

The Honorable Jamal N. Whitehead

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

GARNET SMITH,

Petitioner,

v.

JULIO HERNANDEZ, *et al.*,¹

Respondents.

Case No. 2:26-cv-01138-JNW

FEDERAL RESPONDENTS'
RETURN MEMORANDUM

Noted for Consideration:
April 22, 2026

I. INTRODUCTION

This Court should deny Petitioner's Petition for Writ of Habeas Corpus. Dkt. No. 1. Petitioner, a lawful permanent resident of the United States with an extensive criminal history involving repeated domestic-violence offenses, assaults with a handgun, unlawful imprisonment, witness tampering, and other felonies, is lawfully subject to mandatory detention at the Northwest ICE Processing Center ("NWIPC") under 8 U.S.C. § 1226(c). His removal order, entered by the Immigration Judge on January 9, 2026, is not yet final because his appeal remains pending before the Board of Immigration Appeals. Petitioner's claims that his administrative arrest violated the Fourth Amendment, that his detention deprives him of procedural due process or constitutes

¹ Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

Pursuant to Fed. R. Civ. P. 25(d), Federal Respondents substitute Acting United States Attorney General Todd Blanche for Pamela Bondi.

1 prolonged detention, and that continued detention violates 8 U.S.C. § 1231(a)(6) lack merit under
2 binding Supreme Court and Ninth Circuit precedent.

3 II. FACTUAL AND PROCEDURAL HISTORY

4 A. Petitioner Garnet Smith

5 Petitioner is a native and citizen of Jamaica who was admitted to the United States on or
6 about October 1, 1998, as a lawful permanent resident under the IR2 visa category as the child of
7 a U.S. citizen. Declaration of Deportation Officer Kurtis Reed (“Reed Decl.”), ¶ 3. Over the years
8 that followed, Petitioner accumulated a significant criminal record centered on domestic violence
9 and related offenses. *See* Declaration of Lawrence Van Daley (“Van Daley Decl.”) Exhibit
10 (“Ex.”), 1, Form I-213. On or about March 14, 2005, the City of Kent Police arrested him for
11 Assault in the Fourth Degree – Domestic Violence against his partner, resulting in a conviction in
12 Kent Municipal Court on October 20, 2005, and a sentence of two days in jail plus 24 months of
13 probation. Reed Decl., ¶ 4.

14 Just months earlier, on or about June 11, 2005, King County Sheriff’s deputies arrested
15 Petitioner for Malicious Mischief, Protective Order Violation, Possession of Stolen Property, and
16 Assault with a Handgun. Reed Decl., ¶ 5. On November 30, 2005, the Superior Court of
17 Washington for King County convicted him of Domestic Violence Violation of a Court Order in
18 violation of RCW 26.50.110(1)(4), Possession of Stolen Property, Assault 2 with a Handgun (a
19 felony), Tampering with a Witness, and Harassment – Threat to Kill (a felony). Reed Decl., ¶ 6.
20 The court sentenced him to 32 months of imprisonment. *Id.*

21 This pattern continued. On or about February 27, 2007, and again on or about May 29,
22 2009, the King County Superior Court convicted Petitioner of additional counts of Domestic
23 Violence Violation of a Court Order under RCW 26.50.110(1)(4), imposing sentences of 25
24 months and 12 months of imprisonment, respectively. Reed Decl., ¶¶ 7-8. On or about
25 November 4, 2010, that same court convicted him of Unlawful Imprisonment, Assault 2 (felony),
26 and Violation of a Protection Order, sentencing him to 70 months in prison. Reed Decl., ¶ 9. More
27 recent convictions include a November 6, 2017, Spokane County Superior Court conviction for

1 Insurance – False Claim (nine months) and a January 24, 2025, Spokane County Superior Court
2 conviction for Harassment (364 days). Reed Decl., ¶¶ 10-11. Government records further
3 document Petitioner’s January 6, 2006, King County Superior Court conviction for violating a
4 domestic-violence no-contact order. Van Daley Decl., Ex., 5, Judgement and Sentence.

