

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

**NAK KIM CHHOEUN AND MONY
NETH, individually and on behalf of a
class of similarly situated individuals,**

Petitioners,

v.

**DAVID MARIN, DAVID JENNINGS,
THOMAS HOMAN, ELAINE DUKE,
JEFFERSON SESSIONS III, SANDRA
HUTCHENS, AND SCOTT JONES,**

Respondents.

Case No.: SACV 17-01898-CJC(GJSx)

**ORDER DENYING THE
GOVERNMENT'S MOTION TO
DISMISS AND GRANTING RELIEF
ON UNLAWFUL DETENTION
CLAIMS**

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I. INTRODUCTION

Petitioners Nak Kim Chhoeun and Mony Neth bring this habeas petition on behalf of themselves and a putative class of Cambodian nationals who were abruptly rounded up by immigration officials, detained, and threatened with imminent deportation.¹

Petitioners were living and working peaceably in their communities for many years before immigration officials suddenly took them from their homes in October 2017. Petitioners were not given any notice of their detention or an opportunity to contest their deportation to Cambodia.

Petitioners challenge the Government's conduct as a violation of due process and seek relief from detention.² Petitioners bring the following claims for relief in their habeas petition: (1) unlawful revocation of release, (2) violation of procedures for revocation of release, (3) unlawful detention where removal is not reasonably foreseeable, (4) unlawful detention without individualized determinations of danger and flight risk, and (5) unlawful removal without due process guaranteed by the Constitution. (*See generally* Dkt. 27 [First Amended Habeas Corpus Petition and Complaint, hereinafter "FAC"].)

The Government has moved to dismiss Claims One, Two, and Five, primarily for lack of jurisdiction. The Government's motion is **DENIED**, as the Court has jurisdiction over Petitioners' habeas petition and can properly consider whether their due process rights have been violated.

¹ For purposes of this Order, "Petitioners" refers only to the two named Petitioners, Nak Kim Chhoeun and Mony Neth.

² "The Government" refers to Respondents David Marin, Field Office Director, Los Angeles Field Office, United States Immigration and Customs Enforcement; David Jennings, Field Office Director, San Francisco Field Office, United States Immigration and Customs Enforcement; Kirstjen Nielsen, Secretary of the Department of Homeland Security; and Jefferson Sessions III, United States Attorney General.

1 The Government has also filed a return on Claims Three and Four, and Petitioners
2 have traversed. The Government seeks a dismissal of these habeas claims, while
3 Petitioners seek an order declaring their detention unlawful and an order of release for
4 Chhoeun. The Court finds, based on the record before it, that Chhoeun's abrupt arrest,
5 detention and threatened deportation were unlawful. Accordingly, Chhoeun's request for
6 habeas relief is **GRANTED**.

7 8 **II. BACKGROUND**

9
10 Petitioners Nak Kim Chhoeun and Mony Neth filed this action seeking a writ of
11 habeas corpus on behalf of themselves and a putative class of Cambodian nationals who
12 have been detained in raids conducted by United States Immigration and Customs
13 Enforcement ("ICE"). Petitioners were on supervised release and living peaceably in
14 their communities when they were abruptly detained, without any notice, in October
15 2017. Petitioners are among approximately 100 Cambodian nationals who were rounded
16 up and detained around the same time.

17
18 Petitioners then learned in December 2017 that ICE intended to deport them within
19 days. Petitioners believe that ICE detained and seeks to deport them with unprecedented
20 speed, not because anything has changed in their personal circumstances, but because the
21 Government wishes to put pressure on Cambodia to facilitate U.S. removal efforts.
22 Petitioners contend this conduct deprived them the right to contest their removal orders in
23 the appropriate courts and amounts to a denial of due process.

24 25 **A. Procedural History**

26
27 Petitioners brought this action on October 27, 2017, soon after ICE arrested and
28 detained them without notice. (Dkt. 1 [Complaint]; *see also* FAC.) In early December

1 2017, after Petitioners had been detained for approximately two months, they learned that
2 the first flight to Cambodia was scheduled for the morning of December 18, 2017, and
3 that the Government planned to complete removals by the end of that month. (Dkt. 28 at
4 1.) In light of the imminent removals, Petitioners filed an application for a temporary
5 restraining order on December 12, 2017, asking the Court to stay deportations for
6 approximately 60 days until February 5, 2018. (*See generally id.*) Petitioners explained
7 that this additional, limited time was necessary to give those who wanted to file motions
8 to reopen their removal orders an opportunity to do so. (*Id.*)

