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DETAINED

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

SOMPATHANA
NOBOUPHASAVANH,

Case No.: 3:26-cv-03457-TWR-MP

Petitioner,

**PETITIONER'S TRAVERSE IN
SUPPORT OF HER PETITION
FOR WRIT OF HABEAS CORPUS**

vs.

CHRISTOPHER J. LAROSE, et al.,

Respondents.

PETITIONER'S TRAVERSE TO RESPONDENT'S RETURN

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Petitioner, Sompathana Nobouphasavanh ("Ms. Nobouphasavanh), by and through undersigned counsel, respectfully submit this Traverse to Respondent's Return and in support of her Petition for the Writ of Habeas Corpus.

I. INTRODUCTION

Ms. Nobouphasavanh () is a native and citizen of Laos who has resided in the United States for forty-five years. Although a deportation order was issued in 1999, removal was never executed, as Laos declined to accept her return. On June 3, 2026, Ms. Nobouphasavanh was detained by ICE and was not provided adequate notice before the revocation of her release.

Petitioner is detained pursuant to 8 U.S.C. 1231(a) following a final order of removal that became final in 1999. More than two decades have passed without execution of that order, during which removal has remained uncompleted and uncertain. The extraordinary passage of time undermines the claim that removal is reasonably foreseeable within the meaning of *Zadvydas v. Davis*, 533 U.S. 678 (2001), and weighs strongly in a finding that her re-detention is unlawful.

II. FACTUAL BACKGROUND

Since her release decades ago, Ms. Nobouphasavanh has established substantial equities. She is an Ironworkers Local 229 apprentice, a Tradeswomen

1 Heroes Award winner, and a dedicated community volunteer with two adult U.S.
2 citizen children, and a U.S. citizen spouse. Additionally, she provides care and
3 financial support for her elderly parents. Her extensive rehabilitation and deep
4 community ties demonstrate that she poses no danger or flight risk, as evidenced
5 by her compliance with conditions imposed.
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8 The central due process concern is that the government seeks to detain Ms.
9 Nobouphasavanh based on facts known prior to her long-standing release. By
10 permitting her to remain at liberty for years, the Government created a legitimate
11 expectation that her freedom would not be revoked without fair process, and a
12 material change in circumstances.
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14 DHS provided notice of detention concurrent with her detention and failed to
15 identify the factual basis for its action prior to her detention. The notice did not
16 specify any changed circumstances, violation of supervision conditions, or other
17 grounds warranting revocation of release. Nor was she afforded a meaningful
18 opportunity to respond to the evidence allegedly supporting detention. Instead, she
19 was subjected to questioning without prior disclosure of the reasons for the
20 government's action, with the presence of counsel. Under 8 C.F.R. § 241.13 and
21 basic principles of due process, detention decisions should be based on disclosed
22 grounds and a meaningful opportunity to respond.
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III. ARGUMENT

A. RESPONDENTS' DECLARATION IS INSUFFICIENT TO ESTABLISH THE FACTS NECESSARY TO DEFEAT HABEAS RELIEF

Respondents rely heavily upon a declaration prepared by an Immigration and Customs Enforcement (ICE) deportation officer. The declaration contains a series of factual assertions regarding the issuance of a travel document, the revocation of Ms. Nobouphasavanh's Order of Supervision, and a scheduled removal.

ICE's authority to detain, release, and re-detain noncitizens subject to a final order of removal is governed by 8 U.S.C. § 1231(a). Once 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 effectuates removal during a subsequent 90-day statutory "removal period." 8 U.S.C. § 1231(a)(1). During that period, Congress provides that the Attorney General "shall detain" the alien. 8 U.S.C. § 1231(a)(2). Critically, however, the statute presumes that detention authority is exercised within a defined statutory framework grounded in actual removal efforts, not conclusory administrative assertions. Accordingly, where the government invokes § 1231(a) as justification for custody, it must still demonstrate that its actions are supported by competent, reliable evidence showing that removal is imminent. Here, the declaration does not attach the underlying records upon which its assertions are based. The removal order itself is not produced.

1 Respondents have also failed to produce:

2 (a) the travel document allegedly issued by Laos;

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4 (b) any communication from Laotian authorities confirming acceptance of
5 Petitioner;

6 (c) the alleged flight itinerary;

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8 (d) carrier confirmations;

9 (e) transportation arrangements; or

10 (f) any documentary evidence demonstrating that removal will in fact occur
11
12 on the anticipated date.