5 On October 1, 2025, Enforcement and Removal Operations officers arrested Petitioner at
6 his workplace in Spokane, Washington, during a targeted operation under the Criminal Alien
7 Program. Reed Decl., ¶ 12; Van Daley Decl., Ex. 2, Warrant. That same day, DHS served him
8 with a Notice to Appear charging removability under 8 U.S.C. § 1227(a)(2)(E)(ii) and a Notice of
9 Custody Determination. *Id.*, Van Daley Decl., Ex. 3, Notice to Appear. Petitioner claimed a fear
10 of returning to Jamaica. Reed Decl., ¶ 12. On January 9, 2026, the Immigration Judge in Tacoma
11 denied all forms of relief and ordered Petitioner removed to Jamaica. Reed Decl., ¶ 13; Van Daley
12 Decl., Ex. 4, Removal Order. Petitioner reserved his right to appeal. *Id.* He filed a notice of appeal
13 with the Board of Immigration Appeals on February 3, 2026. Reed Decl., ¶ 13. After an initial
14 rejection for fee issues, the Board acknowledged receipt of the resubmitted appeal and fee or fee-
15 waiver request on February 5, 2026. *Id.* The appeal remains pending, and Petitioner has been
16 detained at the Northwest ICE Processing Center since his arrest on October 1, 2025. Reed Decl.,
17 ¶¶ 12-13.

18 **B. Detention Authority**

19 Petitioner’s current detention is governed by 8 U.S.C. § 1226(c), which provides that the
20 Attorney General² shall take into custody any alien who is deportable under, inter alia, 8 U.S.C. §
21 1227(a)(2)(E)(ii) for a conviction relating to violation of a protective order. 8 U.S.C. § 1226(c)(1).
22 The statute is mandatory in nature: once an alien meets the specified criteria, detention during
23 removal proceedings is required, and release is permitted only in narrow witness-protection
24 circumstances that do not apply in this case. 8 U.S.C. § 1226(c)(2).

25 _____
26 ² Although 8 U.S.C. § 1226(c)(1) refers to the “Attorney General” as having responsibility for detaining noncitizens,
27 the Homeland Security Act of 2002, Pub. L. No. 107-296 § 441(2), 116 Stat. 2135, 2192 (2002), transferred this
authority to the Secretary of the Department of Homeland Security (“DHS”), of which ICE is a component. *See also*
6 U.S.C. § 251.

1 Courts have consistently interpreted 8 U.S.C. § 1226(c) as requiring mandatory detention
2 throughout the course of removal proceedings for qualifying criminal aliens. *See Demore v. Kim*,
3 538 U.S. 510, 531 (2003) (upholding the constitutionality of mandatory detention under 8 U.S.C.
4 § 1226(c) during removal proceedings). The Supreme Court has further clarified that the statute
5 contains no implicit time limit or entitlement to periodic bond hearings. *See Jennings v. Rodriguez*,
6 583 U.S. 281, 300-01 (2018) (the text of 8 U.S.C. § 1226(c) makes clear that detention shall
7 continue until removal proceedings conclude).

8 Federal immigration law draws a clear distinction between pre-final-order detention and
9 post-final-order detention. Pre-final-order detention, which applies here, is governed by 8 U.S.C.
10 § 1226. Post-final-order detention is governed by 8 U.S.C. § 1231. *See Johnson v. Guzman Chavez*,
11 594 U.S. 523, 529, 536-37 (2021) (detention during the pendency of administrative review,
12 including a BIA appeal, remains under 8 U.S.C. § 1226; the transition to 8 U.S.C. § 1231 occurs
13 only after the removal order becomes administratively final under 8 U.S.C. § 1101(a)(47)(B)).
14 Because Petitioner's removal order is not yet final and removal is automatically stayed during the
15 pending BIA appeal under 8 C.F.R. § 1003.6(a), his detention continues under the mandatory
16 provisions of 8 U.S.C. § 1226(c).

17 Petitioner remains a lawful permanent resident because the removal order has not become
18 administratively final. Lawful permanent resident status continues until a final order of removal is
19 entered. *See* 8 U.S.C. § 1101(a)(47)(B) (defining finality of a removal order). If the removal order
20 becomes final upon BIA affirmance or expiration of the time to seek such review, Petitioner's
21 lawful permanent resident status will terminate. *See Matter of Lok*, 18 I&N Dec. 101, 105-06 (BIA
22 1981).

23 III. LEGAL AUTHORITY

24 This Court has jurisdiction to review Petitioners' habeas claims under 28 U.S.C. § 2241,
25 as habeas jurisdiction extends to challenges to immigration detention. *Zadvydas v. Davis*, 533 U.S.
26 678, 688 (2001). However, the Petition fails on the merits. Petitioners' detention is lawful, and his
27 claims of constitutional violations are without merit.

