

DETAINED

District Judge Tiffany M. Cartwright

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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

**PETITIONER'S REPLY TO FEDERAL
RESPONDENTS' RETURN
MEMORANDUM**

Noted for Consideration:
February 2, 2026

ARGUMENT

Federal Respondents' Return makes it clear that Petitioner's habeas petition should be granted as the evidence shows that: (1) Respondents violated the regulations when revoking Petitioner's Order of Supervision (OSUP); (2) there is not a significant likelihood of Petitioner's removal in the reasonably foreseeable future; and (3) his due process rights were violated.

I. Respondents violated the regulations when revoking Petitioner's OSUP.

Respondents acknowledge the regulations require that a noncitizen "will be notified of the reasons for revocation of his or her release" and "will receive an informal interview promptly" after being detained so the noncitizen is afforded "an opportunity to respond to the reasons for

1 revocation stated in the notification.” Dkt. 4, at 3; 8 C.F.R. § 241.13(i)(3). Respondents admit that
2 Petitioner was not served with notice of his revocation or an informal interview until January 27,
3 2026, nearly one month after he was re-detained. Dkt. 5, at ¶¶ 14, 16; Dkt. 6-10.

4 First, Respondents did not notify Petitioner of the revocation of his OSUP “upon
5 revocation” as the regulations require. *See, M.S.L. v. Bostock*, No. 6:25-cv-01204-AA, 2025 U.S.
6 Dist. LEXIS 162513, at *31 (D. Or. Aug. 21, 2025) (“First, § 241.4(l)(1) requires that when a
7 noncitizens' release is revoked, she is to be notified of the reason ‘upon revocation,’ and not after
8 nearly a month in detention.”). Second, his informal interview was not “prompt” as required by
9 the regulations. *See id.* at *32 (holding that an informal interview was not sufficiently “prompt”
10 where it took place twenty-seven days after revocation). Further, Petitioner did not have a
11 meaningful opportunity to respond to the reasons for the revocation because the reasons were not
12 articulated in the notice of revocation. The notice did not identify which terms of his OSUP he did
13 not comply with. *See* Dkt 6-1, at 1. The notes from his interview do not indicate which conditions
14 were not complied with and Petitioner claimed that he did not violate any condition in his OSUP.
15 *Id.* at 3.

16 Therefore, because Respondents failed to follow their own regulations, they violated
17 Petitioner’s due process rights, and his petition should be granted.

18
19 **II. There is not a significant likelihood that Petitioner will be removed in the reasonably**
20 **foreseeable future.**

21 Respondents admit that they re-detained Petitioner without having a removal date or a
22 flight scheduled. Dkt. 5, at ¶ 15. Further, they do not allege that a travel document has been secured
23 or that a removal date is going to be scheduled in the near future. *See id.*

1 There is no significant likelihood of removal in the reasonably foreseeable future and
2 Respondents have not made a sufficient showing to support a finding to the contrary. The
3 regulations require that when Immigration and Customs Enforcement (ICE) revokes release to
4 effectuate removal, it is ICE's burden to show a significant likelihood that the noncitizen may be
5 removed. 8 C.F.R. §§ 241.13(i)(2), 241.4(l); *see also Yan-Ling X. v. Lyons*, No. 1:25-cv-01412-
6 KES-CDB (HC), 2025 U.S. Dist. LEXIS 220277, at *7-14 (E.D. Cal. Nov. 7, 2025) ("The phrase
7 'significant likelihood' requires something more than a mere possibility that removal will occur.");
8 *Chen v. Chestnut*, No. 1:25-cv-01338-EPG-HC, 2025 U.S. Dist. LEXIS 251667, at *13 (E.D. Cal.
9 Dec. 5, 2025) ("Thus, the regulations at 8 C.F.R. §§ 241.13(i) and 241.4(l) apply to non-citizens
10 in [Petitioners'] situation and outline the process to be followed, including that when ICE revokes
11 release to effectuate removal, it is [ICE's] burden to show a significant likelihood that the alien
12 may be removed.") (internal quotations omitted).

13 While Petitioner's motion to reopen was denied, that decision is currently on appeal.
14 Petitioner also has a pending motion for a stay of removal, which the Board of Immigration
15 Appeals did not convert into an emergency motion because ICE admitted that removal was not
16 imminent. *See* Dkt. 1-2, at 3. Even if there is a mere possibility that Petitioner could be removed,
17 that is not enough to revoke an OSUP. *See Yan-Ling X.*, 2025 U.S. Dist. LEXIS 220277, at *11.
18 Therefore, his petition should be granted.

19
20 **C. The *Mathews* factors weigh in favor of Petitioner.**

21 When evaluating a petitioner's due process claims, the Court must assess (1) "the private
22 interest that will be affected by the official action," (2) "the risk of an erroneous deprivation of
23 such interest through the procedures used, and probable value, if any, of additional or substitute

1 procedural safeguards,” and (3) the Government’s interest. *Mathews v. Eldridge*, 424 U.S. 319, 334-
2 35 (1976).

3 Petitioner’s interest in not being detained is “the most elemental of liberty interests[.]”
4 *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). That Petitioner was arrested, detained for over a
5 month, and remains in custody undoubtedly deprives him of an established interest in his liberty.
6 The second *Mathews* factor considers whether a particular process results in a risk of erroneous
7 deprivation of a protected interest. The risk of erroneous deprivation of his liberty interest is high
8 under the facts of this case, as argued above. There is no significant likelihood of removal in the
9 reasonably foreseeable future and Respondents failed to follow their own regulations, which is the
10 minimal process due to Petitioner.

11 As to the third and final *Mathews* factor, where Petitioner has been living in the United States
12 with permission under an OSUP, and there is insufficient evidence of a change in his factual
13 circumstances prior to re-arrest, Respondents fail on this factor. “The government has no valid
14 interest in revoking release without complying with its own regulations, which require a showing
15 of changed circumstances.” *Tessema v. Bondi*, No. C25-2330-JNW-MLP, 2025 U.S. Dist. LEXIS
16 270853, at *8 (W.D. Wash. Dec. 11, 2025). report and recommendation adopted, No. C25-2330-
17 JNW-MLP, 2026 U.S. Dist. LEXIS 5503, 2026 WL 84922 (W.D. Wash. Jan. 12, 2026). There is
18 no evidence on the record that Petitioner is a flight risk or danger to the community. And most
19 importantly, Respondents have failed to show that removal is reasonably foreseeable.

20 21 CONCLUSION

22 Respondents failed to provide Petitioner with the minimum process that is due. The Court
23 should therefore grant Petitioner’s habeas petition and order his immediate release from custody.

1 This Court should also enjoin Respondent's from re-detaining Petitioner without providing
2 adequate notice of the reasons for his re-detention and a meaningful opportunity to respond to the
3 reasons.

4 Dated: February 2, 2026.

5 /s/ Hilary Smith

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10 *I certify that this memorandum contains 1,036 words, in compliance with the Local Civil Rules.*