he is at least owed the process to apply for Withholding of Removal or
6 Convention Against Torture relief with the Immigration Court, given these significant changes in
7 country conditions.

8 8. Petitioner's ninety-day "removal" period expired decades ago, and he has
9 legitimate challenges to his removal that merit a reopening of his removal proceedings. *See* 8
10 C.F.R. § 241.4(g)(1). Accordingly, he files this action to seek an immediate release from
11 detention, as the current period of custody violates his rights under the federal constitution and
12 those guaranteed by the Administrative Procedure Act ("APA"). The total and substantial
13 deprivation of his liberty, without the slightest consideration of his right to due process, is in
14 clear violation the Fifth Amendment.

15 9. We note that this Court recently granted a temporary restraining order in favor a
16 similarly situated Laotian national. *Phetsadakone v. Scott*, No. 2:25-cv-0678-JNW, 2025 U.S.
17 Dist. LEXIS 173785, (W.D. Wash. Sept. 5, 2025). It also granted habeas to a different alien with
18 an unexecuted order of removal, who was returned to detention while on an OSUP without any
19 apparent justification; therein, it was held that the noncitizen's Fifth Amendment rights were
20 violated by his detention. *Teweldemedhin v. Noem*, No. 2:25-cv-02363-JLR, 2026 U.S. Dist.
21 LEXIS 11979 (W.D. Wash. Jan. 22, 2026). Further, the Court granted habeas to a Laotian
22 national with a pending Motion to Reopen in Immigration Court, even when ICE produced a
23 travel document in the litigation. *Doua Yang v. Scott et. al*, No. 2:26-cv-00469-JNW, 2026 U.S.

1 Dist. LEXIS 26865 (W.D. Wash. March 6, 2026); *see also Vang v. Scott et. al.*, No. C26-690-
2 MLP, 2026 U.S. Dist. LEXIS 58196 (W.D. Wash. March 30, 2026) (provisionally granting
3 petitioner's Temporary Restraining Order; prohibiting the removal of petitioner from outside the
4 Court's jurisdiction). It additionally granted relief to a separate Laotian based on the same due
5 process violations discussed below. *Simmaphilavong v. Noem*, No. 2:26-cv-00458-JHC, 2026
6 U.S. Dist. LEXIS 43624, at *13-14 (W.D. Wash. March 3, 2026).

7 10. This Court held many times over that due process generally requires an
8 individualized hearing prior to the government's decision to terminate someone's liberty. *See*,
9 *e.g.*, *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1322-24 (W.D. Wash. Aug. 19, 2025);
10 *Ramirez Tesara v. Wamsley*, 800 F. Supp. 3d 1130, 1136 (W.D. Wash. Sept. 12, 2025); *Gonzalez*
11 *v. Bostock*, 808 F. Supp. 3d 1109, 2025 U.S. Dist. LEXIS 198515, at *23-24 (W.D. Wash. Oct.
12 7, 2025); *Mohit Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025 U.S. Dist. LEXIS
13 182775, at *7-8 (W.D. Wash. Sept. 17, 2025); Report & Recommendation, *Lopez Reyes v.*
14 *Wamsley*, No. 2:25-cv-01868-JLR-ML (W.D. Wash. Oct. 15, 2025), Dkt. 13; *Y.M.M. v.*
15 *Wamsley*, No. 2:25-CV-02075-TMC, 2025 U.S. Dist. LEXIS 219064, at *5-6 (W.D. Wash. Nov.
16 6, 2025); *Zambrano-Vazquez v. Noem*, No. C26-122-RSM, 2026 U.S. Dist. LEXIS 48184, at *6-
17 9 (W.D. Wash. March 9, 2026); *Abadin v. Noem*, No. C25-2411JLR-SKV, 2026 U.S. Dist.
18 LEXIS 16064, at *10-11 (W.D. Wash. Jan. 28, 2026). Many other U.S. District Courts have
19 recently made similar holdings. *See, e.g. Y-Z-L-H v. Bostock*, 792 F. Supp 3d 1123, 1138 (D. Or.
20 2025) ("Common sense suggests...that parole given only a on case-by-case basis is to be
21 terminated only on [an individualized] basis.")

