

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Amkha Souvannaseng v. Kristi Noem, et al.

Souvannaseng · No. 3:25-cv-3473-CAB-DEB · Decided December 16, 2025

SUMMARY

The United States District Court for the Southern District of California granted Amkha Souvannaseng’s petition for a writ of habeas corpus and ordered his immediate release under the conditions applicable before his re-detention. Applying *Zadvydas v. Davis*, the court held that continued detention was unlawful because removal was not significantly likely in the reasonably foreseeable future. The court denied the motion for a temporary restraining order as moot and prohibited re-detention unless that likelihood of removal exists.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Cathy Ann Bencivengo
JURISDICTION	United States District Court for the Southern District of California
DECIDED	December 16, 2025
DOCKET	3:25-cv-3473-CAB-DEB
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Petition for a writ of habeas corpus under 28 U.S.C. § 2241 and motion for a temporary restraining order challenging continued immigration detention after a final removal order.
STANDARD OF REVIEW	The petitioner bears the burden of demonstrating custody in violation of the Constitution or laws or treaties of the United States under 28 U.S.C. § 2241(c)(3).
PRECEDENTIAL VALUE	unpublished district court order; persuasive but not binding outside the case
PARTIES	Amkha Souvannaseng v. Kristi Noem, et al.

TOPICS

- federal habeas corpus
- immigration detention
- removal proceedings
- immigration

PRACTICE AREAS

immigration law

federal habeas corpus

immigration detention

QUESTIONS PRESENTED

1. Whether 8 U.S.C. § 1252 deprived the district court of jurisdiction over Souvannaseng's § 2241 statutory and constitutional challenges to post-removal-period detention.
2. Whether Souvannaseng's continued detention under 8 U.S.C. § 1231(a)(6) was unlawful because removal was not reasonably foreseeable under *Zadvydas v. Davis*.
3. Whether the court needed to reach Souvannaseng's due process arguments concerning revocation of his order of supervision after granting relief under *Zadvydas*.

HOLDINGS

1. The district court had subject matter jurisdiction over Souvannaseng's statutory and constitutional challenges to his post-removal-period detention under § 2241 notwithstanding 8 U.S.C. § 1252.
2. Continued detention was unlawful because Souvannaseng had been detained well beyond the presumptively reasonable six-month period and Respondents failed to show a significant likelihood of removal in the reasonably foreseeable future.
3. Respondents were required to immediately release Souvannaseng under the same conditions that existed before his November 28, 2025 re-detention, and were prohibited from re-detaining him unless there was a significant likelihood of removal in the reasonably foreseeable future.

KEY QUOTATIONS

“Under Zadvydas, “once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute [8 U.S.C. § 1231(a)(6)].”” (at 3)

“The Clerk of Court shall close the case.” (at 5)

FACTUAL BACKGROUND

Souvannaseng, a native of Laos who came to the United States in 1979 and later became a lawful permanent resident, was ordered removed on July 3, 2000, following a 1998 drug conviction. After approximately a year of detention, ICE released him on an order of supervision because Laos had not issued travel documents. ICE re-detained him on November 28, 2025, but still lacked travel documents and had previously failed to obtain them during his earlier detention.

PROCEDURAL HISTORY

Souvannaseng filed a § 2241 habeas petition and a motion for a temporary restraining order after ICE re-detained him on November 28, 2025, to effect removal to Laos. Respondents opposed both requests and argued that the court lacked jurisdiction under 8 U.S.C. § 1252 and that removal remained reasonably foreseeable. The court decided the motions on the papers, granted habeas relief, denied the TRO as moot, ordered immediate release under the prior conditions, and closed the case.

DISPOSITION

writ_granted

CASES CITED

- Hamdi v. Rumsfeld, 542 U.S. 507, 525 (2004)
- Preiser v. Rodriguez, 411 U.S. 475, 484 (1973)
- Zadvydas v. Davis, 533 U.S. 678, 687–88, 699, 701 (2001)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 AMKHA SOUVANNASENG, Case No.: 3:25-cv-3473-CAB-DEB 12
Petitioner, ORDER: 13 v. (1) GRANTING PETITION FOR A WRIT OF HABEAS CORPUS
[Doc. 14 KRISTI NOEM, et al., No. 1] 15 Respondents.

(2) DENYING MOTION FOR 16 TEMPORARY RESTRAINING 17 ORDER AS MOOT [Doc.
No. 2] 18 19 20 21 22 Pending before the Court is Amkha Souvannaseng’s (“Petitioner”) Petition
for a 23 Writ of Habeas Corpus, [Doc. No. 1 (“Petition”)], and Motion for Temporary Restraining
24 Order, [Doc. No. 2 (“TRO”)]. Respondents filed a response that simultaneously addressed 25
the Petition and the TRO.

[Doc. No. 6.] The Court finds Petitioner’s motions suitable for 26 determination on the papers. See
CivLR 7.1(d)(1). For the following reasons, the Petition 27 is GRANTED, and Petitioner’s TRO is
DENIED AS MOOT. 28 1 I. BACKGROUND 2 Petitioner is a native of Laos who came to the
United States in 1979. [Petition at 3 20.] Petitioner’s status was later adjusted to that of a lawful
permanent resident.

[Id.] On 4 July 3, 2000, Petitioner was ordered removed because he was convicted in 1998 of a
drug 5 crime. [Id.] After detaining him for about a year, Immigration and Customs Enforcement 6
 (“ICE”) released Petitioner on an order of supervision because “Laos did not issue [him] 7 travel
documents.” [Id.; see also Doc. No. 6-1 ¶¶ 6–8.] 8 On November 28, 2025, Petitioner was re-
detained to effect his removal to Laos.

