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8 **UNITED STATES DISTRICT COURT**
 9 **DISTRICT OF NEVADA**

10 JULIO CESAR VALLE-VIZCARRA,

11 Petitioner,

12 v.

13 JOHN MATTO, WARDEN,

14 Respondent.

Case No. 2:25-cv-02477-CDS-BNW

**United States' Response to the Petition
 for Writ of Habeas Corpus (ECF No. 1)**

15 The United States, through undersigned counsel, files this response to Petitioner
 16 Julio Cesar Valle-Vizcarra's Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C.
 17 § 2241 (ECF No. 1). For the below reasons the Petition should be denied.

18 **I. FACTUAL AND PROCEDURAL BACKGROUND**

19 Petitioner is a citizen of Mexico and not a citizen or national of the United States.
 20 Ex. 1 ¶¶ 1–2. On September 23, 1985, Petitioner entered the United States as a Legal
 21 Permanent Resident. Ex. 1 ¶ 3.

22 On August 24, 2022, Petitioner was convicted in the Superior Court of California of
 23 Transport of a Controlled Substance, Vandalism over \$400, and Possession for Sale of
 24 Designated Controlled Substance. Ex. 1 ¶ 4; *see also* Ex. 2.

1 The Department of Homeland Security (DHS) initiated removal proceedings. On
2 February 28, 2025, DHS served Petitioner with a notice to appear under Section
3 237(a)(2)(B)(i) of the Immigration and Nationality Act (8 U.S.C. § 1227(a)(2)(B)(i)). *See Ex.*
4 *1 at 4; Ex. 3 at 1.*

5 On July 2, 2025, an Immigration Judge ordered Petitioner removed to Mexico. *See*
6 *Ex. 3 at 11.*

7 On December 12, 2025, Petitioner filed a petition for a writ of habeas corpus under
8 28 U.S.C. § 2241. ECF No. 1.

9 On December 18, 2025, the Board of Immigration Appeals remanded Petitioner's
10 appeal to the Immigration Judge for further proceedings to consider whether Petitioner,
11 "because of his tattoos, faces a particularized risk of being targeted for harm rising to the
12 extreme level of torture . . . in Mexico." *See Ex. 4 at 3.*

13 On January 3, 2026, Petitioner requested a bond hearing. *See Ex. 5.*

14 On January 14, 2026, the Immigration Court scheduled a bond hearing for January
15 26, 2026, at 8:30 AM. *See Ex. 6.*

16 This response to Petitioner's petition for a writ of habeas corpus follows.

17 **II. ARGUMENT**

18 **A. Statutory Basis for Petitioner's Detention**

19 "The detention of aliens during removal proceedings has long been upheld as a
20 permissible exercise of the political branches' authority over immigration." *Rodriguez Diaz v.*
21 *Garland*, 53 F.4th 1189, 1193 (9th Cir. 2022). Based on his 2022 California conviction for a
22 controlled substance offense, Petitioner is removable under 8 U.S.C. § 1227(a)(2)(B)(i).
23 Where an alien is deportable under section 1227(a)(2)(B), detention is mandatory under
24 8 U.S.C. § 1226(c). *See* 8 U.S.C. § 1226(c) (stating the Attorney General "shall take into
25

1 custody any alien who” “is deportable by reason of having committing any offense covered
2 in section 1227(a)(2) . . . (B)”); *see also Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1197 (9th
3 Cir. 2022) (“Section 1226 . . . cares out a class of aliens for whom detention is
4 mandatory.”). Mandatory detention under section 1226(c) “applies throughout the
5 administrative and judicial phases of removal proceedings[.]” *Avilez v. Garland*, 48 F.4th 915
6 925 (9th Cir. 2022). This means that aliens who are detained under 1226(c) “are not
7 statutorily eligible for release on bond during the judicial phase of the proceedings, except
8 under the narrow circumstances defined by § 1226(c)(2).” *Id.*

9 Since there has been no final removal order, Petitioner’s detention is mandated by
10 section 1226(c). *Cf. Rodriguez Diaz*, 53 F.4th at 1197 (“Once an alien has a final removal
11 order that is not subject to a judicial stay, detention authority shifts to 8 U.S.C. § 1231(a).”).