11. Accordingly, the Court should grant a petition for a writ of habeas corpus and order Petitioner's immediate release. *E.A. T.-B.*, 795 F. Supp. 3d at 1324 (ordering immediate release because "a post-deprivation hearing cannot serve as an adequate procedural safeguard because it is after the fact and cannot prevent an erroneous deprivation of liberty"); *Ramirez Tesara*, 800 F. Supp. 3d at 1138-39 (similar); *Mohit Kumar*, 2025 U.S. Dist. LEXIS 182775, at *17-18 (similar); *Gonzalez*, 2025 U.S. Dist. LEXIS 198515, at *24-25 (similar); *Y.M.M.*, 2025 U.S. Dist. LEXIS 219064, at *5-7 (similar).

PARTIES

12. Petitioner, Mr. Sanit Va Cha, is a native of Laos, presumed stateless, and is presently held at the Northwest ICE Processing Center in Tacoma, Washington.

13. Respondent, Mr. Markwayne Mullin, is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security. Mr. Mullin is the cabinet-level secretary responsible for all immigration enforcement in the United States. He implements enforcement of the Immigration and Nationality Act ("INA") and oversees the operations of Immigration and Customs Enforcement ("ICE").

14. Respondent, Mr. Todd Lyons, is sued in his capacity as the Acting Director of ICE, which is tasked with executing all immigration law enforcement in the United States.

15. Respondent, Mr. Julio Hernandez, is sued in her official capacity as the Field Office Director of Seattle's ICE Field Office, which exercises control over the Portland ICE Field Office. He bears responsibility for the apprehension, detention, and removal of noncitizens within her Field Office's jurisdiction. Mr. Hernandez is the immediate legal custodian of the Petitioner, for purposes of a federal habeas petition.

16. Respondent, Mr. Bruce Scott, is sued in his official capacity as the Warden of the Northwest ICE Processing Center, the privately-operated immigration detention facility where Petitioner is being held in custody. He exercises direct custody over the Petitioner.

JURISDICTION

17. This action arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”). 8 U.S.C. § 1101 et. seq.; *see also Reno v. Flores*, 507 U.S. 292, 306 (1993) (affording immigrants Due Process under the Fifth Amendment).

18. The Court holds subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

19. The Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

20. Venue is appropriate under because the Petitioner is detained in this judicial district. *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973).

21. Venue is also proper with this Court under 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and a substantial part of the events or omissions giving rise to this petition have occurred in the Western District of Washington.

22. For the same reasons, divisional venue is proper under Local Rule 3-2.

REQUIREMENTS OF 28 U.S.C. §§ 2243, 2241

23. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . as it [affords] a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it, and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

24. Petitioner is “in custody” for the purpose of 8 U.S.C. § 2241 because he is held at the Northwest ICE Processing Center. “[T]he Supreme Court has repeatedly held that the in-custody requirement is met where the Government restricts a petitioner’s freedom of action or movement.” *Doe v. Barr*, 479 F. Supp. 3d 20, 26 (S.D.N.Y. 2020), citing *Jones v. Cunningham*, 371 U.S. 236 (1963) and *Spencer v. Kemna*, 523 U.S. 1, 7 (1998); *see also, e.g., Devitri v. Cronen*, 290 F. Supp. 3d 86, 90 (D. Mass. 2017) (finding the same); *Alvarez v. Holder*, 454 F. App’x 769, 772-72 (11th Cir. 2011) (same).

LEGAL FRAMEWORK

25. Due process requires that if the DHS seeks to re-arrest a person like Petitioner — someone who was previously released from its custody, has dutifully complying with his supervision order for over twenty-one years, has lived in the United States without any new criminality after completing his sentence, and who has both minor children and elderly parents who are U.S. citizens — the government must provide at least *some* sort of hearing before a neutral decisionmaker to determine whether re-detention is needed. Typically, re-detention is only justifiable when a person can be considered a current flight risk or danger to the community.

1 26. All persons, regardless of their immigration status, are entitled to Due Process
2 under the Fifth Amendment of the U.S. Constitution. “Freedom from imprisonment—from
3 government custody, detention, or other forms of physical restraint—lies at the heart of the
4 liberty protected by the Due Process Clause.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). As
5 this Court recently recognized, it is the “the most elemental of liberty interests.” *E.A. T.-B.*, 795
6 F. Supp. 3d at 1321 (citation modified); *see also Ramirez Tesara*, 800 F. Supp. 3d at 1136
7 (stating that the petitioner had “an exceptionally strong interest in freedom from physical
8 confinement”).