9 [Id.] Respondents do not have a travel document for Petitioner but assert that “[o]nce ICE 10
receives a travel document for Petitioner... Petitioner’s removal can be effectuated 11 promptly.”
[Doc. No. 6-1 at 3] (cleaned up and internal quotations removed). Respondents 12 also assert that
they are not currently “seeking to remove Petitioner to a third country.” 13 [Id.]

14 II. LEGAL STANDARD 15 A writ of habeas corpus is “available to every individual detained
within the United 16 States.” Hamdi v. Rumsfeld, 542 U.S. 507, 525 (2004) (citing U.S. Const.,
Art. I, § 9, cl. 17 2). “The essence of habeas corpus is an attack by a person in custody upon the

legality of 18 that custody, and... the traditional function of the writ is to secure release from illegal 19 custody.” *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).

Under 28 U.S.C. § 2241, a 20 district court has the authority to grant a writ of habeas corpus when the petitioner “is in 21 custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. 22 § 2241(c)(3).

The Petitioner bears the burden of demonstrating that “[h]e is in custody in 23 violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. 24 § 2241(c)(3). 25 III. DISCUSSION 26 A. Jurisdiction 27 Respondents argue that the Court lacks jurisdiction over Petitioner’s claims under 28 8 U.S.C. § 1252. [Doc. No. 6 at 3–4.]

The Supreme Court’s holding in *Zadvydas* squarely 1 contradicts this argument. There, the Supreme Court rejected the application of § 1252 to 2 limit judicial review of indefinite post-removal-period detentions under § 1231(a)(6) and 3 held “that § 2241 habeas corpus proceedings remain available as a forum for statutory and 4 constitutional challenges to post-removal-period detention.” *Zadvydas v. Davis*, 533 U.S. 5 678, 687–88 (2001).

This Court is thus satisfied of its subject matter jurisdiction and 6 proceeds to the merits. 7 B. Lawfulness of Petitioner’s Continued Detention Under 8 U.S.C. § 1231 8 Petitioner asserts that his detention is unlawful under 8 U.S.C. § 1231(a) and the 9 Supreme Court’s decision in *Zadvydas v. Davis*, 533 U.S. 678 (2001). [Petition at 10–12.] 10 Respondents argue that (1) ICE has the authority to detain Petitioner to effectuate his order 11 of removal; and (2) Petitioner cannot show that there is not a significant likelihood of 12 removal in the reasonably foreseeable future as required under *Zadvydas*.

[Doc. No. 6 at 13 6–8.] The Court agrees with Petitioner and ORDERS his immediate release under the 14 same conditions as his previous release. 15 As relevant here, 8 U.S.C. § 1231(a)(1) (A) provides a 90-day removal period that 16 begins when the order of removal becomes administratively final. Petitioner was ordered 17 removed on July 3, 2000, and because he waived his right to appeal, [Doc.

No. 6-1 at 1], 18 that order of removal became administratively final the same day. See 8 C.F.R. § 1003.39; 19 8 C.F.R. § 1241.1. The 90-day removal period has long passed. 20 Under *Zadvydas*, “once removal is no longer reasonably foreseeable, continued 21 detention is no longer authorized by statute [8 U.S.C. § 1231(a)(6)].” 533 U.S. at 699.

The 22 Petitioner has the initial burden to show that (1) he has experienced post-removal order 23 detention for more than *Zadvydas*’ six-month presumptively reasonable period of detention 24 and (2) there is good reason to believe that there is no significant likelihood of removal in 25 the reasonably foreseeable future. *Id.* at 701. Given Petitioner’s post-removal order 26 detention from

July 3, 2000 to March 14, 2001 and his current detention since November 27 28, 2025, Petitioner meets the first prong.

28 1 The Court also finds that Petitioner has met the second prong. ICE previously tried 2 and failed to deport Petitioner, holding Petitioner in detention for over 8 months while 3 failing to obtain travel documents from Laos. [Petition at 4.] Petitioner asserts that Laos 4 has a well-documented history of rejecting deportees. [See Id. at 5–7.] ICE offers two 5 insufficient pieces of evidence to rebut Petitioner’s showing.

First is the vague assertion 6 that “ICE has worked diligently to effectuate [Petitioner’s] removal to Laos. These 7 removal efforts remain ongoing.” [Doc. No. 6-1 at ¶ 12.] Second, ICE states that they 8 removed 177 Laotian nationals in fiscal year 2025, up from 0 Laotian nationals in fiscal 9 year 2024. [Id. at ¶ 13.] 10 The time to keep Petitioner in detention for purposes of removal, either under the 11 statutory 90-day removal period or the 6-month Zadvydas period, has long passed.

12 Respondents have not shown that there is a significant likelihood of removal in the 13 reasonably foreseeable future. 14 C. Procedural Safeguards Governing Revocation of Order of Supervision 15 Because the Court has ordered Petitioner’s release based on Zadvydas, the Court 16 need not reach the merits of Petitioner’s arguments regarding Respondent’s alleged due 17 process violations.

18 IV. CONCLUSION 19 Accordingly, the Court GRANTS Petitioner’s application for a writ of habeas 20 corpus and ORDERS Respondents to immediately release Petitioner from custody under 21 the same conditions of release that existed immediately prior to his November 28, 2025 re- 22 detention.

The Court DENIES Petitioner’s TRO as moot. 23 The Court also finds it appropriate to PROHIBIT Respondents from re-detaining 24 Petitioner unless there is a significant likelihood of removal in the reasonably foreseeable 25 /// 26 /// 27 /// 28 /// 1 || future. 2 The Clerk of Court shall close the case. 3 Itis SO ORDERED. 4 || Dated: December 16, 2025 € ZL 5 Hon. Cathy Ann Bencivengo 6 United States District Judge 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28