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

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

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