9 27. Immigration detention is a form of civil confinement that “constitutes a
10 significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441
11 U.S. 418, 425 (1979). Consistent with this principle, those released on parole or other forms of
12 conditional release have a liberty interest in their “continued liberty.” *Morrissey v. Brewer*, 408
13 U.S. 471, 482 (1972).

14 28. The detention, release, and revocation of a noncitizen’s supervised release is
15 governed by 8 C.F.R. §§ 241.4 and 241.13. § 241.4 applies to those who have been ordered
16 removed, while § 241.13 applies to noncitizens for whom the government has determined “there
17 is no significant likelihood . . . [they] can be removed in the reasonably foreseeable future.”
18 8 C.F.R. § 241.4(b)(4); *see also* 8 C.F.R. § 241.13(b)(1) (“Section 241.4 shall continue to govern
19 detention of aliens under a final order of removal . . . unless the Service makes a determination
20 under this section that there is no likelihood of removal in the reasonably foreseeable future.”)

21 29. For aliens whose removal was previously found unlikely in the reasonably
22 foreseeable future, the government’s discretion to revoke a supervised release is limited.
23 Specifically, a noncitizen “who violates any of the conditions of release *may* be returned to

1 custody.” 8 C.F.R. § 241.4(1) (emphasis added). For someone in Petitioner’s circumstances,
 2 then, without an OSUP violation the noncitizen may not be returned to custody.

3 30. Similarly, the government can “revoke an alien’s release . . . if, on account of
 4 changed circumstances, the Service determines that there is a significant likelihood that the alien
 5 may be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2). However, when
 6 the government provides no pre-detention due process to a Petitioner, it cannot make the post-
 7 detention argument that removal is reasonably foreseeable simply because ICE states to have a
 8 Laos travel document. *See Doua Yang v. Scott et. al, supra*, 2026 U.S. Dist. LEXIS 46865, at
 9 *13 (“[T]he fact ‘that the Government may believe it has a valid reason to detain Petitioner does not
 10 eliminate its obligation to effectuate the detention in a manner that comports with due process’”
 11 (quoting *Ramirez Tesara*, 800 F. Supp. 3d at 1137 (W.D. Wash. 2025)) (citation omitted).

12 31. There is also a regulatory process for aliens detained after the expiration of the
 13 ninety-day “removal period.” *See* 8 C.F.R. § 241.4(c)-(g). The Service’s Headquarters Post-order
 14 Detention Unit is to conduct an interview, identifying whether “special circumstances” require
 15 continued detention notwithstanding the determination of removal not being likely in the in the
 16 foreseeable future. No such interview has occurred in this case, and Petitioner very much doubts
 17 that such circumstances would require his continued detention.

18 32. To protect against arbitrary re-detention and to ensure the right to liberty, due
 19 process requires “adequate procedural protections” that test whether the government’s asserted
 20 justification for physical confinement “outweigh the individual’s constitutionally protected
 21 interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (citation modified).

22 33. Many courts, including this one, have recognized that such principles apply with
 23 respect to the re-detention of noncitizens – especially those the DHS has arbitrarily begun

1 returning into its custody, often after such person have been released for months, or as we see
2 here, decades. *See, e.g., Makuey v. Scott et. al.*, No. 2:25-cv-02135 (W.D. Wash. Dec. 16, 2025)
3 (revocation of Petitioner’s Order of Supervision without a “material change in circumstances”
4 found to be in violation of due process despite prior criminal history, which was already known
5 when prior Order of Supervision was issued).

6 34. In *E.A. T.-B. v. Wamsley*, *supra*, this Court applied the *Mathews v. Eldridge*, 424
7 U.S. 319 (1976) framework to hold that, even where the government asserts that mandatory
8 detention statutorily applies, a person’s re-detention cannot occur absent a hearing on their
9 custody. The Court reached the same conclusion in *Ramirez Tesara*, *Kumar*, and *Gonzalez*. *See*
10 *Ramirez Tesara*, 800 F. Supp. 3d at 1136; *Mohit Kumar*, 2025 U.S. Dist. LEXIS 182775, at *8-9;
11 *Gonzalez*, 2025 U.S. Dist. LEXIS 198515, at *22–23.

