

District Judge Tiffany M. Cartwright

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

PAOLO LAZA MBUNGA,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

Case No. 2:26-cv-00113-TMC

FEDERAL RESPONDENTS'¹
RETURN

Noted for Consideration:
February 2, 2026

Pursuant to this Court's Order (Dkt. No. 2), Federal Respondents submit the following factual background as contained in the records of Petitioner Paolo Laza Mbunga's immigration case, as well as the relevant detention authority.

I. DETENTION AUTHORITIES

The Immigration and Nationality Act ("INA") governs the detention and release of noncitizens during and following their removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527-29 (2021). The general detention periods are generally referred to as "pre-order" (meaning before the entry of a final order of removal) and "post-order" (meaning after the entry

¹ Respondent Bruce Scott is not a federal official and is not represented by undersigned counsel.

1 of a final order of removal). *Compare* 8 U.S.C. § 1226 (authorizing pre-order detention) *with*
 2 § 1231(a) (authorizing post-order detention).

3 When a final order of removal has been entered, a noncitizen enters a 90-day “removal
 4 period.” 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security
 5 “shall remove the [noncitizen] from the United States.” *Id.* To ensure a noncitizen’s presence for
 6 removal and to protect the community from noncitizens who may present a danger, Congress
 7 mandated detention during the “removal period,” which is the 90-day period following the
 8 issuance of a final order of removal. 8 U.S.C. § 1231(a)(2). During the removal period, ICE² is
 9 charged with attempting to effectuate removal of a noncitizen from the United States. 8 U.S.C.
 10 § 1231(a)(1).

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

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

18 8 U.S.C. § 1231(a)(6) (emphasis added).

19 Although there is no statutory time limit on detention pursuant to Section 1231(a)(6), the
 20 Supreme Court has held that a noncitizen may be detained only “for a period reasonably necessary
 21 to bring about that [noncitizen’s] removal from the United States.” *Zadvydas v. Davis*, 533 U.S.

22
 23
 24 ² Under 8 C.F.R. § 241.2(b), ICE deportation officers are delegated the Secretary of Homeland Security’s authority to
 execute removal orders.

1 678, 689 (2001). The Supreme Court has identified six months as a presumptively reasonable time
2 necessary to bring about a noncitizen's removal. *Id.*, at 701.

3 Once it is determined that there is no significant likelihood of removal in the reasonably
4 foreseeable future, U.S. Department of Homeland Security ("DHS") may release noncitizens on
5 an Order of Supervision ("OSUP"). 8 C.F.R. § 241.13(h). The right to remain under an OSUP is
6 not unlimited. Revocation of an OSUP is governed by 8 C.F.R. §§ 241.13(i), 241.4(l), and may
7 occur either: (1) if the noncitizen "violates any of the conditions of release," *id.* §§ 241.13(i)(1),
8 241.4(l)(1); or (2) if it is determined "that there is a significant likelihood that the alien may be
9 removed in the reasonably foreseeable future." *Id.* § 241.13(i)(2). Whether there is a significant
10 likelihood that the alien may be removed in the reasonably foreseeable future is determined by
11 assessing a series of factors, including "the history of the alien's efforts to comply with the order
12 of removal, the history of the Service's efforts to remove aliens to the country in question or to
13 third countries ... and the views of the Department of State regarding the prospects for removal of
14 aliens to the country or countries in question." *Id.* § 241.13(f). Alternatively, certain designated
15 officials may also revoke an OSUP as an act of discretion when revocation is in the public interest.
16 *Id.* § 241.4(l)(2).

17 Section 241.13(i)(3) provides that upon revocation, the alien "will be notified of the reasons
18 for revocation of his or her release" and will receive an "initial informal interview promptly" after
19 being detained, to "afford the alien an opportunity to respond to the reasons for revocation stated
20 in the notification." *Id.* § 241.13(i)(3). During such an interview, the noncitizen "may submit any
21 evidence or information that he or she believes shows there is no significant likelihood he or she
22 be removed in the reasonably foreseeable future, or that he or she has not violated the order of
23 supervision." *Id.* "The revocation custody review will include an evaluation of any contested facts
24 relevant to the revocation and a determination whether the facts as determined warrant revocation

1 and further denial of release.” *Id.* Then, if the alien’s request for release is denied, he or she “may
2 submit a request for review of his or her detention . . . six months after [DHS’s] last denial of
3 release[.]” *Id.* § 241.13(j).

4 II. FACTUAL BACKGROUND

5 Petitioner, a native and citizen of the Democratic Republic of Congo or Angola, entered
6 the United States without being parole or inspected on or about July 21, 2019. Carnevale Decl. ¶¶
7 4, 8; Pet., ¶¶ 20, 21. He was apprehended the same day. Lambert Decl., Ex. A, Form I-213. DHS
8 issued a notice to appear charging Petitioner as removable under 8 U.S.C. § 1182(a)(6)(A)(i).
9 Carnevale Decl., ¶ 5; Lambert Decl., Ex. B, Notice to Appear. DHS released Petitioner on an
10 order of release on recognizance. Carnevale Decl., ¶ 5

11 Petitioner failed to appear at his immigration court hearing on March 2, 2020. Carnevale
12 Decl., ¶ 6. The immigration judge ordered that he be removed in absentia. Carnevale Decl., ¶ 6;
13 Pet., ¶ 22; Lambert Decl., Ex. C, Order.

14 On or about September 14, 2024, a Border Patrol agent apprehended Petitioner shortly after
15 he entered the United States from Canada. Carnevale Decl., ¶ 7; Lambert Decl., Ex. D, Form I-
16 213. He was detained under 8 U.S.C. 1231(a), as he was subject to a final order of removal.
17 Carnevale Decl., ¶ 7; Pet., ¶ 23. ICE released Petitioner on an OSUP on January 8, 2025.
18 Carnevale Decl., ¶ 11; Lambert Decl., Ex. E, Release Notification; Ex. F, OSUP; Pet., ¶ 23

19 In or about November 2024, and then again in April 2025, Petitioner filed motions to
20 reopen his removal proceedings. Carnevale Decl., ¶¶ 10, 11; Pet., ¶ 23. The immigration court
21 denied the motion on August 18, 2025. Carnevale Decl., ¶ 12; Pet., ¶ 24. Petitioner has appealed
22 the order to the Board of Immigration Appeals. Pet., ¶ 25.

23 On December 29, 2025, ICE arrested Petitioner at a scheduled check-in at the Seattle ICE
24 office. Carnevale Decl., ¶ 13; Pet., ¶ 27; Lambert Decl., Ex. G, Form I-213; Ex. H, Warrant for

1 Arrest; Ex. I, Notice of Custody Determination. He was transferred to the Northwest ICE
2 Processing Center, where he is detained pursuant to 8 U.S.C. § 1231(a). Carnevale Decl., ¶ 13.
3 Petitioner was served with his OSUP revocation and had his informal interview on January 27,
4 2026. Carnevale Decl., ¶ 16; Lambert Decl., Ex. J, Notice of Revocation of Release.

5 **III. CONCLUSION**

6 Federal Respondents submit the foregoing in response to the habeas petition.

7 DATED this 27th day of January, 2026.

8 Respectfully submitted,

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17 *I certify that this memorandum contains 1,174*
18 *words, in compliance with the Local Civil Rules.*