

District Judge Lauren King

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

MARLA FLORES ARAUJO,

Petitioner,

v.

ICE FIELD OFFICE DIRECTOR,¹

Respondent.

Case No. 2:26-cv-01008-LK

FEDERAL RESPONDENT'S
RETURN MEMORANDUM

Noted for Consideration:
April 13, 2026

I. INTRODUCTION

Petitioner, a native and citizen of Mexico who is a former lawful permanent resident, is lawfully detained at the Northwest ICE Processing Center ("NWIPC") pursuant to 8 U.S.C. § 1226(c) because she was convicted of an aggravated felony. Petitioner's detention is mandatory during removal proceedings, which remain ongoing following an Immigration Judge's order of removal on March 9, 2026, and Petitioner's timely appeal to the Board of Immigration Appeals

¹ The Petition should be dismissed for lack of jurisdiction. The Petition names as the only Respondent the "ICE Field Office Director." The ICE Field Office Director is not and has not been shown to be the Petitioner's immediate custodian and the Petitioner has not sought relief against his [or her] immediate custodian. For that reason, the Petition should be dismissed. *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004) ("[T]he default rule is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official"; *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484 (1973); *Dunne v. Henman*, 875 F.2d 244, 249 (9th Cir. 1989).

1 (“BIA”). Petitioner’s continued detention does not violate the Fifth Amendment’s Due Process
2 Clause. The Petition should be denied in full.

3 II. FACTUAL AND PROCEDURAL HISTORY

4 A. Petitioner Marla Flores Araujo

5 Petitioner is a native and citizen of Mexico who, while a lawful permanent resident of the
6 United States, committed a serious federal felony involving the transportation of illegal aliens
7 within the United States. Declaration of Deportation Officer Delano Dumo (Dumo Decl.) ¶¶ 3-5.
8 On March 18, 2025, Petitioner was convicted in the United States District Court for the District of
9 Arizona, Case No. CR-24-06549-001-TUC-JCH, of transporting illegal aliens in violation of 8
10 U.S.C. §§ 1324(a)(1)(A)(ii) and 1324(a)(1)(B)(ii). Dumo Decl., ¶ 5; Declaration of Lawrence Van
11 Daley (Van Daley Decl.) Exhibit, (Ex.) 2, Form I-213. She was sentenced to eight months’
12 imprisonment followed by twenty-four months of supervised release. *Id.* Upon completion of that
13 criminal sentence, Petitioner was released from Bureau of Prisons custody on October 15, 2025,
14 and transferred directly into Immigration and Customs Enforcement (“ICE”) custody the following
15 day. Dumo Decl., ¶ 6; Van Daley Decl., Ex. 3, Warrant. Petitioner has remained in continuous ICE
16 custody at the NWIPC in Tacoma, Washington, since October 16, 2025.

17 On the same day she entered ICE custody, Petitioner was served with a Notice to Appear
18 charging her with removability under 8 U.S.C. § 1227(a)(2)(A)(iii), as an alien convicted of an
19 aggravated felony. Dumo Decl., ¶ 7; Van Daley Decl., Ex. 1, Notice to Appear. On March 9, 2026,
20 following a hearing, an Immigration Judge in Tacoma sustained the aggravated-felony charge and
21 ordered Petitioner removed to Mexico. Dumo Decl., ¶ 8; Van Daley Decl., Ex. 4, Order. Petitioner
22 reserved appeal. *Id.* Petitioner filed a notice of appeal with the BIA on March 17, 2026; the BIA
23 acknowledged receipt of the appeal on March 20, 2026. Dumo Decl., ¶ 9. No briefing schedule
24 has yet been issued. Dumo Decl., ¶ 10.

1 **B. Detention Authority**

2 Petitioner's detention is authorized and required by 8 U.S.C. § 1226(c). Congress enacted
3 this provision as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996
4 to mandate the detention of certain criminal aliens during the pendency of removal proceedings.
5 Specifically, 8 U.S.C. § 1226(c)(1)(B) provides that the Secretary of Homeland Security "shall
6 take into custody" any alien who is deportable under 8 U.S.C. § 1227(a)(2)(A)(iii) for having been
7 convicted of an aggravated felony. Petitioner's federal conviction for alien transporting under 8
8 U.S.C. § 1324(a)(1)(A)(ii) qualifies as an aggravated felony under 8 U.S.C. § 1101(a)(43)(N).
9 Release from such custody is permitted only in the narrow circumstance set forth in 8 U.S.C. §
10 1226(c)(2), when the alien is a witness in a criminal investigation or prosecution and the Attorney
11 General determines that release is necessary for the protection of the witness, the alien, or others.
12 That exception does not apply here.