12 35. In applying the *Mathews* factors, the *E.A. T.-B.* Court held that the petitioner had
13 “undoubtedly [been] deprive[d] of an established interest in his liberty,” which, as noted, “is the
14 most elemental of liberty interests.” *E.A. T.-B.*, 795 F. Supp. 3d at 1321. The Court explained
15 that, even if detention was mandatory under the INA, the risk of an erroneous deprivation of
16 liberty without a hearing was high, as a hearing serves to ensure that the purposes of detention—
17 the prevention of danger and flight risk—are properly served. *Id.* at 1322-23.

18 36. Moreover, the *E.A. T.-B.* Court explained that “the Government’s interest in re-
19 detaining non-citizens previously released without a hearing is low: although it would have
20 required the expenditure of finite resources (money and time) to provide Petitioner notice and
21 hearing before arresting and re-detaining him, those costs are far outweighed by the risk of
22 erroneous deprivation of the liberty interest at issue.” *Id.* at 1324. As a result, the Court ordered
23 the petitioner’s immediate release. *Id.*

37. This Court applied a similar analysis in *Ramirez Tesara*. There, it reasoned that the petitioner had a “weighty” interest in his liberty and was entitled to the “full protections of the due process clause.” *Ramirez Tesara*, *supra*, 800 F. Supp. 3d at 1136. When examining the value of additional safeguards, the Court noted that, despite the government’s allegations of Intensive Supervision Appearance Program (“ISAP”) violations, a belief that it has “a valid reason to detain Petitioner does not eliminate its obligation to effectuate the detention in a manner that comports with due process.” *Id.* at 1137 (quoting *E.A. T.-B.*, 795 F. Supp. 3d at 1322). In *Ramirez Tesara*, the Court concluded that any government interest in re-detention without a hearing was “minimal.” *Id.* Once again, it ordered the petitioner’s immediate release. *Id.* at 1139.

38. The *Mohit Kumar* and *Gonzalez* courts reached the same conclusion, holding that all *Mathews* factors weighed in favor of affording the petitioner a proper hearing on his or her re-detention. 2025 U.S. Dist. LEXIS 182775, at *11; 2025 U.S. Dist. LEXIS 198515, at *24; *see also* Report & Recommendation, *Lopez Reyes*, No. 2:25-cv-01868-JLR-MLP (W.D. Wash. Oct. 15, 2025), Dkt. 13 (same). The decisions in *E.A. T.-B.*, *Ramirez Tesara*, *Mohit Kumar*, and *Gonzalez* are consistent with many other district court decisions addressing similar situations. *See, e.g.*, *Valdez v. Joyce*, 803 F. Supp. 3d 213, 219 (S.D.N.Y. June 18, 2025) (ordering immediate release due to lack of pre-deprivation hearing); *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1037 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, No. 1:25-CV-00946 JLT SAB, 2025 U.S. Dist. LEXIS 153675 (E.D. Cal. Aug. 8, 2025) (similar); *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 U.S. Dist. LEXIS 162825 (E.D. Cal. Aug. 21, 2025) (similar).

CLAIMS FOR RELIEF

COUNT ONE

**Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A)
– Abuse of Discretion –
Violations of 8 C.F.R. §§ 1236.1(c)(9), 241.13(b)(2), 241.13(i)**

39. Petitioner repeats, re-alleges, and incorporates by reference each allegation in the preceding paragraphs as if fully set forth herein.

40. Under the APA, a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A). This court has jurisdiction under 8 U.S.C. § 1252(b)(9) to review Petitioner’s APA claim since Congress explicitly authorizes judicial review of final orders conserving “all questions of law and fact, including interpretations and applications of constitutional and statutory provisions, arising from any action taken or proceeding brought to removal an alien from the United States” for noncitizen detainees.

41. An action is an abuse of discretion if the agency entirely fails to consider an important aspect of the problem, cannot explain a decision that runs counter to the evidence before the agency, or acts so implausibly that it cannot not be ascribed to a difference in view or the product of agency expertise. *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (citing *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

42. To survive an APA challenge, the agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

43. By categorically revoking Petitioner's freedom and bringing him into federal custody, without written notification for the reasons, provision of a travel document that Laos has ostensibly made on his behalf, or consideration of the individualized facts and circumstances to his case, Respondents have violated the APA. Thus far, he has only been provided with only "boilerplate language" in an OSUP revocation letter that does not comport with due process. *See Doua Yang v. Scott et. al*, No. 2:26-cv-00469-JNW, 2026 U.S. Dist. LEXIS 26865, at * 9 (W.D. Wash. March 6, 2026).

