

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Louangmilith v. Noem

Louangmilith · No. 25-cv-2502-JES-MSB · Decided October 9, 2025

OPINION

Louangmilith v. Noem

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 SIRIPHONE LOUANGMILITH, Case No.: 25-cv-2502-JES-MSB 12 Petitioner, ORDER:
13 v.

(1) DENYING IN PART AND

14 KRISTI NOEM; PAMELA JO BONDI;

GRANTING IN PART PETITION

TODD M. LYONS; JESUS ROCHA; and

15 FOR WRIT OF HABEAS CORPUS;

CHRISTOPHER LaROSE,

and 16 Respondents.

17 (2) DENYING MOTION FOR

TEMPORARY RESTRAINING

18

ORDER AS MOOT

19 [ECF Nos. 1, 3] 20 21 22 Before the Court is Petitioner Siriphone Louangmilith’s Petition for
Writ of Habeas 23 Corpus pursuant to 28 U.S.C. § 2241 (ECF No. 1), and accompanying Motion
for 24 Temporary Restraining Order (“TRO”). The parties submitted briefing on these matters, 25
and the Court held a hearing on October 1, 2025. ECF Nos. 1, 2, 4, 9. For the reasons set 26 forth
below and at the hearing, the Court DENIES IN PART and GRANTS IN PART the 27 writ of
habeas corpus, and DENIES AS MOOT the motion for TRO. 28 //

1 I. BACKGROUND

2 Petitioner is a citizen of Laos who is currently detained at the Otay Mesa Detention 3 Center
(“OMDC”). ECF No. 1 at 3. He alleges that he entered the United States in 1987 as 4 a refugee
and subsequently became a lawful permanent resident. Id. In 2005, he was 5 convicted of burglary
under California Penal Code § 459. Id.; ECF No. 1-2 ¶ 2. Due to the 6 criminal conviction, he was
put into removal proceedings and ordered removable by an 7 Immigration Judge (“IJ”). Id. After

he was ordered removed, Petitioner alleges that he was 8 detained by U.S. Immigration and Customs Enforcement (“ICE”) and they tried to remove 9 him to Laos without success for three months. Id. ¶ 3. Thus, he was released on an order 10 of supervision. Id. After his release, Petitioner alleges that he remained in the United States 11 for 17 years. Id. 12 On July 23, 2025, Petitioner was arrested by ICE and brought to OMD. Id. ¶ 4. He 13 alleges that he was finally told on September 17, 2025, that ICE had obtained travel 14 documents to effectuate his removal back to Laos. Id. 15 Petitioner alleges that recently, he had been in contact with Federal Defenders, who 16 now represent him in this case. Id. ¶ 5. After investigation, he alleges that they investigated 17 his underlying removal case and discovered a ground to seek reopening of his removal 18 proceedings. Id. Specifically, he alleges that the crime he was convicted of and formed the 19 basis of removal has since been ruled to never be an aggravated felony. Id. (citing 20 *Descamps v. United States*, 570 U.S. 254, 265 (2013)). ECF No. 1 at 3. He alleges that he 21 filed a motion to reopen his removal proceedings on this ground on September 19, 2025. 22 ECF No. 1-2 ¶ 6. 23 Based on the above, Petitioner brings three claims: (1) procedural due process 24 prevents Petitioner’s removal during the pendency of his motion to reopen his removal 25 proceedings; (2) ICE failed to comply with its own procedures to re-detain him and he 26 should be released; and (3) ICE cannot remove him to a third country without adequate 27 notice and an opportunity to be heard. ECF No. 1 at 6-11. 28 //

1 II. LEGAL STANDARD

2 Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, 3 the district courts, and any circuit judge within their respective jurisdictions.” 28 U.S.C. § 4 2241(a). The writ of habeas corpus is “available to every individual detained within the 5 United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004). A prisoner prevails in her 6 petition for writ of habeas corpus if she shows that “[she] is in custody in violation of the 7 Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3); see also 8 *Espinoza v. Sabol*, 558 F.3d 83, 89 (1st Cir. 2009) (“[T]he burden of proof under § 2241 is 9 on the prisoner . . .”).