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14 The Court is therefore asked to accept Respondent's conclusions without
15 access to the records allegedly supporting those conclusions. Such unsupported
16 assertions should not be sufficient to extinguish a petitioner's liberty interests or
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18 foreclose meaningful judicial review. This is troubling, particularly where the
19 country of removal, Laos, does not have a formal repatriation agreement with the
20 United States. Further, the United States and Laos do not have a formal
21 Memorandum of Understanding (MOU).
22

23 Legislative proposals such as H.R. 6034 (116th Congress) reflect
24 congressional awareness of longstanding repatriation difficulties involving certain
25 Lao nationals. While not enacted, it is consistent with the pattern that removals to
26 Laos are administratively and diplomatically complex.
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1 Respondents' reliance on the alleged issuance of a travel document is
2 insufficient to establish a material change in circumstances. The declaration
3 provides only a conclusory assertion. Respondents do not attach the travel
4 document, state its expiration, describe its terms, or explain the scope of its
5 authorization. The declaration does not indicate whether the travel document
6 authorizes travel only to Laos, or whether it permits transit through any
7 intermediary countries, or whether any restrictive conditions exist that could
8 prevent its use. Such vague assertions are insufficient to demonstrate that
9 circumstances have materially changed. The removal order, including its operative
10 language, is not in the record, which is material in determining the scope and legal
11 basis of Petitioner's current detention. Materiality requires more than allegations of
12 new developments.
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18 **B. A SCHEDULED REMOVAL DOES NOT ESTABLISH THAT REMOVAL**
19 **WILL ACTUALLY OCCUR**

20 Ms. Nobouphasavanh is being detained pursuant to 8 U.S.C. § 1231, which
21 authorizes detention only during the 90-day removal period. The commencement
22 of the 90-day period begins on the "...latest of the following: (i) The date the
23 order of removal becomes administratively final; (ii) If the removal order is
24 judicially removed and if a court orders a stay of the removal of the alien, the date
25 of the court's final order; and (iii) If the alien is detained or confined (except under
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1 an immigration process), the date the alien is released from detention or
2 confinement.” 8 U.S.C. § 1231(a)(1)(B). That period expired decades ago.
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4 Even assuming, arguendo, that the government could claim a later trigger
5 date, detention beyond the removal period is lawful only if reasonably foreseeable.
6 Under *Zadvydas v. Davis*, 533 U.S. 678, 791 (2001), detention becomes
7 presumptively unlawful after six months unless the government can show that
8 removal is significantly likely in the reasonably foreseeable future. Here,
9 Respondent has produced no evidence of travel documents nor any third-country
10 acceptance. Accordingly, Respondents cannot meet their burden under *Zadvydas*,
11 and detention under 1231(a)(1) is unlawful.
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14 Respondents repeatedly characterize Ms. Nobouphasavanh's removal as
15 imminent. Yet the declaration states only that Ms. Nobouphasavanh is "currently
16 scheduled" to be removed within ten days. The declaration offers no evidence that
17 all necessary conditions for removal have been satisfied or that no legal, logistical,
18 diplomatic, operational, or administrative barriers remain. Experience
19 demonstrates that removals are frequently postponed, canceled, delayed, or
20 otherwise interrupted despite prior scheduling. Respondents have not demonstrated
21 that Ms. Nobouphasavanh's removal is certain rather than speculative. The
22 government's burden cannot be satisfied through predictions regarding future
23 events unsupported by documentary evidence.
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1 C. THE REVOCATION OF PETITIONER'S ORDER OF SUPERVISION
2 DOES NOT ESTABLISH THE LEGALITY OF DETENTION

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4 Respondent emphasizes that Ms. Nobouphasavanh's Order of Supervision
5 was revoked on June 3, 2026. The revocation decision, however, was an internal
6 administrative determination made by the same agency seeking to justify Ms.
7 Nobouphasavanh's detention. The legality of detention cannot depend solely upon
8 Respondents' unilateral decision to revoke supervision.
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10 The relevant question before this Court is whether continued detention
11 comports with federal law and constitutional limitations. Administrative action by
12 ICE cannot substitute for judicial review of that question. Nor does the revocation
13 itself establish that detention became necessary, reasonable, or lawful.
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16 The revocation of Ms. Nobouphasavanh's release, "informal" custodial
17 interrogation, and the concurrent provision of a vague notice raise substantial due
18 process concerns under the Fifth Amendment. Although Ms. Nobouphasavanh was
19 provided with a Notice of Revocation, no reason is so stated on the form provided.
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21 The process described appears limited to an informal, agency-conducted
22 interview at the ICE office without the presence of counsel. This proceeding was
23 perceived by Petitioner as an interrogation involving threatening disclosures,
24 conducted without the benefit of neutral adjudication or the opportunity to consult
25 with an attorney. The characterization of this process as "informal" by Respondents
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1 underscore the haphazardness of the alleged notice.

2 Where government action results in the deprivation of physical liberty, due
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4 process generally requires notice and a meaningful opportunity to be heard before
5 a neutral decisionmaker, or a legitimate notice, not merely a boilerplate notice
6 devoid of a basis for the revocation stated therein and an “informal” internal
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8 review by the detaining authority. Thus, Petitioner remains firm in her position that
9 she was not provided with constitutionally sufficient notice or an adequate
10 opportunity to be heard.
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12 D. RESPONDENTS HAVE FAILED TO IDENTIFY ANY CONDUCT BY
13 PETITIONER JUSTIFYING DETENTION

14 The Notice of Revocation warns Ms. Nobouphasavanh that obstruction of
15 removal may result in prosecution under 8 U.S.C. § 1253(a). Notably absent from
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17 Respondent's Return is any allegation that Petitioner engaged in obstruction. Under
18 8 U.S.C. § 1253(a)(C), “the removal period shall be extended beyond a period of
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20 90 days and the alien may remain in detention during such extended period if the
21 alien fails or refuses to make timely application in good faith for travel or other
22 documents necessary to the alien's departure or conspires or acts to prevent the
23 alien's removal subject to an order of removal.” This is particularly striking given
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25 that Respondents elsewhere reference only the provision of an informal interview
26 opportunity, which underscores Petitioner’s willingness to engage with the process.
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1 Against that backdrop, the invocation of obstruction-based criminal penalties reads
2 not as a factual assertion, but as a coercive warning.

