

District Judge Lauren King
Magistrate Judge S. Kate Vaughan

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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DAVID LAHAMENDU, an individual, <p style="text-align: center;">v.</p> PAMELA BONDI <i>et al.</i> , <p style="text-align: center;">Respondents.</p>	Petitioner, Respondents.	Case No. 2:25-cv-02155-LK-SKV FEDERAL RESPONDENTS’ RETURN MEMORANDUM AND RESPONSE TO PETITIONER’S MOTION FOR PRELIMINARY INJUNCTION AND STAY OF REMOVAL NOTING DATE: November 24, 2025
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I. INTRODUCTION

U.S. Immigration and Customs Enforcement (“ICE”) detains Petitioner David Lahamendu, a noncitizen subject to an administratively final order of removal, pursuant to Section 241 of the Immigration and Nationality Act (“INA”). *See* 8 U.S.C. § 1231. Petitioner brings this habeas litigation pursuant to 28 U.S.C. § 2241 to challenge the lawfulness of his immigration detention. Petitioner also now seeks a preliminary injunction and stay of removal.

Pursuant to this Court’s Order (Dkt. No. 9), Federal Respondents submit the following factual background as contained in the records of Petitioner’s immigration case, as well as the relevant detention authority. ICE does not believe that an evidentiary hearing is necessary.

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II. LEGAL STANDARDS

Title 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions. To warrant a grant of habeas corpus, the petitioner must demonstrate that his or her custody is in violation of the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3).

“It frequently is observed that a preliminary injunction is an extraordinary and drastic remedy, one that should not be granted unless the movant, *by a clear showing*, carries the burden of persuasion.” *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (emphasis in original) (internal quotations omitted); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008). A plaintiff seeking a preliminary injunction must show that: (1) he is likely to succeed on the merits, (2) he is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in his favor, and (4) an injunction is in the public interest. *See Winter*, 555 U.S. at 20 (“*Winter factors*”).

“A preliminary injunction can take two forms.” *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 878 (9th Cir. 2009). “A prohibitory injunction prohibits a party from acting and ‘preserves the status quo pending a determination of the action on the merits.’” *Id.* (internal quotation omitted). “A mandatory injunction orders a responsible party to take action.” *Id.*, at 879 (internal quotation omitted). “A mandatory injunction goes well beyond simply maintaining the status quo pendente lite and is particularly disfavored.” *Id.* (internal quotation omitted).

“In general, mandatory injunctions are not granted unless extreme or very serious damage will result and are not issued in doubtful cases.” *Id.* (internal quotation omitted). Where a plaintiff seeks mandatory injunctive relief, “courts should be extremely cautious.” *Stanley v. Univ. of S. California*, 13 F.3d 1313, 1319 (9th Cir. 1994) (internal quotation omitted). The burden on a party seeking a mandatory injunction is “doubly demanding.” *Garcia v. Google, Inc.*, 786 F.3d

1 733, 740 (9th Cir. 2015). He “must establish that the law and facts *clearly favor* [his] position,
2 not simply that [he] is likely to succeed.” (emphasis in original).¹

3 III. DETENTION AUTHORITIES

4 The INA governs the detention and release of noncitizens during and following their
5 removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527-29 (2021). The general
6 detention periods are generally referred to as “pre-order” (meaning before the entry of a final
7 order of removal) and “post-order” (meaning after the entry of a final order of removal). *Compare*
8 U.S.C. § 1226 (authorizing pre-order detention) *with* § 1231(a) (authorizing post-order
8 detention).

9 When a final order of removal has been entered, a noncitizen enters a 90-day “removal
10 period.” 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security
11 “shall remove the [noncitizen] from the United States.” *Id.* To ensure a noncitizen’s presence for
12 removal and to protect the community from noncitizens who may present a danger, Congress
13 mandated detention during the “removal period,” which is the 90-day period following the
14 issuance of a final order of removal. 8 U.S.C. § 1231(a)(2).

15 Section 1231(a)(6) authorizes ICE to continue detention of noncitizens after the expiration
16 of the removal period. Unlike Section 1231(a)(2), Section 1231(a)(6) does not mandate detention
17 and does not place any temporal limit on the length of detention under that provision:

18 [A noncitizen] ordered removed who is inadmissible under section 1182,
19 removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or
20 who has been determined by the [the Secretary of Homeland Security] to be a risk
21 to the community or unlikely to comply with the order of removal, *may* be detained
22 *beyond the removal period* and, if released, shall be subject to the terms of
23 supervision in paragraph (3).

24 8 U.S.C. § 1231(a)(6) (emphasis added).