10 III. DISCUSSION

11 A. Jurisdiction 12 Respondents first argue that this Court lacks subject matter jurisdiction to hear this 13 petition under 8 U.S.C. §§ 1252(g) and (b)(9). ECF No. 7 at 10-13. 14 The Court’s jurisdiction to hear writs of habeas corpus from immigration detainees 15 depends on the type of claims at issue. Congress has granted the Attorney General the 16 power to “commence proceedings, adjudicate cases, and execute removal orders” against 17 aliens, and forbidden judicial review of “any cause or claim by or on behalf of any alien 18 arising from” such decisions. 8 U.S.C. § 1252(g). District courts also may not review on 19 habeas “questions of law and fact, including interpretation and application of constitutional 20 and statutory decisions, arising from any action taken or proceeding brought to remove an 21 alien.” 8 U.S.C. § 1252(b)(9). In interpreting “arising under” in both statutes, the Supreme 22 Court has cautioned against “expansive interpretations” that would cause “staggering 23 results” like rendering prolonged

detention claims unreviewable. *Jennings v. Rodriguez*, 24 583 U.S. 281, 294 (2018); *Reno v. American-Arab Anti-Discrimination Committee*, 525 25 U.S. 471, 482-483 (1999). 26 In support of Petitioner’s position that this Court has jurisdiction to grant him the 27 relief of staying his removal pending his motion to reopen, he cites to the case *Chhoeun v. 28 Marin*, 306 F. Supp. 3d 1147, 1157 (C.D. Cal. 2018). The case was a class action filed by 1 Cambodian citizens who were subject to orders of removal due to prior criminal 2 convictions, but were subsequently released from custody when Cambodia refused to 3 accept them. *Id.* at 1150. Years later, petitioners were re-detained by ICE and they filed 4 suit in federal court, asking for a stay of their deportations so they could reopen their 5 immigration proceedings and challenge their removal orders. *Id.* at 1151. The government 6 argued that §§ 1252(a)(5), 1252(b)(9), and 1252(g) barred the district court from exercising 7 jurisdiction in that case. *Id.* at 1157-58. The court reviewed Ninth Circuit precedent, stating 8 that district courts have jurisdiction if “petitioners do not directly challenge their orders of 9 removal, but rather assert a due process right to challenge the orders in the appropriate 10 court.” *Id.* at 1158. After reviewing cases, the court held that petitioners did not “directly 11 challenge the bases for their orders of removal” but instead seek “an opportunity to 12 challenge the removal orders.” *Id.* at 1159. Thus, the court appeared to cast their request as 13 a due process challenge to have their “day in court.” *Id.* 14 After *Chhoeun* was decided in 2018, district courts have been split on following its 15 conclusion. *Beltran Prado v. Nielsen*, 379 F. Supp. 3d 1161, 1167 (W.D. Wash. 2019) 16 (“The Ninth Circuit, however, has not addressed the issue here: whether district courts have 17 jurisdiction to stay a noncitizen’s removal pending resolution of a motion to reopen. 18 District courts in this circuit are split.”); *Abdelsalam v. Barr*, No. EDCV202608JGBKKX, 19 2021 WL 518367, at *3 (C.D. Cal. Jan. 8, 2021) (recognizing same split and collecting 20 cases); compare *Sied v. Nielsen*, No. 17-CV-06785-LB, 2018 WL 1142202, at *15 (N.D. 21 Cal. Mar. 2, 2018) (holding district court has jurisdiction to hear a habeas petition 22 requesting a stay of removal pending a motion to reopen) with *Probodanu v. Sessions*, 387 23 F. Supp. 3d 1031, 1042 (C.D. Cal. 2019) (holding no jurisdiction even where “Petitioners 24 have also filed, and still have the opportunity to file, motions to reopen their immigration 25 proceedings”). 26 However, in support of their position that this court does not have jurisdiction to 27 grant a motion to stay removal pending adjudication of Petitioner’s motion to reopen, 28 Respondents cite to a 2022 Ninth Circuit case, *Rauda v. Jennings*, 55 F.4th 773 (9th Cir. 1 2022). In *Rauda*, the petitioner was found removable by an IJ who also denied him relief 2 under the Convention Against Torture (“CAT”). *Id.* at 776. He unsuccessfully appealed to 3 the BIA and the Ninth Circuit. *Id.* Subsequently, he moved to have the BIA reopen his case 4 for consideration of new developments for his CAT claim. *Id.* He petitioned the BIA for 5 an emergency stay with his motion to reopen was pending but was denied. *Id.* He then filed 6 a § 2241 petition with the federal court. *Id.* Petitioner argued that refusing to stay his 7 removal pending resolution of his motion to reopen “would deprive a noncitizen of his 8 statutory right to file a motion to reopen.” *Id.* at 777. The court there held that, despite this 9 framing, Petitioner