IV. ARGUMENTS

A. Petitioner's Arrest Pursuant to an Administrative Warrant Does Not Violate the Fourth Amendment

Petitioner claims that his arrest on October 1, 2025, violated the Fourth Amendment because it was executed pursuant to an administrative warrant issued by an ICE supervisory officer rather than a neutral judicial officer. Dkt. No. 1 at 8. This argument is without merit. Immigration arrests are civil in nature, and longstanding Supreme Court and Ninth Circuit precedent squarely holds that administrative warrants issued by authorized executive officials satisfy the Fourth Amendment for civil immigration enforcement.

The Supreme Court has long recognized the constitutional validity of administrative arrest warrants in the immigration context. *See Abel v. United States*, 362 U.S. 217, 230-37 (1960) (recognizing the overwhelming historical legislative recognition of the propriety of administrative arrest for deportable aliens and upholding the use of an administrative warrant issued by an Immigration and Naturalization Service District Director). In *Abel*, the Court emphasized that Congress has authorized executive officials to issue warrants for the arrest of aliens pending removal proceedings, and that such warrants are consistent with the Fourth Amendment's requirements for civil seizures. *Abel*, 362 U.S. at 236-37. This historical practice remains good law and directly controls here.

The Ninth Circuit has expressly reaffirmed the constitutionality of administrative warrants for immigration arrests. *See Gonzalez v. U.S. Immigration & Customs Enf't*, 975 F.3d 788, 809-10 (9th Cir. 2020) (holding that consistent with the Fourth Amendment, immigration authorities may arrest individuals for civil immigration removal purposes pursuant to an administrative arrest warrant issued by an executive official, rather than by a judge). In *Gonzalez*, the court rejected arguments that the Fourth Amendment requires a judicial warrant for civil immigration detentions or arrests, distinguishing the civil immigration context from criminal prosecutions. *Gonzalez*, 975 F.3d at 825. The court explained that the Fourth Amendment's warrant requirement is satisfied by the executive probable-cause determination and supervisory review mandated by statute and

regulation, particularly where the arrest serves the civil purpose of ensuring appearance in removal proceedings rather than criminal prosecution. *Gonzalez*, 975 F.3d at 809-10.

Here, Petitioner was arrested at his workplace pursuant to a valid administrative warrant issued in accordance with 8 U.S.C. § 1226 and 8 C.F.R. § 287.5(e). These provisions authorize designated ICE officers to issue warrants of arrest for aliens who are deportable under the Immigration and Nationality Act. The warrant was supported by probable cause based on Petitioner's criminal convictions rendering him removable under 8 U.S.C. § 1227(a)(2)(E)(ii). Because the arrest occurred in a public workplace setting, not in Petitioner's home, Petitioner's expectation of privacy was significantly diminished. *See Gonzalez*, 975 F.3d at 810 n.12 (noting the reduced Fourth Amendment concerns outside the home).

Petitioner's assertion that the warrant must have been issued by a neutral judicial officer misapplies Fourth Amendment doctrine. The Supreme Court has never held that all civil seizures require judicial warrants; the touchstone remains reasonableness, and administrative warrants have long been deemed reasonable for immigration enforcement. *Abel*, 362 U.S. at 236-37; *see also United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975) (recognizing the distinct standards applicable to immigration stops and arrests). The administrative warrant here fully complied with constitutional requirements, and Petitioner's Fourth Amendment claim therefore fails as a matter of law.

B. Petitioner Detention Does Not Violate Procedural Due Process or Constitute Prolonged Detention

Petitioner asserts that his continued detention violates procedural due process and constitutes prolonged detention. Dkt. No. 1 at 10-12. He applies the *Mathews v. Eldridge* balancing test and emphasizes his military service. *Id.* This claim fails as a matter of law.

Congress has mandated detention for aliens, like Petitioner, who are deportable on certain criminal grounds. 8 U.S.C. § 1226(c) provides that the Attorney General shall take into custody any alien who is deportable under, inter alia, 8 U.S.C. § 1227(a)(2)(E)(ii) for a conviction relating to violation of a protective order. The statute permits release only in limited witness-protection

1 circumstances not applicable here. 8 U.S.C. § 1226(c)(2). Because Petitioner's removal order is
2 not yet administratively final, detention is governed exclusively by 8 U.S.C. § 1226(c). *See*
3 *Johnson*, 594 U.S. 523, at 536-37.