23 ¹ While the Ninth Circuit has held that its alternative “sliding scale” test for preliminary injunctions remains viable
24 after *Winter* as to requests for prohibitory injunctions, that alternative test does not apply in the case of a request for
a mandatory preliminary injunction because of the heightened showing required. *Doe v. Snyder*, 28 F.4th 103, 111
n.4 (9th Cir. 2022).

1 During the removal period, ICE² is charged with attempting to effectuate removal of a
2 noncitizen from the United States. 8 U.S.C. § 1231(a)(1). Although there is no statutory time limit
3 on detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen may
4 be detained only “for a period reasonably necessary to bring about that [noncitizen’s] removal
5 from the United States.” *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). The Supreme Court has
6 further identified six months as a presumptively reasonable time necessary to bring about a
noncitizen’s removal. *Id.*, at 701.

7 Once it is determined that there is no significant likelihood of removal in the reasonably
8 foreseeable future, noncitizens may be released on an Order of Supervision (“OSUP”). 8 C.F.R.
9 § 241.13(h). ICE may revoke a noncitizen’s OSUP and return the noncitizen to custody when, on
10 account of changed circumstances, there becomes a significant likelihood of the noncitizen’s
11 removal in the reasonably foreseeable future. 8 C.F.R. § 241.13(i)(2).

12 IV. FACTUAL BACKGROUND

13 Petitioner is a native of and citizen of Indonesia. Collins Decl., Exh. A, Notice to Appear.
14 He was admitted to the United States on or about November 28, 1993, as a nonimmigrant visitor,
15 with authorization to remain in the United States for a temporary period not to exceed May 27,
1994. *Id.* He thereafter overstayed that visa and remained in the United States without
16 authorization. *Id.* On April 8, 2003, DHS arrested Petitioner and issued a Notice to Appear
17 charging Petitioner as removable under Section 237(a)(1)(B) of the Immigration and Nationality
18 Act, based on being a nonimmigrant who had remained in the United States for a time longer than
19 permitted. *Id.*; Collins Decl., Exh. B, Warrant of Arrest. That same day, ICE released Petitioner
from custody on his own recognizance. Collins Decl., Exh. C, Order of Release.

20 On November 3, 2003, an Immigration Judge (“IJ”) denied Petitioner’s application for
21 asylum, withholding of removal, and protection under the Convention against Torture, and
22 granted Petitioner voluntary departure until January 2, 2004. Collins Decl., Exh. D, Order of the

23 ² Under 8 C.F.R. § 241.2(b), ICE deportation officers are delegated the Secretary of Homeland Security’s
24 authority to execute removal orders.

1 IJ. On December 20, 2004, the Board of Immigration Appeals (“BIA”) dismissed Petitioner’s
2 appeal of the Order. Collins Decl., Exh. E, Order of the BIA. On January 16, 2005, Petitioner
3 filed a Petition for Review with the Ninth Circuit. Decl., Exh. F, Petition for Review. Accordingly,
4 on this date, Petitioner’s removal order became administratively final. *See* 8 C.F.R. § 1240.26(f)
5 (“The filing of a petition for review has the effect of automatically terminating the grant of
6 voluntary departure[.]”).

7 On February 26, 2008, the Ninth Circuit denied and dismissed Petitioner’s Petition for
8 Review. Collins Decl., Exh. G, Ninth Circuit Memorandum. On March 24, 2009, ICE issued a
9 Warrant of Removal for Petitioner. Collins Decl., Exh. H, Warrant of Removal.³ Petitioner was
10 thereafter approved for Deferred Action for Childhood Arrivals, which has since expired and has
11 not been renewed. Pet. Mot. Preliminary Injunction (Dkt. 10) at 3.

12 On June 20, 2018, Petitioner was listed as a beneficiary on an I-130, Petition for Alien
13 Relative. Collins Decl., Exh. I, 2019 I-213. On March 21, 2019, he attended an interview with
14 United State Citizenship and Immigration Services. *Id.* That same day, ICE released him on an
15 Order of Supervision. Collins Decl., Exh. J, OSUP.

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1 On January 26, 2025, ICE detained Petitioner for the execution of his removal order.
2 Collins Decl., Exh. K, 2025 I-213. He is currently detained in ICE custody at the Northwest ICE
3 Processing Center, in Tacoma, Washington.

4 DATED this 17th day of November, 2025

5 Respectfully submitted,

6 CHARLES NEIL FLOYD
7 United States Attorney

8 *s/ Katherine G. Collins*

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18 *Attorneys for Federal Respondents*

19 *I certify that this memorandum contains 1310*
20 *words, in compliance with the Local Civil Rules.*