9
10 The Court granted the temporary restraining order on December 14, 2017, and
11 ordered the Government to show cause why a preliminary injunction should not be
12 issued. (Dkt. 32.) After additional briefing and evidence submitted by the parties, the
13 Court entered a preliminary injunction on January 25, 2018, enjoining deportations until
14 February 5, 2018, to afford detainees an opportunity to file motions to reopen. (Dkt. 75.)
15 For detainees who filed a motion to reopen by February 5, 2018, their removals were
16 enjoined for an additional, limited period to adjudicate motions to stay their removals
17 before the appropriate courts. (*Id.*)

18 19 **B. Nak Kim Chhoeun**

20
21 Petitioner Chhoeun was born in Cambodia in 1975 and entered the United States
22 with his family in 1981. (Dkt. 28–2 [Declaration of Nak Kim Chhoeun, hereinafter
23 “Chhoeun Decl.”] ¶ 2.) Chhoeun’s family was sponsored as refugees fleeing the Khmer
24 Rouge regime. (*Id.*) Today, all of his living family members, his mother and six
25 siblings, are U.S. citizens. (*Id.*) In 1999, Chhoeun was convicted in Pennsylvania state
26 court of crimes involving firearms and simple assault. (*Id.* ¶ 5.) In 2002, an immigration
27 judge issued an order of removal for Chhoeun based on his criminal convictions. (*Id.* ¶
28 7.) From January 2003 to November 2003, Chhoeun was detained while ICE waited for

1 Cambodia to issue travel documents. (*Id.*) The travel documents were never issued, so
2 ICE was unable to deport him. (*Id.*) Chhoeun ultimately filed a habeas petition to be
3 released from detention, and on November 25, 2003, he was ordered released by the
4 United States District Court of the Eastern District of Louisiana. (*Id.* ¶¶ 7–8; Dkt. 86-1.)

5
6 For fourteen years following his release, Chhoeun duly complied with the
7 conditions of his release and has had no convictions or arrests. (Chhoeun Decl. ¶ 8.)
8 Also in that time, Chhoeun has been gainfully employed, most recently at AT&T, and has
9 been an integral member of his family and community. (*Id.* ¶¶ 9–11.) Since Chhoeun’s
10 father passed away in 2004, he would visit his mother, who suffers from several medical
11 conditions and disabilities, on a daily basis. (*Id.* ¶ 11.) His mother describes Chhoeun as
12 a son who is “always here for me when I need help with anything,” and who can “always
13 make everyone laugh and happy.” (Dkt. 86-2 [Declaration of Martha Ruch] Ex. B
14 [Compendium of Twenty-Three Letters of Support from Chhoeun’s Friends and
15 Family].) Chhoeun’s siblings describe him as “a changed person,” “a hard worker
16 always striving to succeed in life,” “family oriented,” a “role model,” and “having a
17 strong demeanor to keep the family close.” (*Id.*) Chhoeun’s friends describe him as “a
18 sweet and caring person,” “the kind of person who would give the shirt off his back to
19 anyone who was in need,” “loving and compassionate,” “a brother to me and an uncle to
20 my children,” and “a man of great integrity.” (*Id.*)

21
22 On October 14, 2017, after fourteen years of being on release, Chhoeun received a
23 letter indicating that he should report to the local ICE office. (Chhoeun Decl. ¶ 13.) The
24 letter did not explain why he was required to report or whether his release would be
25 revoked. (*Id.*) When Chhoeun reported to ICE, he was detained without any explanation
26 or notice. (*Id.*) Chhoeun remains in detention to this day, five months later.

1 Since being detained, Chhoeun has become severely depressed and has
2 experienced a loss of appetite and feelings of hopelessness. (Dkt. 86-7 [Supplemental
3 Declaration of Nak Kim Chhoeun] ¶ 6.) He describes the conditions of his detention as
4 bleak, as there is little to occupy his time and he feels like a prisoner. (*Id.*) On February
5 5, 2018, while in detention, Chhoeun filed a motion to reopen his immigration case
6 before the Board of Immigration Appeals. (*Id.* ¶ 3.) He continues to inquire into the
7 status of his immigration case and whether Cambodia has issued his travel papers, but has
8 received no updates. (*Id.* ¶ 11.)