was challenging the execution of his removal order, which falls within 10 § 1252(g)'s limitation of jurisdiction upon federal courts. Id. ("No matter how [Petitioner] 11 frames it, his challenge is to the Attorney General's exercise of his discretion to execute 12 [Petitioner's] removal order, which we have no jurisdiction to review."). The court 13 emphasized that the motion to reopen had already been filed and is currently pending 14 before the BIA; that once the BIA decides that motion, Petitioner would be able to appeal 15 that decision to the Ninth Circuit. Id. Thus, the court appeared to conclude that, in that 16 procedural circumstance, there is the opportunity provided to let the process proceed. Id. 17 In light of *Rauda*, the Court finds that it precludes jurisdiction over Petitioner's claim 18 seeking a stay of his removal pending adjudication of his motion to reopen given the almost 19 identical procedural posture of the case. *Rauda* seems to stand for the proposition that a 20 due process violation cannot solely rest on the argument that removal must be prevented 21 so that a motion to reopen can play out in immigration court. This appears to be the main 22 argument supporting Petitioner's first claim, under which he seeks a stay of his removal 23 pending adjudication of this motion to reopen.¹ Accordingly, the Court finds that it does 24 25 1 During the hearing on this matter, Petitioner suggested that a separate procedural due process claim may 26 lay also in the manner that he was re-detained this time by ICE. Petitioner described the prejudice as the lack of process there deprived him of an opportunity to avail himself to the administrative procedures in 27 place to protect them from erroneous removals, including an opportunity to contact attorneys. However, the relief requested under this Claim does not flow from this alleged constitutional violation. This due 28 1 not have jurisdiction to hear Petitioner's first claim and DENIES the petition for that claim 2 for lack of jurisdiction. 3 However, as to Petitioner's second and third claims, the Court finds that application 4 of this legal framework reaches a different result. Petitioner's second claim addresses the 5 process which ICE used to re-detain him, arguing that it violated his due process rights. 6 Petitioner's third claim regarding removal to a third country also implicates due process 7 rights, specifically whether he can be removed to a third country without notice and an 8 opportunity to be heard. Since these claims implicate procedural due process issues, the 9 Court finds that it does have jurisdiction to address them and will do so below. 10 B. Claim 2 11 Petitioner's second claim challenges the way that ICE re-detained him. ECF No. 1 12 at 8. Petitioner argues that ICE failed to comply with its own regulations, and argues that 13 this is a due process violation. Id. at 8-10. In support of this position, Petitioner cites to a 14 second decision in the *Chhoeun* case. In the second order, the court evaluated whether the 15 petitioners should be released from custody due to procedural due process violations during 16 their redetention by ICE. *Nak Kim Chhoeun v. Marin*, 442 F. Supp. 3d 1233, 1247 (C.D.