13 The Supreme Court and the Ninth Circuit have interpreted 8 U.S.C. § 1226(c) to require
14 mandatory detention throughout removal proceedings, including while an appeal to the Board of
15 Immigration Appeals remains pending and until a removal order becomes administratively final.
16 *See Jennings v. Rodriguez*, 583 U.S. 281, 290-91 (2018) (holding that the statute "mandates
17 detention" for the specified categories of aliens and contains no implicit authorization for bond
18 hearings); *Hernandez Avilez v. Garland*, 52 F.4th 1107, 1114-15 (9th Cir. 2022) (confirming that
19 detention authority under 8 U.S.C. § 1226(c) continues through the administrative and judicial
20 phases of removal proceedings until finality). The statute's mandatory language distinguishes it
21 from discretionary detention under 8 U.S.C. § 1226(a) and from post-order detention under 8
22 U.S.C. § 1231(a).

23 In cases involving aggravated-felony convictions, Courts in this District, including this
24 Court, has acknowledged that mandatory detention applies and have rejected statutory or

1 regulatory interpretations that would import additional requirements into 8 U.S.C. § 1226(c). *See*,
2 *e.g.*, *Singh v. Noem*, 2:26-cv-00503-LK, 2026 WL 657036, at *3 (W.D. Wash. Mar. 9, 2026)
3 (distinguishing 8 U.S.C. § 1226(c) mandatory detention from discretionary authority under 8
4 U.S.C. § 1226(a) and noting that the former is triggered only by enumerated criminal convictions);
5 *Balwan v. Bondi*, 2:26-cv-00248-LK, 2026 WL 497098, at *4 (W.D. Wash. Feb. 23, 2026)
6 (recognizing the distinct mandatory nature of detention for aliens falling under 8 U.S.C. § 1226(c)
7 while applying discretionary procedures only where the government's classification was
8 erroneous). At the same time, this Court carefully examines due-process challenges to prolonged
9 detention, applying a multi-factor analysis that considers the length of detention, reasons for delay,
10 and the government's interests in flight prevention and public safety. *See Banda v. McAleenan*,
11 385 F. Supp. 3d 1099, 1117-18 (W.D. Wash. 2019).

12 Because Petitioner's removal order is not yet administratively final, detention is governed
13 by 8 U.S.C. § 1226 rather than 8 U.S.C. § 1231. *See* 8 U.S.C. § 1101(a)(47)(B) (order final only
14 when BIA affirms or appeal period expires without filing). Detention under 8 U.S.C. § 1226(c)
15 continues throughout removal proceedings, including while a BIA appeal is pending. *See Jennings*,
16 583 U.S. at 288-89 (describing 8 U.S.C. § 1226 as governing "detention pending a decision on
17 whether the alien is to be removed").

18 III. LEGAL AUTHORITY

19 This Court has jurisdiction to entertain the Petition under the federal habeas statute, 28
20 U.S.C. § 2241(a) and (c)(3), which authorizes review of claims that an alien is "in custody in
21 violation of the Constitution or laws or treaties of the United States." *See Zadvydas v. Davis*, 533
22 U.S. 678, 687 (2001). However, the Petition fails on the merits. Petitioners' detention is lawful,
23 and her claim of constitutional violations are without merit.

IV. ARGUMENTS

A. Petitioner Is Subject to Mandatory Detention Under 8 U.S.C. § 1226(c)

Petitioner is lawfully subject to mandatory detention pursuant to 8 U.S.C. § 1226(c). That statute provides in relevant part that “[t]he Secretary of Homeland Security shall take into custody any alien who ... is deportable by reason of having committed any offense described in section 1227(a)(2)(A)(ii), (A)(iii), (B), (C), or (D) ...” 8 U.S.C. § 1226(c)(1)(B). Petitioner’s March 18, 2025, federal conviction for transporting illegal aliens under 8 U.S.C. § 1324(a)(1)(A)(ii) renders her deportable as an aggravated felony offender under 8 U.S.C. § 1227(a)(2)(A)(iii). The Immigration Judge sustained this charge and ordered removal on March 9, 2026. A conviction under 8 U.S.C. § 1324(a)(1)(A)(ii) categorically qualifies as an aggravated felony under 8 U.S.C. § 1101(a)(43)(N). *Matter of Ruiz-Romero*, 22 I. & N. Dec. 486, 490 (B.I.A. 1999). Petitioner does not qualify for the narrow family-assistance exception in that provision, and the financial-gain sentencing factor under 8 U.S.C. § 1324(a)(1)(B)(ii) is not required for aggravated-felony classification.

Because Petitioner falls within the class of aliens described in 8 U.S.C. § 1226(c)(1)(B), mandatory detention applies throughout the pendency of her removal proceedings. The statute’s use of the word “shall” renders detention mandatory rather than discretionary. The only exception to mandatory detention is found in 8 U.S.C. § 1226(c)(2), which permits release solely in narrow witness-protection circumstances not present here. The Supreme Court has confirmed that 8 U.S.C. § 1226(c) “mandates detention” of the specified categories of criminal aliens and contains no provision for routine bond hearings. *Jennings*, 583 U.S. at 290–91 (“In fact, the text of § 1226(c) does not even hint that aliens detained under its authority are entitled to bond hearings.”).

Moreover, because Petitioner’s appeal to the BIA remains pending and no briefing schedule has been issued, her removal order is not yet administratively final. Petitioner’s detention

1 therefore continues to be governed by 8 U.S.C. § 1226(c) rather than post-order detention
2 provisions. *See Hernandez Avilez*, 52 F.4th at 1114–15.

