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8
9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**
11

12 **SOMPATHANA**
13 **NOBOUPHASAVANH,**

14 Petitioner,

15 v.

16 **WARDEN/OFFICER IN CHARGE; et**
al.,

17 Respondents.
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19
20
21

Case No.: 26-cv-3457-TWR-MMP

**RETURN TO PETITION FOR WRIT
OF HABEAS CORPUS**

22 **I. INTRODUCTION**

23 Petitioner has filed a habeas petition under 28 U.S.C. § 2241. Petitioner requests that
24 the Court order her release from custody because Respondents allegedly failed to comply
25 with 8 C.F.R. §§ 241.13(i)(3) and 241.4(l) and because her removal is allegedly not likely
26 to occur in the reasonably foreseeable future. However, both arguments fail as Respondents
27 fully complied with all regulatory requirements and ICE has scheduled Petitioner's removal
28 to occur within the next ten days. ICE received a travel document for Petitioner's removal

1 to Laos on May 21, 2026. On June 3, 2026, when Petitioner was remanded back into ICE
2 custody for removal, Petitioner was provided a Notice of Revocation. The Notice explained
3 that Petitioner's release was being revoked because ICE had obtained a travel document for
4 Petitioner's removal and had scheduled removal to occur in the near future. At the same
5 time, Petitioner was also provided with an informal interview where she was provided an
6 opportunity to respond to the reasons for the revocation of her release. ICE has confirmed
7 a flight itinerary for Petitioner's removal to Laos. Petitioner is currently scheduled to be
8 removed to Laos within the next ten days.

9 Accordingly, Respondents respectfully request that the Court deny the habeas
10 petition.

11 **II. FACTUAL BACKGROUND**¹

12 Petitioner is a native and citizen of Laos. On May 18, 1999, an Immigration Judge
13 ordered Petitioner removed from the United States to Laos. On October 7, 1999, Petitioner
14 was released from ICE custody under an Order of Supervision (OSUP) pending removal to
15 Laos.

16 On April 15, 2026, ICE submitted a travel document request for Petitioner. On May
17 21, 2026, ICE received a travel document for Petitioner's removal to Laos.

18 On June 3, 2026, Petitioner reported to a scheduled ICE appointment. At that time,
19 Petitioner was provided a Notice of Revocation. Exhibit 1. The Notice explained that
20 Petitioner's OSUP was being revoked because ICE had obtained a travel document for
21 Petitioner's removal, had scheduled removal to occur in the near future, and has the ability
22 and means to effectuate Petitioner's removal. At the same time, Petitioner was also provided
23 with an informal interview where she was provided an opportunity to respond to the reasons
24 for the revocation of her release. Exhibit 2.

25 ICE has confirmed a flight itinerary for Petitioner's removal to Laos. Petitioner is
26 currently scheduled to be removed to Laos within the next ten days.

27 ¹ The attached exhibits are true copies, with minor redactions of private information, of
28 documents obtained from ICE counsel.

III. ARGUMENT

ICE's authority to detain, release, and re-detain noncitizens who are subject to a final order of removal is governed by 8 U.S.C. § 1231(a). When an alien has been found to be unlawfully present in the United States and a final order of removal has been entered, the government ordinarily secures the alien's removal during a subsequent 90-day statutory "removal period." 8 U.S.C. § 1231(a)(1). The statute provides that the Attorney General "shall detain" the alien during this removal period. 8 U.S.C. § 1231(a)(2).

The Supreme Court held in *Zadvydas* that when removal is not accomplished during the 90-day removal period, the statute "limits an alien's post-removal-period detention to a period reasonably necessary to bring about the alien's removal from the United States" and does not permit "indefinite detention." *Zadvydas*, 533 U.S. at 689. The Supreme Court has held that six months constitutes a "presumptively reasonable period of detention." *Id.* at 701. Courts have repeatedly declined to grant habeas relief where the presumptively reasonable six-month period has not yet elapsed. *See Ghamelian v. Baker*, No. SAG-25-02106, 2025 WL 2049981, at *4 (D. Md. July 22, 2025) ("The government is entitled to its six-month presumptive period before Petitioner's continued § 1231(a)(6) detention poses a constitutional issue."); *Guerra-Castro v. Parra*, No. 1:25-cv-22487-GAYLES, 2025 WL 1984300, at *4 (S.D. Fla. July 17, 2025) ("The Court finds that the Petition is premature because Petitioner has not been detained for more than six months. Petitioner has been in detention since May 29, 2025; therefore, his two-month detention is lawful under *Zadvydas*." (citations omitted); *Farah v. INS*, No. Civ. 02-4725(DSD/RLE, 2003 WL 221809, at *5 (D. Minn. Jan. 29, 2013) (holding that when the government releases a noncitizen and then revokes the release based on changed circumstances, "the revocation would merely restart the 90-day removal period, not necessarily the presumptively reasonable six-month detention period under *Zadvydas*").