44. By continuing to detain Petitioner, Respondents have further abused their discretion since as have been no changes to the facts or circumstances since the agency made its initial custody determination that led to Petitioner's current detention.

45. Petitioner further alleges he was denied a prompt informal interview in accordance with 8 C.F.R. § 241.13(i)(3).

46. Respondents previously considered Petitioner's facts and circumstances and determined that he was neither a flight risk nor a danger to the community. The notion that he is neither a danger nor flight risk has only strengthened in the twenty-one years since his release from prison. Petitioner has annually checked in with ICE, year in and year out, without committing any new crimes or violating the terms of his supervision. He has never worked without authorization and fulfilled all requirements he is subject to. The DHS authorized his re-release into civil society – without the requirement that he pay a bond – and there have been no changes to the facts that justify this sudden revocation of his freedom.

COUNT TWO

**Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(B)-(D)
– Not in Accordance with Law and in Excess of Statutory Authority –
Violations of 8 C.F.R. §§ 1236.1(c)(9), 241.13(b)(2), 241.13(i)**

PETITION FOR WRIT OF HABEAS CORPUS
UNDER 28 USC § 2241

[Case No. 2:26-cv-01137] - 13

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1 47. Petitioner restates and realleges all paragraphs as if fully set forth here.

2 48. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is
3 “contrary to constitutional right,” “in excess of statutory jurisdiction, authority, or limitations,”
4 or “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D).

5 49. Respondents have not complied with the regulatory requirements of 8 C.F.R. §§
6 241.13(f), 241.13(i) or 241.4(1). 8 C.F.R. § 241.13(f) requires an individualized determination
7 on the likelihood of removal based on changed circumstances, followed by notice and an
8 opportunity to respond. None of this was done in Petitioner’s case – he was summarily arrested,
9 without a clear showing of why, and was never alleged to have violated his OSUP.

10 50. It is a well-established administrative principle that “agency action taken without
11 lawful authority is at least voidable, if not void *ab initio*.” *L.M.-M. v. Cuccinelli*, 442 F. Supp.
12 3d 1, 35 (D.D.C. 2020), citing *SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015); *see*
13 *also Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016) (invalidating
14 agency action because it was taken by unauthorized official). Agencies such as the DHS are
15 required to adhere to their own established rules and regulations. *United States ex rel. Accardi v.*
16 *Shaughnessy*, 347 U.S. 260 (1954).

17 51. Respondents have revoked Petitioner’s ability to live freely in the United States
18 because of a policy prepared and implemented by government officials in Washington D.C., and
19 not by the individual exercise of discretion required by law or by the individuals enumerated by
20 regulation to do so.

21 52. The detention of Petitioner is thus not in accordance with law and exceeds
22 statutory authority.

COUNT THREE

Violation of the Fifth Amendment Right to Procedural Due Process

53. Petitioner restates and realleges all paragraphs as if fully set forth here.

54. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

55. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007). While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custodial decisions under 8 U.S.C. § 1226(b), this discretion is not “unlimited” and must comport with constitutional due process. *Zadvydas* at 698.

56. Although the initial decision to detain or release a person may be at government discretion, “the government’s decision to release an individual from custody creates ‘an implicit promise,’ upon which that individual may rely, that their liberty ‘will be revoked only if [they] fail to live up to the ... conditions [of release].’” *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (quoting *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)). Stated otherwise, while ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that person is released they have a protected liberty interest in remaining out of custody. *Id.* (citing *Romero v. Kaiser*, No. 22-cv-20508, 2022 WL 1443250 (N.D. Cal. May 6, 2022)) (emphasis added).

57. The Due Process Clause generally “requires some kind of a hearing before the State deprives a person of liberty or property.” *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). For

1 cases involving re-detention, the guiding authority on this process stems from *Mathews, supra*.
2 Under *Mathews*, a reviewing court must consider “(1) the private interest that will be affected by
3 the official action, (2) the risk of an erroneous deprivation of that interest through the procedures
4 used, and the probable value, if any, of additional or substitute procedural safeguards, and (3) the
5 Government’s interest, including the function involved and the fiscal and administrative burdens
6 that an additional or substitute procedural requirement would entail.” *Mathews*, 424 U.S. at 325.

