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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

FELICIEN SINDAYIKENGERA,

Petitioner,

v.

PAMELA BONDI, et.al.

Respondents.

Case No. 2:26-cv-00280-CDS-NJK

**Federal Respondents' Response to
Petitioner's Petition for Writ of Habeas
Corpus (ECF No. 1-1)**

Federal Respondents hereby file their Response to Petitioner Felicien Sindayikengera's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 (ECF No. 1-1).

I. Factual Background

On December 16, 2008, Petitioner Felicien Sindayikengera ("Petitioner"), a citizen of Burundi was admitted into the United States as a refugee. On that date, Petitioner adjusted his status to a lawful permanent resident. Petitioner has a multitude of criminal convictions involving domestic violence and violation of a sentencing protective order. See Form I-213 of Petitioner attached hereto as Exhibit A. These criminal convictions commenced in 2011 through 2024 involving crimes of multiple theft offenses, damage to

1 property, fraud, disorderly conduct, cruelty toward a child, offense of interference with
2 arresting officer, and giving false personal identity to a Peace Officer. See Exhibit A. On
3 July 11, 2023, a sentencing protective order was filed ordering Petitioner to not
4 communicate with the victim directly or indirectly, not harass or commit any acts of
5 domestic violence against the victim and to stay away at least 1,000 away from the victim's
6 residence, schools, workplace, and church and not purchase or possess any firearm or
7 dangerous weapon. See Sentencing Protective Order dated July 11, 2023, attached hereto
8 as Exhibit B. On February 9, 2024, Petitioner violated the protective order. See Domestic
9 Violence Information dated February 12, 2024, attached hereto as Exhibit C. On February
10 21, 2024, Petitioner again violated the protective order. See Domestic Violence
11 Information dated February 26, 2024, attached hereto as Exhibit D. On July 11, 2024,
12 Petitioner pled guilty to violating a sentencing protective order on February 9, and 21, and
13 was sentenced to 88 days in jail with 36 months on probation. See Sentence, Judgment,
14 Commitment from State of Utah Third Judicial District in Salt Lake County District Court
15 attached hereto as Exhibit E. On September 9, 2025, ICE apprehended Petitioner at the
16 Salt Lake County Jail. See Exhibit A. ICE charged the Petitioner as being removable from
17 the U.S. under INA § 237(a)(2)(E)(ii) [8 U.S.C. § 1227(a)(2)(E)(ii)] in that he is an alien
18 who at any time after entry has been enjoined under a protection order and has been
19 determined to have engaged in conduct in violation of that order that involves protection
20 against credible threats of violence, repeated harassment, or bodily injury to the person or
21 persons for whom the protection order was issued is deportable and he was issued a Notice
22 to Appear. See Notice to Appear dated September 10, 2025, attached hereto as Exhibit F.
23 On December 2, 2025, Petitioner was provided with a bond hearing where the Immigration
24 Judge ("IJ") denied bond due to Petitioner being a danger to the community because of the
25 long criminal record and violations of protective orders. See Order of the Immigration
26 Judge dated December 2, 2025, attached hereto as Exhibit G. On January 30, 2026, the IJ
27 denied Petitioner's applications for asylum, withholding of removal under INA 241(b)(3),
28 withholding of removal under the Convention Against Torture ("CAT") and deferral of

1 removal under “CAT, cancellation of Removal for Lawful Permanent Residents under
2 INA 240A(a) and ordered Petitioner removed to Burundi. See Order of the Immigration
3 Judge dated January 30, 2026, attached hereto as Exhibit H. On February 10, 2026,
4 Petitioner filed an appeal of the IJ’s decision to the Board of Immigration Appeals (“BIA”).
5 See Notice of Appeal from a Decision of an Immigration Judge attached hereto as Exhibit
6 F. On February 12, 2026, the BIA issued a Bond Memorandum and ruled that due to
7 Petitioner’s criminal history and convictions, he is a danger to the community. See BIA
8 Bond Memorandum dated February 12, 2026, attached hereto as Exhibit I.

9 **II. Legal Argument**

10 **A. Petitioner’s Detention Is Lawful**

11 Petitioner is lawfully detained under 8 U.S.C. § 1227(a)(2)(E)(ii) which states
12 follows:

13 Any alien who at any time after admission is enjoined under a protection order issued
14 by a court and whom the court determines has engaged in conduct that violates the
15 portion of a protection order that involves protection against credible threats of
violence, repeated harassment, or bodily injury to the person or persons for whom the
protection order was issued is deportable.