Even after the period of presumptive reasonableness has run, release is not required under *Zadvydas* unless "there is *no* significant likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701 (emphasis added). As the Supreme Court

1 instructed, “the habeas court must ask whether the detention in question exceeds a period
2 reasonably necessary to secure removal. It should measure reasonableness primarily in
3 terms of the statute’s basic purpose, namely, *assuring the alien’s presence at the moment of*
4 *removal.*” *Id.* at 699 (emphasis added). In so holding, the Supreme Court recognized that
5 detention is presumptively reasonable pending efforts to obtain travel documents, because
6 the noncitizen’s assistance is often needed to obtain the travel documents, and because a
7 noncitizen who is subject to an imminent, executable warrant of removal becomes a
8 significant flight risk, especially if he or she is aware that it is imminent. The Ninth Circuit
9 has emphasized, “*Zadvydas* places the burden on the alien to show, after a detention period
10 of six months, that there is ‘good reason to believe that there is no significant likelihood of
11 removal in the reasonably foreseeable future.’” *Pelich v. INS*, 329 F. 3d 1057, 1059 (9th
12 Cir. 2003) (quoting *Zadvydas*, 533 U.S. at 701); *see also Xi v. INS*, 298 F.3d 832, 840 (9th
13 Cir. 2003).

14 Here, Petitioner contends that her current detention runs afoul of *Zadvydas*. However,
15 ICE has received a travel document for Petitioner’s removal to Loas and has scheduled
16 Petitioner’s removal to occur within the next ten days. Accordingly, there is a significant
17 likelihood of removal in the reasonably foreseeable future and Petitioner’s mandatory
18 detention under 8 U.S.C. § 1231(a) is lawful. Thus, Petitioner’s *Zadvydas* claim must fail.

19 Likewise, Petitioner’s complaints about regulatory defects are unsupported as
20 Respondents fully complied with the regulatory requirements when revoking Petitioner’s
21 OSUP. A noncitizen who is not removed within the removal period may be released from
22 ICE custody “pending removal . . . subject to supervision under regulations prescribed by
23 the Attorney General.” 8 U.S.C. §§ 1231(a)(1)(A), 1231(a)(3); *see also* 8 U.S.C.
24 § 1231(a)(6). An order of supervision may be issued under 8 C.F.R. § 241.4, and the order
25 may be revoked under 8 C.F.R. § 241.4(l)(2)(iii) where “appropriate to enforce a removal
26 order.” *See also* 8 C.F.R. § 241.5 (conditions of release after removal period). ICE may also
27 revoke the order of supervision where, “on account of changed circumstances, [ICE]
28

determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2).

Here, when Petitioner reported to a scheduled ICE appointment she was provided a Notice of Revocation. Exhibit 1. The Notice explained that Petitioner’s OSUP was being revoked because ICE had obtained a travel document for Petitioner’s removal, had scheduled removal to occur in the near future, and has the ability and means to effectuate Petitioner’s removal. At the same time, Petitioner was also provided with an informal interview where she was provided an opportunity to respond to the reasons for the revocation of her release. Exhibit 2.

With Petitioner’s removal likely to occur in the reasonably foreseeable future, no purpose would be served by this Court’s ordering his release—other than frustrating “the statute’s basic purpose, namely, assuring the alien’s presence at the moment of removal.” *Zadvydas*, 533 U.S. at 699. The Court should deny the petition. *See Omdara v. Noem*, No. 25-cv-2834-BAS-MMP (S.D. Cal.).

IV. CONCLUSION

For the reasons stated above, Respondents respectfully request that the Court deny the requests for relief and dismiss the petition.

DATED: June 10, 2026

Respectfully submitted,

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