7 Petitioner’s Private Interest

8 58. “[T]he Supreme Court has repeatedly recognized that individuals who have been
9 released from custody, even where such release is conditional, have an interest in their continued
10 liberty.” *Doe v. Becerra*, 787 F. Supp. 3d 1083, 1093 (E.D. Cal. 2025) (collecting cases).

11 Consequently, when Petitioner was released on an OSUP in 2002, he “took with him a liberty
12 interest which is entitled to the full protections of the [D]ue [P]rocess [C]lause.” *Ramirez Tesara*
13 *v. Wamsley*, 800 F. Supp. 3d 1130, 1136 (W.D. Wash. Sept. 12, 2025).

14 59. Petitioner’s liberty interest was reaffirmed each time he checked in with ICE,
15 which went on for 21 years. The fact that Respondents allowed him to remain in the community
16 for that long only strengthens his interest. See *Dejesus v. Bostock*, No. 25-CV- 01427-JHC-TLF,
17 2025 U.S. Dist. LEXIS 230827, at *6 (W.D. Wash. Nov. 24, 2025). He has now been undeniably
18 deprived of a liberty interest; Petitioner was arrested, brought into custody, and detained without
19 anything evidence being provided regarding changed circumstances in Laos, the issue of his
20 statelessness, or the likelihood of his removal being reasonably foreseeable.

21 60. Further, Respondent now has pending motions to reopen and for an emergency
22 stay of removal pending with the Portland Immigration Court, based on substantial changes in
23 both law and country conditions. He has a significant liberty interest in being able to pursue

those matters, which is affected by his detention and, potentially, his imminent removal. If Petitioner is removed without time to pursue the meritorious claims argues in his motions, he risks total deprivation of due process.

61. If Petitioner were removed and his removal proceedings reopened thereafter, the Government will not facilitate his return. Until recently, it was the longstanding policy of the federal government to return deported individuals to the United States who win their cases.¹ *See Nken v. Holder*, 556 U.S. 418, 435 (2009) (citing Brief for Respondent 44). The Trump Administration has now abolished this policy. In both the Fourth Circuit and the Supreme Court, the United States has argued that it cannot or will not return individuals previously removed to El Salvador, and disclaimed authority from courts ordering a petitioner's return from the custody of the Salvadoran government. *Abrego Garcia v. Noem*, 25-1345, 2025 U.S. App. LEXIS 8228, at *11–13 (4th Cir. Apr. 7, 2025) (Thacker, J., concurring) (criticizing the government for not facilitating Mr. Abrego Garcia's return even after admitting his removal was in error); *Noem v. Abrego Garcia*, 604 U.S. ---, 145 S. Ct. 1017, 1019 (2025) (Sotomayor, J., writing separately) (criticizing the Government for "request[ing] an order from this Court permitting it to leave Abrego Garcia, a husband and father without a criminal record, in a Salvadoran prison for no reason recognized by the law.")

62. As mentioned above, Petitioner lives with and cares for his father, who suffers from dementia, ventricular hypertrophy, and chronic heart failure. Exh. "A," p. 137-38. Petitioner's father is prescribed sixteen different medications. *Id.* at 140-50. Clearly, Petitioner holds a continued, private interest in his liberty.

¹ *See* "Facilitation of Return Policy," ICE Policy Directive 11061.1 (Feb. 24, 2012), https://www.ice.gov/doclib/foia/dro_policy_memos/11061.1_current_policy_facilitating_return.pdf

Risk of Erroneous Deprivation

63. The second *Mathews* factor examines “the risk of an erroneous deprivation of [the petitioner’s private] interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards[.]” *Mathews*, 424 U.S. at 335.

64. If Petitioner has not violated his OSUP, and there was simply no authorization to detain him under the regulations. The Code requires an individualized determination of the likelihood of removal based on changed circumstances, followed by notice and an opportunity to respond. *Phetsadakone*, No. 2:25-cv-01678-JWN, 2025 U.S. Dist. LEXIS 173785, at *8 (citing 8 C.F.R. § 241.13(f), (i)). Petitioner asserts that he was not provided with any such evidence of changed circumstances, a verbal explanation, or an opportunity to respond as to why he was being detained on March 27, 2026. This has created not only a risk, but an actual and materialized erroneous deprivation of his liberty.