12 **B. Due Process**

13 “The Fifth Amendment entitles aliens to due process of law in deportation
14 proceedings.” *Rodriguez Diaz*, 53 F.4th at 1205 (quoting *Hussain v. Rosen*, 985 F.3d 634, 642
15 (9th Cir. 2021)). “[I]dentification of the specific dictates of due process generally requires
16 consideration of three distinct factors.” *Id.* at 1207 (9th Cir. 2022) (quoting *Mathews v.*
17 *Eldridge*, 424 U.S. 319, 334–35 (1976)). “*First*, the private interest that will be affected by the
18 official action; *second*, the risk of an erroneous deprivation of such interest through the
19 procedures used, and the probable value, if any, of additional or substitute procedural
20 safeguards; and *finally*, the Government’s interest, including the function involved and the
21 fiscal and administrative burdens that the additional or substitute procedural requirement
22 would entail.” *Id.* (emphasis in original).

23 Regarding the first and second factors, courts

24 cannot simply count his months of detention and leave it at that.
25 [Courts] must also consider the process he received during this

1 time, the further process that was available to him, and the fact
2 that his detention was prolonged due to his decision to challenge
his removal order.

3 *Id.* at 1208.

4 Here, as described in the background section above, Petitioner has received
5 substantial process, and removal is reasonably foreseeable. Additionally, Petitioner did not
6 request a bond hearing in Immigration Court until January 3, 2026. *See* Ex. 5. The
7 Immigration Court promptly ordered that a bond hearing be held on January 26, 2026. *See*
8 Ex. 6. “[D]uration of [] detention, by itself, [does] not create a due process violation.”
9 *Rodriguez Diaz*, 53 F.4th at 1212. This factor does not weigh in favor of Petitioner.
10 Petitioner alleges the burden at a bond hearing should be shifted to the government. *See*
11 ECF 1-1 at 7. However, the Ninth Circuit has explicitly denied that kind of burden shifting.
12 *See id.* at 1211–13.

13 By contrast, “the government clearly has a strong interest in preventing aliens from
14 ‘remaining in the United States in violation of our law.’ ” *Id.* (quoting *Demore v. Kim*, 538
15 U.S. 510, 518 (2003)). Accordingly, courts “must weigh heavily in the balance that control
16 over matters of immigration is a sovereign prerogative, largely within the control of the
17 executive and the legislature.” *Id.* (quoting *Landon v. Plasencia*, 459 U.S. 21, 34 (1982)).
18 Here, Petitioner violated our laws by selling controlled substances, and as a result the
19 government initiated removal proceedings against him.

20 There have been no violations of due process in this case, as Petitioner has “received
21 further procedural protections on the merits of his applications for relief from removal.” *See*
22 *id.* at 1210.

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24 ///

1 **III. CONCLUSION**

2 For these reasons, the government respectfully request that the Petition be denied.

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4 DATE: January 25, 2026.


5 TODD BLANCHE
6 Deputy Attorney General

7 /s/ Joshua Brister
8 JOSHUA BRISTER
9 Assistant United States Attorney
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2 **Certificate of Service**

3 I, undersigned, hereby certify that I am an employee of the United States Attorney's
4 Office, District of Nevada, and that on this day an electronic copy of the foregoing **United**
5 **States' Motion for Extension of Time to File a Response to Petitioner's Petition for**
6 **Writ of Habeas Corpus** was served via Electronic Case Filing (ECF). Additionally, a copy
7 of this motion will be served on January 26, 2026 by mailing a copy to Petitioner at the
8 following address of file:

9
10 **Julio Cesar Valle Vizcarra**


11 Nevada Southern Detention Center
12 2190 East Mesquite Ave
Pahrump, NV 89060

13 DATED: January 25, 2026

14
15 */s/ Joshua Brister*
16 JOSHUA BRISTER
Assistant United States Attorney