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4 Respondents do not allege that Petitioner refused to cooperate with
5 immigration officials, refused to complete travel-document applications; concealed
6 identity information, provided false information, refused transportation; or
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8 otherwise acted to prevent removal. The inclusion of boilerplate statutory warnings
9 cannot be transformed into evidence of misconduct.

10 To the extent Respondents seek to imply noncooperation, such implications
11 are unsupported by the record.
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13 E. THE GOVERNMENT'S RECENT ACTIONS DO NOT NECESSARILY
14 DEFEAT THE HABEAS PETITION

15 Respondents' declaration suggests that because a travel document was
16 obtained and removal has been scheduled, the petition should be dismissed. The
17 Court, however, must examine whether detention was and remains lawful under the
18 governing statutory and constitutional framework. The government's recent actions
19 do not automatically extinguish the legal issues presented in the petition. Where
20 liberty interests are at stake, judicial review must be based upon evidence rather
21 than administrative assurances.
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1 F. RESPONDENTS HAVE NOT ESTABLISHED THAT THE PETITION IS
2 MOOT

3 To the extent Respondent argues that the anticipated removal renders the
4 petition moot, such an argument is premature. Ms. Nobouphasavanh remains
5 detained, subject to the challenged custody, and continues to suffer the concrete
6 injury that forms the basis of this action. Until no collateral consequences remain,
7 the controversy remains live, and the Court retains authority to adjudicate the
8 legality of Petitioner's detention. *Abdala v. INS*, 488 F.3d 1061 (9th Cir. 2007).
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11 Here, Ms. Nobouphasavanh's equities further reinforce redressability and the
12 practical significance of habeas relief. Her long residence in the U.S. since
13 childhood, rehabilitation, caregiving responsibilities for a U.S. Citizen family
14 member, her U.S. citizen children who rely on her, her U.S. Citizen spouse, all
15 demonstrate that the consequences of detention and removal are ongoing and
16 deeply personal, not merely theoretical. Habeas relief remains the only meaningful
17 judicial mechanism capable of addressing the Respondents' restraint and its
18 cascading effect.
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22 G. THE COURT SHOULD REQUIRE PRODUCTION OF THE
23 UNDERLYING RECORD

24 If Respondent's position depends upon the existence and validity of a travel
25 document and finalized removal arrangements, fairness requires production of
26 those materials. Ms. Nobouphasavanh respectfully requests that Respondents be
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1 directed to produce the travel document issued by Laos; correspondence with
2 Laotian authorities; transportation records; flight confirmations; carrier acceptance
3 documentation; and any additional records relied upon by Respondents.
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5 Absent production of those materials, Ms. Nobouphasavanh's ability to
6 challenge Respondents' factual assertions is severely limited.
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8 H. PROSECUTORIAL DISCRETION UNDERCUTS GOVERNMENT'S
9 JUSTIFICATION
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11 Respondents' reliance on an antiquated removal order fails to account for its
12 own broad authority to exercise prosecutorial discretion in immigration
13 enforcement. The Department of Homeland Security has long recognized that
14 enforcement decisions must be guided by current priorities and individualized
15 equities, including length of residence, family ties, rehabilitation, humanitarian
16 concerns, and resource allocation. Where, as here, Ms. Nobouphasavanh has
17 remained in the United States for decades following the issuance of a final removal
18 order, the exercise of prosecutorial discretion is particularly salient. The failure to
19 meaningfully consider discretionary relief or non-custodial alternatives renders the
20 detention arbitrary and disproportionate.
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1 I. ALTERNATIVELY, AN EVIDENTIARY HEARING IS WARRANTED

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3 At a minimum, material factual disputes remain concerning the certainty,
4 timing, and feasibility of Petitioner's removal. Accordingly, Petitioner respectfully
5 requests an evidentiary hearing at which Respondents may be required to present
6 competent evidence supporting the assertions contained in its declaration.
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8 IV. CONCLUSION

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10 For the foregoing reasons, Petitioner respectfully requests that the Court
11 reject Respondent's unsupported factual assertions and require production of the
12 underlying records relied upon by Respondent. Further, immediate release should
13 be warranted under these facts. Alternatively, an evidentiary hearing should be
14 conducted if necessary to determine whether the Petitioner is a flight risk or danger
15 to the community, and such other relief as justice requires should be granted.
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18 Respectfully Submitted,

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20 Dated: June 12, 2026

21 /s// Mario Portugal

22 Mario Portugal

23 Pro Bono Counsel for Petitioner
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