3 **B. Petitioner’s Continued Detention Does Not Violate the Fifth Amendment**

4 The Supreme Court has upheld mandatory detention under 8 U.S.C. § 1226(c) against due
5 process challenges, recognizing that Congress may require detention of criminal aliens during the
6 “brief” period necessary to complete removal proceedings. *Demore v. Kim*, 538 U.S. 510, 523,
7 529-31 (2003). Detention under 8 U.S.C. § 1226(c) has a “definite termination point” tied to the
8 conclusion of removal proceedings and is “of a fundamentally different nature” from the indefinite
9 post-removal-order detention at issue in *Zadvydas*. *Demore*, 538 U.S. at 531. The Court noted that
10 even when a BIA appeal is pursued, detention of roughly five months remains reasonable. *Id.* at
11 530-31.

12 Petitioner’s removal proceedings are at an early post-IJ stage: the BIA appeal was filed less
13 than three weeks ago, no briefing schedule has been issued, and removal to Mexico remains
14 reasonably foreseeable once the BIA rules. Petitioner’s recent aggravated-felony conviction for
15 transporting illegal aliens strongly supports continued detention.

16 Courts in this district assess whether mandatory detention under 8 U.S.C. § 1226(c) has
17 become unreasonably prolonged using the multi-factor reasonableness test from *Martinez v. Clark*,
18 No. C18-1669RAJ-MAT, 2019 WL 5968089, at *6–7 (W.D. Wash. May 23, 2019), report and
19 recommendation adopted, 2019 WL 5962685 (W.D. Wash. Nov. 13, 2019). That test examines:
20 (1) the total length of detention to date; (2) the likely duration of future detention; (3) whether the
21 detention will exceed the time the petitioner spent in prison for the crime that made her removable;
22 (4) the nature of the crimes the petitioner committed; (5) the conditions of detention; (6) delays in
23 the removal proceedings caused by the petitioner; (7) delays caused by the government; and (8)

1 the likelihood that the removal proceedings will result in a final order of removal. The first factor
2 is the most important.

3 All factors favor continued detention here. First, the total length of detention is short and
4 consistent with the period *Demore* described as reasonable, even with a BIA appeal. Second, future
5 detention is likely to be brief because the appeal is in its earliest stage and no briefing schedule has
6 issued. Third, Petitioner's ICE detention has not exceeded the eight months she served in federal
7 prison for the underlying criminal conviction. Fourth, the nature of Petitioner's crime is serious
8 and directly related to immigration violations, weighing strongly in favor of detention. Fifth,
9 Petitioner has not alleged, and there is no evidence of, unusually harsh conditions of detention at
10 NWIPC. Sixth and seventh, there are no apparent delays attributable to either party; proceedings
11 have moved expeditiously from NTA service through the IJ's removal order. Eighth, the likelihood
12 of a final removal order is high: the Immigration Judge has already sustained the aggravated-felony
13 charge of removability, and Petitioner has no apparent relief from removal.

14 Even under the alternative three-factor test from *Mathews v. Eldridge*, 424 U.S. 319, 335
15 (1976), the result is the same. Petitioner's liberty interest, while significant, is diminished by her
16 status as a recent aggravated-felony offender. The risk of erroneous deprivation is low because
17 removability rests on an uncontested conviction that the IJ has already sustained. Additional
18 procedures such as a bond hearing would add little value given Congress's categorical decision for
19 this class of offenders, while imposing administrative burdens on the government. The
20 government's compelling interests in ensuring removal and protecting the community from
21 recidivism outweigh any marginal benefit from an early bond hearing.

22 Petitioner's request for immediate release on supervised release pending finality fails for
23 the same reasons. Supervised release is not a statutory alternative to mandatory detention under 8
24

1 U.S.C. § 1226(c), and due process does not compel it here. Petitioner's detention has not become
2 unreasonably prolonged, and the government's procedures satisfy constitutional requirements.

3 **V. CONCLUSION**

4 For the foregoing reasons, Respondents respectfully request that the Court deny the Petition
5 for Writ of Habeas Corpus in its entirety.

6 DATED this 8th day of April, 2026.

7 Respectfully submitted,

8 s/ Lawrence Van Daley

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13 *Attorney for Federal Respondent*

14 I certify that this memorandum contains 1,968
15 words, in compliance with the Local Civil Rules.

CERTIFICATE OF SERVICE

I hereby certify that I am an employee in the Office of the United States Attorney for the Western District of Washington and of such age and discretion as to be competent to serve papers;

I further certify that on this date, I electronically filed the foregoing and following supporting declarations and exhibits with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to the following CM/ECF participant(s):

- 0 -

I further certify that on this date, I arranged for service of the foregoing on the following non-CM/ECF participant, via Certified Mail, return receipt requested, postage prepaid, addressed as follows:

Marla Flores Araujo, *Pro Se* Petitioner
A# 
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DATED this 8th day of April, 2026.

s/ Albert Kidd
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