9 10 **C. Mony Neth**

11
12 Petitioner Neth was born in Cambodia in 1975 and entered the United States with
13 his family in 1985, fleeing the Khmer Rouge regime. (Dkt. 28-9 [Declaration of Mony
14 Neth, hereinafter “Neth Decl.”] ¶¶ 2–4.) Neth lives in Modesto, California with his wife,
15 sixteen-year-old daughter, and parents, all of whom are U.S. citizens. (*Id.* ¶ 3.) In 1995,
16 Neth was convicted of unlawful possession of a weapon and receipt of stolen property.
17 (*Id.* ¶ 4.) In 1997, ICE detained Neth for removal proceedings based on his criminal
18 convictions. (*Id.* ¶ 5.) Shortly after, ICE determined that Neth did not pose a danger or a
19 flight risk and released him on supervised release. (*Id.*)

20
21 In the past twenty years, Neth has complied with the conditions of his release and
22 has not been charged with any additional crime. (*Id.*) Instead, Neth has built a family, is
23 gainfully employed by a solar energy company, and is an active member of his local
24 church. (*Id.* ¶¶ 5, 12.) Through his church, Neth regularly serves meals to the homeless.
25 (*Id.* ¶ 12.)

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1 On July 28, 2017, the Stanislaus County Superior Court granted Neth a Certificate
2 of Rehabilitation for his 1995 convictions. (*Id.* ¶ 13; Dkt. 28-12 [Declaration of Anoop
3 Prasad, hereinafter “Prasad Decl.”] Ex. B.) To support the finding of rehabilitation with
4 satisfactory proof, the Superior Court and the District Attorney’s office completed a full
5 investigation and hearing. (*Id.*) The Superior Court found that Neth “has demonstrated
6 by the course of conduct [his] rehabilitation and fitness to exercise all the civil and
7 political rights of citizenship.” (*Id.*)

8
9 On October 20, 2017, ICE officers stopped and arrested Neth while he was driving
10 to work. (Neth Decl. ¶ 9.) Neth received no notice or explanation why he was being
11 detained. (*Id.* ¶ 10.) Neth’s family learned he was being detained only after the fact,
12 when an ICE officer drove Neth’s car to his home and handed his wife the keys. (Dkt.
13 28-7 ¶ 13.)

14
15 On December 6, 2017, while Neth was in custody, the Governor of California
16 granted Neth a full and unconditional pardon. (Prasad Decl. Ex. A.) In his pardon, the
17 Governor stated that since his convictions, Neth “has lived an honest and upright life,
18 exhibited good moral character, and conducted himself as a law-abiding citizen.” (*Id.*)
19 The pardon allowed Neth to reopen his immigration proceedings and file a motion for
20 stay of removal, which he filed on December 13, 2017. (Dkt. 62-6 ¶ 6.) On December
21 21, 2017, Neth learned that the Board of Immigration Appeals had granted the stay. (*Id.*
22 ¶¶ 7–11.) On December 22, 2017, ICE released Neth from detention on an order of
23 supervision pending the outcome of his removal proceedings. (Dkt. 60 at 4–5.)

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III. ANALYSIS

The Government moves to dismiss Claims One, Two, and Five under Federal Rule of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction. (Dkt. 80 [“Mot.”].) The Government also argues that Claim One should be dismissed under Rule 12(b)(6) for failure to state a claim. (*Id.*) In addition, the Government filed a habeas return on Claims Three and Four, (*id.*), and Petitioners filed a traverse in response, (Dkt. 86 [“Opp.”]).

A. Subject Matter Jurisdiction

The Government moves to dismiss the following claims for lack of subject matter jurisdiction: Claim One for unlawful revocation of release, Claim Two for violation of procedures for revocation of release, and Claim Five for unlawful removal without due process guaranteed by the Constitution. (Mot. at 11.) Petitioners urge the Court to deny the Government’s motion and assert that the Court has traditional habeas jurisdiction over these claims. (Opp. at 7–8.) The Court agrees with Petitioners.

As an initial matter, the Court already ruled that it has jurisdiction over Petitioners’ claims when it issued the preliminary injunction. (See Dkt. 74 at 15–18.) Yet, the Government raises the same arguments it raised then to challenge the Court’s jurisdiction here. The Government’s main contention is that the 2005 REAL ID Act, 8 U.S.C. § 1252, which Congress enacted to restrict judicial review of certain immigration decisions, strips the district courts of jurisdiction over Petitioners’ claims.