17 Cal. 2020). The court held that procedural due process was violated and enjoined the 18 government from redetention of any class member without the appropriate notice first. Id. 19 Petitioner makes a similar argument here, and states the prejudice he faces as follows: it 20 deprived him of an opportunity to avail himself to the administrative procedures in place 21 to

protect them from erroneous removals, including an opportunity to contact attorneys. 22 ECF No. 1 at 10. 23 The unique factual circumstances of this case differentiates it from Chhoeun. The 24 government has represented to the Court that it has now obtained travel documents for 25 Petitioner to be removed to his home country, Laos. ECF No. 7-1 ¶ 11. A declaration from 26 27 28 1 a deportation officer states that ICE's Enforcement and Removal Operations ("ERO") 2 obtained the travel documents and Petitioner is expected to be placed on the next charter 3 flight to Laos. Id. The date for the flight has not yet been scheduled but is expected to occur 4 "soon." Id. Thus, at this point, there is a significant likelihood that Petitioner will be 5 removed to his home country in the imminent future. Moreover, by Petitioner's own 6 admission, he was able to file a motion to reopen with help with counsel, notwithstanding 7 his detention. ECF No. 1 at 4. 8 Thus, the unique factual circumstances here as a practical matter obviates the 9 primary relief that Petitioner seeks with this claim. The petition for writ of habeas corpus 10 is DENIED WITHOUT PREJUDICE on this claim.² 11 C. Claim 3 12 Petitioner's third claim is that ICE should be prevented from removing him to a third 13 country without adequate notice and an opportunity to be heard. Respondents argue that 14 this situation is not ripe for adjudication because ICE is not seeking to remove Petitioner 15 to a third country. ECF No. 7 at 8-9. Petitioner responds that ICE's alleged procedure of 16 removing individuals to a third country without notice and opportunity to be heard is why 17 courts have rejected similar arguments by the government that such claims are speculative 18 and unripe—by the time they are ripe by the government's argument, it will be too late for 19 the individuals to meaningfully challenge the removal. ECF No. 9 at 8 (citing *D.V.D. v. 20 U.S. Dep't of Homeland Sec.*, 778 F. Supp. 3d 355, 389 (D. Mass. 2025)). 21 At least one district court has rejected the kind of argument that Respondents make 22 here. In *Nguyen v. Scott*, Respondents made a similar representation that they were only 23 seeking to remove the petitioner to his home country of Vietnam and stipulated that they 24 would not attempt to remove him to any other country. No. 2:25-CV-01398, 2025 WL 25 26 27 2 This denial is without prejudice to Petitioner refiling a new petition in the event that his expected removal to Laos is not effectuated in the immediate manner represented by the government to this Court and his 28 1 2419288, at *27 (W.D. Wash. Aug. 21, 2025). The court stated that "the Ninth Circuit has 2 found such voluntary promises insufficient" to eliminate the potential irreparable injury 3 that petitioner could face if the promise was withdrawn, particularly in light of the 4 underlying allegations that third party removals were being conducted rapidly and without 5 an opportunity for process. Id. at *27-28. 6 Thus, on balance, the Court is more persuaded by Petitioner's arguments in spite of 7 the government's representations, and GRANTS the petition on this claim.

8 IV. CONCLUSION

9 For the reasons set forth above, the Court GRANTS IN PART and DENIES IN 10 PART Petitioner's writ of habeas corpus as follows: 11 1) Petitioner's first claim seeking a stay of his removal pending adjudication of 12 his motion to reopen is DENIED; 13 2) Petitioner's second

claim seeking immediate release from detention is

14 DENIED WITHOUT PREJUDICE; and

15 3) Petitioner's third claim seeking to prohibit his removal to a third country 16 without notice
and opportunity to be heard is GRANTED. The Court 17 ORDERS that Respondents and their
officers, agents, employees, attorneys, 18 and persons acting on their behalf or in concert with
them are PROHIBITED 19 from removing Petitioner to a country other than Laos without notice
and a 20 meaningful opportunity to be heard, following the process laid out in D.V.D. 21 v. U.S.
Dep't of Homeland Sec., No. CV-25-10676-BEM, 2025 WL 1453640, 22 at *1 (D. Mass. May 21,
2025). 23 // 24 // 25 // 26 // 27 // 28 // 1 || Because the Court has ruled on Petitioner's underlying
writ of habeas corpus, the motion 2 TRO is DENIED AS MOOT. 3 IT IS SO ORDERED. 4 ||
Dated: October 9, 2025 Sh 2h, 6 Honorable James E. Simmons Jr. 7 United States District Judge 8
9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28