16 Petitioner pled guilty to violating a sentencing protective order on two separate occasions,
17 namely on February 9, and 21 of 2024 and was sentenced to 88 days in jail with 36 months
18 on probation. As an alien, he is subject to being deported to his country of citizenship
19 which is Burundi under 8 U.S.C. § 1227(a)(2)(E)(ii) for violating the sentencing protective
20 order on two separate occasions. Furthermore, Petitioner is detained under 8 U.S.C. §§
21 1226(a) and 1226(c). There is no final order of removal under 8 U.S.C. § 1231, since
22 Petitioner has appealed his order of removal to the BIA. The mandatory removal period
23 begins on the latest of three possible dates: (1) the date an order of removal becomes
24 “administratively final,” (2) the date of the final order of any court that entered a stay of
25 removal, or (3) the date the alien is released from non-immigration detention. 8 U.S.C. §
26 1231(a)(1)(B). Petitioner’s BIA appeal is still pending, and his order of removal has not yet
27
28

1 become “administratively final” for the removal period to begin. Petitioner was afforded
2 with a bond hearing under 8 U.S.C. § 1226(a) which the IJ determined after considering all
3 the evidence, that due to Petitioner’s long criminal record including violating the
4 sentencing protective orders on two separate occasions, Petitioner is a danger to the
5 community and should not be released while his removal proceedings are pending. Given
6 that an IJ has already provided Petitioner to present evidence at a bond hearing and that IJ
7 determined that Petitioner is a danger to the community, Petitioner should remain in
8 custody, pending the conclusion of his removal proceedings. Therefore, his Petition should
9 be denied.
10

11 **B. Petitioner’s Detention Has Not Been Prolonged and *Zadvydas v. Davis*, 533**
12 **U.S. 678, 693 Does Not Apply**

13 In *Zadvydas v. Davis*, 533 U.S. 678 at 689, the Supreme Court held that “in light of the
14 Constitution’s demands”, “indefinite and potentially permanent” detention under 8 U.S.C.
15 § 1231 would raise a “serious question” under the Fifth Amendment’s Due Process Clause.
16 The Supreme Court proceeded to conclude that detention of a noncitizen for up to six months
17 under 8 U.S.C. § 1231 is “presumptively reasonable”, but added that “once the [noncitizen]
18 provides good reason to believe that there is no significant likelihood of removal in the
19 reasonably foreseeable future, the [g]overnment must respond with evidence sufficient to
20 rebut that showing.” *Id.* at 700-01.

21 In this case, 8 U.S.C. § 1231 does not apply because the removal period has not yet
22 begun due to the filing of the appeal of the removal order to the BIA by Petitioner. Once
23 there is an order of removal that is “administratively final,” the removal period will begin
24 which will trigger the requirements under 8 U.S.C. § 1231. Therefore, *Zadvydas v. Davis*,
25 533 U.S. 678, 693 does not apply. Petitioner is not yet detained under 8 U.S.C. § 1231.
26 Petitioner is detained under 8 U.S.C. § 1226(c) due to his criminal convictions. Although 8
27 U.S.C. § 1227(a)(2)(E)(ii) does not fall under one of the mandatory custody provisions of
28 1226(c), but under 1226(c)(1)(B), the violation of protective orders convictions can be

1 crimes involving moral turpitude authorizing ICE to detain Petitioner under that provision
2 or the Petitioner's multiple theft offenses also can constitute crimes involving moral
3 turpitude to fall under 8 U.S.C. § 1226(c)(1)(B) to authorize ICE to detain Petitioner
4 pending the conclusion of the removal proceedings. Since Petitioner's removal period has
5 not begun, he remains lawfully detained under 8 U.S.C. § 1226(c). Petitioner's detention is
6 not indefinite, as there will likely be a decision and outcome by the BIA in the near future
7 since Petitioner recently filed his appeal on February 10, 2026. Therefore, there has been no
8 prolonged detention, the removal period has not yet begun, and the Petition should be
9 denied.

10 **III. Conclusion**

11 For the foregoing reasons, Federal Respondents respectfully request that the Court
12 deny Petitioner's Petition for Writ of Habeas Corpus.

13 Respectfully submitted this 20th day of February 2026.

14 TODD BLANCHE
15 Deputy Attorney General of the United States
16 SIGAL CHATTAH
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17 /s/ Tamer B. Botros
18 TAMER B. BOTROS
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