The Government invokes certain provisions of the Act, including Sections 1252(a)(5), 1252(b)(9), and 1252(g). Section 1252(a)(5) provides that, “a petition for review filed with an appropriate court of appeals . . . shall be the sole and exclusive means for judicial review of an order of removal.” Section 1252(b)(9) provides that,

1 “[j]udicial review of all questions of law and fact, including interpretation and application
 2 of constitutional and statutory provisions, arising from any action taken or proceeding
 3 brought to remove an alien from the United States under this subchapter shall be
 4 available only in judicial review of a final order under this section.” Finally, Section
 5 1252(g) provides that, “[e]xcept as provided in this section . . . no court shall have
 6 jurisdiction to hear any cause or claim by or on behalf of any alien arising from the
 7 decision or action by the Attorney General to commence proceedings, adjudicate cases,
 8 or execute removal orders against any alien under this chapter.”

9
 10 The Government argues that these provisions, taken together, bar the district courts
 11 from considering any issue related to Petitioners’ removal, including due process
 12 challenges to their re-detention. (Mot. at 14.) The REAL ID Act does not sweep so
 13 broadly, however. Instead, the Supreme Court and the Ninth Circuit have consistently
 14 construed the Act narrowly to preclude district courts’ jurisdiction only where the claim
 15 challenges “the Attorney General’s discrete acts of commencing proceedings,
 16 adjudicating cases, and executing removal orders—which represent the initiation or
 17 prosecution of various stages in the deportation process.” *Reno v. Am.-Arab Anti-*
 18 *Discrimination Comm.*, 525 U.S. 471, 487 (1999) (quotation marks omitted); *see also*
 19 *Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018) (the Act restricts judicial review of
 20 only the three specific actions to commence proceedings, adjudicate cases, or execute
 21 removal orders). In other words, the jurisdiction stripping provisions are “directed
 22 against a particular evil: attempts to impose judicial constraints upon prosecutorial
 23 discretion.” *Am.-Arab Anti-Discrimination Comm.*, 525 U.S. at 485 n.9. The Act
 24 therefore restricts district court review over claims contesting the merits or validity of a
 25 removal order. *See Singh v. Gonzales*, 499 F.3d 969, 978 (9th Cir. 2007) (“By virtue of
 26 their explicit language, both §§ 1252(a)(5) and 1252(b)(9) apply only to those claims
 27 seeking judicial review of orders of removal.”).

1 The REAL ID Act does not strip district court jurisdiction over Petitioners' claims
2 because they do not challenge the Attorney General's discretionary authority over
3 removal proceedings. Instead, Petitioners challenge the manner in which they were re-
4 detained—without any notice or changed circumstances warranting their detention—and
5 the subsequent threat of imminent removal as violations of their constitutional due
6 process rights. This Court undoubtedly has jurisdiction over such claims, which do not
7 challenge any final order of removal, but rather challenge ICE's conduct in rounding up
8 Petitioners and attempting to deport them before they could challenge their removal
9 orders in the appropriate courts. *See Flores-Torres v. Mukasey*, 548 F.3d 708, 711 (9th
10 Cir. 2008) (the jurisdiction stripping provisions of the REAL ID Act do not apply to a
11 habeas petition that does not challenge any final order of removal but challenges
12 detention prior to the issuance of a final order).

13
14 It is clear that “post-[REAL ID Act], aliens may continue to bring collateral legal
15 challenges to the Attorney General's detention authority—such as in this case—through a
16 petition for habeas corpus.” *Casas-Castrillon v. Dep't of Homeland Sec.*, 535 F.3d 942,
17 946 (9th Cir. 2008); *see also Nadarajah v. Gonzales*, 443 F.3d 1069, 1075 (9th Cir. 2006)
18 (“By its terms, the jurisdiction-stripping provision does not apply to federal habeas
19 corpus petitions that do not involve final orders of removal.”) As the Supreme Court
20 recently found, “cramming judicial review” of individuals' injuries arising out of
21 detention “into the review of final removal orders would be absurd.” *Jennings*, 138 S. Ct.
22 at 840. To avoid such an absurd result, the Court finds that it has jurisdiction over
23 Petitioners claims under the federal habeas corpus statute, 28 U.S.C. § 2241. *Zadvydas v.*
24 *Davis*, 533 U.S. 678, 687 (2001) (habeas remains “the basic method for obtaining review
25 of continued custody” after a removal order is final).³

26
27
28 ³ The Government also argues that the Court lacks jurisdiction based on 8 U.S.C. § 1231(h). This
argument is without merit. Section 1231(h) merely bars courts from construing Section 1231 as creating
any enforceable right or benefit. *Zadvydas*, 533 U.S. at 688. Section 1231 does not apply because