65. Petitioner’s initial release was premised on his lack of flight or security risk. He has raised issues relating to the validity of his removal order and changed country conditions in Laos (for the worse) in his motion to reopen filed with Portland EOIR on April 2, 2026. These issues undoubtedly bear on the discretionary determination to take Petitioner into custody based on a changed likelihood of removal. He was not permitted an opportunity to raise these issues prior to his detention, nor was he afforded an informal interview. *See Vang v. Scott et. al.*, No. C26-690-MLP, 2026 U.S. Dist. LEXIS 58196, at *3 (W.D. Wash March 30th, 2026).

66. The decision to detain Petitioner was therefore erroneous at its first inception, causing this *Mathews* factor to bend toward his favor.

The Government's Interest in Detention

67. The third *Mathews* factor contemplates “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Mathews*, 424 U.S. at 335.

68. Respondents have an interest in ensuring that a noncitizen with a final removal order appears when necessary to facilitate his removal, and in ensuring the noncitizen is not a danger to the community. *Zadvydas*, 533 U.S. at 690 (government has an interest in “ensuring the appearance of [noncitizens] at future immigration proceedings” and “preventing danger to the community”). However, this interests is both contemplated and met by the specific requirements of 8 CFR § 241.13, which Respondents did not follow in revoking Petitioner’s release.

69. The government’s interest in re-detaining an alien, who has not violated the terms of his supervision nor whose removal is likely to occur in the reasonably foreseeable future – and to do so without the benefit of a pre-detention hearing or process – is low. *See E.A. T.-B.*, 795 F. Supp. 3d at 1324 (“the Government’s interest in re-detaining non-citizens previously released without a hearing is low”) (citing *Ortega*, 415 F. Supp. 3d at 970). Although a pre-detention process would’ve presented some administrative burden on the government, given the high risk of an erroneous deprivation and the fundamental liberty interests at stake, offering no process is flat-out constitutionally deficient. *E.A. T.-B.* at 1324; *see also Makuey v. Scott et. al.*, No. 2:25-cv-02135 *12 (W.D. Wash Dec. 16, 2025) (noting that the process referred to in § 241.13(i)(3) does not guard against the improper deprivations of liberty, in instances where the government lacks the authority to revoke release in the first place).

70. All three *Mathews* factors therefore favor the Petitioner. The revocation of his OSUP and ability to live freely in the United States, after decades of building a life in this

1 country, was done in an arbitrary and incoherent manner and not based on a rational
2 determination of whether he is a danger to the community or a flight risk. Petitioner has U.S.
3 citizen family members who deeply rely on him. He has raised substantially meritorious claims
4 for reopening his removal proceedings and that motion is currently pending with the Portland
5 Immigration Court. In sum, the actions of Respondents constitute a fundamental violation of
6 Petitioner's due process rights.

7
8 **PRAYER FOR RELIEF**

9 WHEREFORE, Petitioner respectfully requests this Court to:

- 10
11 1) Assume jurisdiction over this matter;
- 12 2) Issue an Order to Show Cause ordering Respondents to demonstrate why this Petition
13 should not be granted within three days;
- 14 3) Declare that Petitioner's detention without an individualized determination violates
15 the Due Process Clause of the Fifth Amendment;
- 16 4) Declare that Petitioner's re-detention was made in violation of statute and regulation;
- 17 5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from
18 custody;
- 19 6) Issue an Order prohibiting the Respondents from transferring Petitioner outside the
20 district without 48 hours' advance notice to the undersigned and the Court;
- 21 7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and
22 on any other basis justified under law; and
- 23 8) Grant any further relief this Court deems just and proper.

Respectfully submitted,

Dated: April 3, 2026

s/ Benjamin Cornell
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Attorney for Petitioner

VERIFICATION OF PETITIONER

On behalf of Sanit Va Cha, the party in custody, I verify the facts contained in the Petition for Writ of Habeas Corpus, upon information and belief and having reviewed the relevant records and pleadings. Mr. Cha has not verified the petition himself as he is currently held in ICE custody.

Dated: April 3, 2026

s/ Benjamin Cornell
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Attorney for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participant(s):

US Attorneys
Email: usawaw.habeas@usdoj.gov

Dated: April 3, 2026

s/ Benjamin Cornell
Benjamin Cornell, WSB #49533