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8 IN THE UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
10

11 RAFAEL PEREZ PEREZ,  
12 Petitioner,  
13 v.  
14 WARDEN OF THE GOLDEN STATE  
ANNEX FACILITY, et al.,  
15  
16 Respondents.

CASE NO. 1:25-CV-01738-DAD-JDP  
ANSWER TO PETITION FOR WRIT OF HABEAS  
CORPUS

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18  
19 The Court should deny Rafael Perez Perez's petition for a writ of habeas corpus. Perez is subject  
20 to mandatory detention under 8 U.S.C. § 1226(c) due to his criminal record, and he fails to establish any  
21 entitlement to a bond hearing.

22 **I. FACTUAL AND PROCEDURAL BACKGROUND**

23 Perez is a citizen and national of Mexico who was originally admitted to the United States as a  
24 lawful permanent resident in 2001. Ex. 1 at 1, Dkt. No. 12-1. In September 2024, he was convicted in  
25 California state court of cultivating marijuana and illegally diverting water, in violation of section  
26 11358(c) of the California Health and Safety Code. *Id.*; Ex. 2 at \*7, Dkt. No. 12-2.

27 Perez is currently in the custody of immigration authorities pending his removal to Mexico; an  
28 immigration judge denied his request for bond in November 2025. Ex. 3, Dkt. No. 12-3. Perez now

1 seeks a writ of habeas corpus ordering his immediate release so that he may pursue avenues he believes  
2 are available to him to become a citizen of the United States. Pet. Writ Habeas Corpus ¶ 23, Dkt. No. 1.

## 3 II. LEGAL STANDARDS

4 Federal immigration law mandates detention during removal proceedings for aliens convicted of  
5 certain state crimes relating to controlled substances. 8 U.S.C. § 1226(c)(1)(B); *Jennings v. Rodriguez*,  
6 583 U.S. 281, 289 (2018) (“Under § 1226(c), the ‘Attorney General shall take into custody any alien’  
7 who falls into one of several enumerated categories involving criminal offenses and terrorist  
8 activities.”); *cf. Demore v. Kim*, 538 U.S. 510, 523 (2003) (“[T]his Court has recognized detention  
9 during deportation proceedings as a constitutionally valid aspect of the deportation process.”).  
10 Cultivating marijuana in violation of California law qualifies as a crime relating to controlled  
11 substances. *Saengvilay v. Garland*, No. 20-73259, 2022 WL 17583053, at \*1 (9th Cir. Dec. 12, 2022)  
12 (concluding that violating “section 11358(c) of the California Health and Safety Code is a crime  
13 ‘relating to a controlled substance’” (quoting 8 U.S.C. § 1227(a)(2)(B)(i))).

14 The Attorney General may exercise discretion to release convicted aliens pending their removal  
15 proceedings, but only if such release is necessary for witness-protection purposes and only if “the alien  
16 satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of  
17 property and is likely to appear for any scheduled proceeding.” *Jennings*, 583 U.S. at 289 (quoting 8  
18 U.S.C. § 1226(c)(2)). “Anyone who believes that he is not covered by § 1226(c) may also ask for what  
19 is known as a ‘*Joseph hearing*,’” at which that person “‘may avoid mandatory detention by  
20 demonstrating that he is not an alien, was not convicted of the predicate crime, or that the [Government]  
21 is otherwise substantially unlikely to establish that he is in fact subject to mandatory detention.’” *Id.* at  
22 289 n.1 (quoting *Demore*, 538 U.S. at 514 n.3)). But absent a *Joseph hearing*, “§ 1226(c) makes clear  
23 that detention of aliens within its scope *must* continue ‘pending a decision on whether the alien is to be  
24 removed from the United States.’” *Id.* at 303 (quoting 8 U.S.C. § 1226(a)).

## 25 III. ARGUMENT

26 The Court should reject Perez’s habeas petition.

27 Perez is subject to removal from the United States because he committed a crime relating to  
28 controlled substances by running a large marijuana cultivation operation in a protected forest area. Ex. 2

1 at \*6–\*20; 8 U.S.C. § 1226(c)(1)(B). On this basis alone, Perez must be detained for the duration of his  
2 removal proceedings. *Jennings* 583 U.S. at 289; *Demore*, 538 U.S. at 517–18. Additionally, an  
3 immigration judge already examined Perez’s detention in November and determined that he should  
4 remain detained as a danger to the community. *See* Ex. 3. Since Perez’s removal proceedings are  
5 ongoing and there are no changed circumstances since November that would justify his release on bond,  
6 Perez fails to demonstrate that he is entitled to release or to a bond hearing. *Jennings*, 583 U.S. at 303  
7 (stating that “§ 1226(c) makes clear that detention of aliens within its scope *must* continue” pending  
8 removal proceedings). Furthermore, there is no evidence that Perez requested a *Joseph* hearing before an  
9 immigration judge or that he challenges the fact of his underlying conviction. *See generally* Pet. Writ  
10 Habeas Corpus.

11 Accordingly, Perez’s requests for habeas and associated injunctive relief must fail.

12 **IV. CONCLUSION**

13 The Court should reject Rafael Perez Perez’s petition for a writ of habeas corpus. Perez is an  
14 alien currently in removal proceedings who committed a crime involving controlled substances, so his  
15 detention pending ongoing removal proceedings is mandatory under federal law.

16  
17 Dated: February 10, 2026

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18  
19 By: /s/ SAM STEFANKI  
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