B. Failure to State a Claim

With respect to only Claim One, the Government moves to dismiss under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim. In Claim One, Petitioners seek relief for the unlawful revocation of their release. (See FAC ¶¶ 53–57.) In support of their claim, Petitioners allege that they were originally detained many years ago when their removal orders were issued, but were subsequently released when Cambodia would not accept their repatriation. (*Id.* ¶ 54.) Petitioners further allege that while they were on release they were subject to certain conditions, and the Government could only revoke their release under certain changed circumstances. (*Id.* ¶ 55.) According to Petitioners, they consistently complied with the conditions of their release, yet the Government arbitrarily and without notice revoked their release and re-detained them in October 2017. (*Id.* ¶ 56.) Petitioners claim that the revocation of their release and re-detention violated their constitutional right to due process and, accordingly, seek immediate release from custody. (*Id.* ¶ 57.)

Petitioners have sufficiently stated a habeas claim that their release was unlawfully revoked in violation of their constitutional right to due process. The factual allegations detail how they were abruptly re-detained by the Government without notice and an opportunity to challenge their removal orders in the appropriate courts. The allegations therefore state a viable action for a writ habeas corpus, which “traditionally has been accepted as the specific instrument to obtain release from unlawful confinement.” *Wilkinson v. Dotson*, 544 U.S. 74, 79 (2005) (citation and quotation marks omitted).

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Petitioners do not bring any claims under that section. Consequently, Section 1231(h)’s bar is irrelevant to this case.

C. Habeas Return on Petitioners' Unlawful Detention Claims

In Claims Three and Four, Petitioners allege their re-detention was unlawful as a violation of due process. (FAC ¶¶ 64–75.) Petitioners allege that they were ordered removed many years ago, but were released from ICE custody because they could not be repatriated. (*Id.* ¶ 67.) Petitioners further allege that their release was suddenly revoked without any opportunity to challenge their detention or their removal orders in the appropriate court. (*Id.* ¶ 74.) Petitioners claim these actions violated their constitutional due process rights and seek immediate release from detention. (*Id.* ¶¶ 70, 71, 73.)

The Government does not raise jurisdictional challenges or pleading defects against these unlawful detention claims, but has filed a “habeas return” and argues for the claims’ dismissal on the merits. (Mot. at 21–25.) In response, Petitioners filed a traverse on the habeas return and urge the Court to grant their request for relief and order Chhoeun released. (Opp. at 14.)⁴

The Government’s abrupt arrest and detention of Chhoeun without notice violated his right to due process. Chhoeun has been living in the United States since 1981, when he fled Cambodia as a child refugee. All of Chhoeun’s living relatives, his mother and six siblings, are U.S. citizens. Almost two decades ago, Chhoeun was convicted of state crimes and ordered removed based on those convictions. His removal could not be executed, however, and in November 2003 he was ordered released from detention.

Since his release, for fourteen years, Chhoeun was permitted to carry on with his life, become gainfully employed, and build strong ties to his family and community. The

⁴ It is not necessary for the Court to consider whether Petitioner Neth is also entitled to relief on these claims and order him released, as he was already released on December 22, 2017, and is not currently in custody.

1 many letters submitted in support of Chhoeun describe him as a pillar of his family, an
2 upstanding and productive worker, and a valued friend. Also in the past fourteen years
3 there has been no evidence that Chhoeun is a danger or flight risk. Chhoeun has not been
4 arrested for or convicted of any additional crime, and he has consistently complied with
5 ICE's orders and the conditions of his release. Chhoeun has, and would again, appear for
6 removal proceedings when called to do so.

7
8 Yet, on October 14, 2017, ICE suddenly revoked Chhoeun's release, separated him
9 from his family and community, and placed him in detention without any notice or
10 explanation. ICE had planned to deport Chhoeun to Cambodia without giving him any
11 opportunity to challenge his removal order before the Board of Immigration Appeals. As
12 the Court noted previously in its order preliminarily enjoining ICE from deporting
13 Petitioners, however, Chhoeun must be given an opportunity to raise meritorious grounds
14 to challenge his removal order. Inexplicably, the Government gave Chhoeun no process,
15 let alone due process, when it abruptly detained him to deport him to Cambodia. Indeed,
16 Chhoeun was not even provided the minimal safeguard of notice and a chance to say
17 goodbye to his family, to notify his employer, or to contact an attorney. Sadly, ICE's
18 actions deprived Chhoeun of his liberty in blatant violation of his constitutional right to
19 due process.

20
21 It is "well established that aliens facing deportation from this country are entitled
22 to due process rights under the Fifth Amendment." *Walters v. Reno*, 145 F.3d 1032, 1037
23 (9th Cir. 1998). The Supreme Court has "emphasized time and again that the touchstone
24 of due process is protection of the individual against arbitrary action of government,
25 whether the fault lies in a denial of fundamental procedural fairness, or in the exercise of
26 power without any reasonable justification in the service of a legitimate governmental
27 objective." *Cty. of Sacramento v. Lewis*, 523 U.S. 833, 845–46 (1998) (citations and
28 quotations omitted). "[T]he Due Process Clause was intended to prevent government

1 officials from abusing their power, or employing it as an instrument of oppression.” *Id.*
2 at 846 (citations and quotations omitted).

3
4 The Court already found, when it granted the preliminary injunction, that due
5 process requires Chhoeun be given an opportunity to reopen his removal proceedings
6 before deportation. (See Dkt. 74 at 19–24.) And that same due process now demands
7 that Chhoeun be released pending the resolution of his motion to reopen. Chhoeun poses
8 no danger to the community. Prior to ICE’s wrongful re-detention of him, he was living
9 peaceably in the community for the past fourteen years. He was gainfully employed. He
10 had built strong ties to his family and his community. The Government simply had no
11 justification to take away, without due process, Chhoeun’s liberty to carry out his life.
12 See *Zadvydas*, 533 U.S. at 690 (freedom from government custody lies at the heart of the
13 due process liberty interest). And the Government also has no justification for continuing
14 to detain him pending his motion to reopen before the Board of Immigration Appeals.

15
16 The Government somehow argues that due process does not require any “orderly
17 process” before Chhoeun is detained and removed. (Mot. at 10.) The Government’s
18 position is that once an individual is subject to an order of removal, the Government may
19 detain and deport that individual without any process—regardless of the passage of time
20 since the order was issued, the individual’s ties to the community, and the significant
21 liberty interests at issue. (*Id.* at 10–12.) The Government’s argument trivializes, indeed
22 ignores, fundamental principles of liberty and due process embedded in our Constitution.
23 Liberty—not merely freedom from physical restraint, but the right to work, establish a
24 home, and surround ourselves with friends and family—encompasses all of the privileges
25 “essential to the orderly pursuit of happiness.” *Meyer v. Nebraska*, 262 U.S. 390, 399
26 (1923). And due process demands that the Government consider the totality of an
27 individual’s circumstances before taking away his or her liberty. *Ragbir v. Sessions*,
28 2018 WL 623557, at *2 (S.D.N.Y. Jan. 29, 2018) (“[I]f due process means anything at

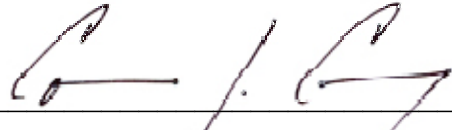
1 all, it means that we must look at the totality of circumstances and determine whether we
2 have dealt fairly when we are depriving a person of the most essential aspects of life,
3 liberty, and family.”) Due process “is not a technical conception with a fixed content
4 unrelated to time, place and circumstances.” *Mathews v. Eldridge*, 424 U.S. 319, 334
5 (1976) (citation and quotations omitted). The Government’s position, which would do
6 away with any individualized consideration before taking away someone’s liberty, is
7 repugnant to due process.

8
9 For fourteen years after his removal order was issued, Chhoeun was permitted to
10 live and work without incident in the community. The Government must permit him to
11 continue doing so pending his challenge to his removal order.

12 13 **IV. CONCLUSION**

14
15 For the foregoing reasons, the Government’s motion to dismiss is **DENIED**.
16 Chhoeun is **GRANTED** relief on Claims Three and Four of the First Amended Habeas
17 Corpus Petition. It is hereby **ORDERED** that Chhoeun be immediately released from
18 custody and placed on supervision under the same terms and conditions imposed on him
19 prior to his unlawful detention. Chhoeun is ordered to report to ICE at **300 N. Los**
20 **Angeles St, Room 2204, Los Angeles, CA 90012**, within ten days of the date of this
21 Order to receive an order of supervision.

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25 DATED: March 26, 2018

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CORMAC J. CARNEY
UNITED STATES DISTRICT JUDGE