4 The Supreme Court has squarely upheld the constitutionality of mandatory detention under
5 8 U.S.C. § 1226(c) during the course of removal proceedings. *See Demore*, 538 U.S. at 531
6 (detention during removal proceedings is a constitutionally valid aspect of the deportation
7 process). In *Demore*, the Court rejected a due process challenge to mandatory detention of a lawful
8 permanent resident with criminal convictions, emphasizing Congress's legitimate interest in
9 ensuring the appearance of criminal aliens at removal proceedings and preventing recidivism. *Id.*
10 at 529-31. The Court noted that such detention is not indefinite; it lasts only for the duration of
11 removal proceedings, which Congress reasonably anticipated would conclude within a reasonable
12 period. *Id.* at 529-30. Petitioner's detention of approximately six-and-one-half months falls well
13 within the range upheld in *Demore*.

14 The Supreme Court has further clarified that 8 U.S.C. § 1226(c) contains no implicit time
15 limit or requirement for periodic bond hearings. *See Jennings*, 583 U.S. at 300-01 (2018) (rejecting
16 the Ninth Circuit's prior interpretation that 8 U.S.C. § 1226(c) required bond hearings after six
17 months; the statute's text makes clear that detention shall continue until the removal proceedings
18 have concluded). *Jennings* expressly held that the statute does not imply a bond-hearing
19 requirement for mandatory detainees. *Id.* at 300-01. Post-*Jennings*, the Ninth Circuit has confirmed
20 that there is no freestanding constitutional entitlement to a bond hearing for 8 U.S.C. § 1226(c)
21 detainees absent extraordinary circumstances not present here. *See Rodriguez Diaz v. Garland*, 53
22 F.4th 1189, 1201-06 (9th Cir. 2022) (rejecting claims for additional procedural protections in
23 prolonged detention cases and noting that prior Ninth Circuit precedent implying bond-hearing
24 rights under constitutional avoidance does not survive *Jennings* for mandatory detention
25 provisions).

26 Even applying the *Mathews v. Eldridge* test that Petitioner invokes, his claim fails. The
27 three *Mathews* factors are: (1) the private interest affected by the official action; (2) the risk of an

1 erroneous deprivation of that interest through the procedures used and the probable value of
2 additional safeguards; and (3) the government's interest, including the function involved and the
3 burdens of additional procedural requirements. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

4 First, while Petitioner's interest in freedom from physical restraint is substantial, it is not
5 absolute in the immigration context. *See Demore*, 538 U.S. at 528-29 (recognizing that the private
6 interest in liberty is tempered by the civil, non-punitive nature of immigration detention and the
7 government's plenary authority over immigration). Petitioner has already received significant
8 process: a Notice to Appear, a custody determination, and a full merits hearing before the
9 Immigration Judge on January 9, 2026. He also had the opportunity to contest custody and present
10 evidence, including any arguments regarding his military service. *Rodriguez Diaz*, 53 F.4th at
11 1207-08 (emphasizing that the private interest must be evaluated in light of the process already
12 afforded and that detention length alone does not dictate a due process violation).

13 Second, the risk of erroneous deprivation is low. Petitioner received notice of the charges
14 against him and an opportunity to be heard before a neutral Immigration Judge. The existing
15 procedures, Notice to Appear, custody determination, and merits hearing, provide ample
16 safeguards. Additional bond hearings are not constitutionally required under 8 U.S.C. § 1226(c).
17 *Jennings*, 583 U.S. at 300-01; *Rodriguez Diaz*, 53 F.4th at 1206 (due process does not require the
18 government to bear a heightened burden or provide periodic hearings where statutory procedures
19 are followed). Petitioner's military service and asserted eligibility for naturalization under 8 U.S.C.
20 § 1440, while commendable, do not alter this analysis. 8 U.S.C. § 1440 provides an expedited
21 pathway for qualifying veterans but contains no provision staying removal proceedings or
22 overriding mandatory detention under 8 U.S.C. § 1226(c). *See* USCIS Policy Manual, Vol. 12,
23 Part I, Ch. 3 (Military Service during Hostilities (INA 329)) (naturalization remains a separate
24 collateral process; applicants must still demonstrate good moral character). Naturalization
25 eligibility does not create a constitutional entitlement to release. *See Demore*, 538 U.S. at 531
26 (Congress may require detention notwithstanding other immigration equities).

1 Third, the government's interest is compelling. Congress enacted 8 U.S.C. § 1226(c) to
2 address the specific problem of recidivist criminal aliens absconding or committing further crimes
3 during removal proceedings. *Id.* at 518-20, 529-30. Petitioner's record, multiple convictions for
4 violating domestic-violence protection orders under RCW 26.50.110, Assault 2 with a handgun,
5 unlawful imprisonment, witness tampering, harassment involving threats to kill, and additional
6 recent offenses, directly implicates these concerns. The government's interest in preventing danger
7 to the community and ensuring Petitioner's presence at proceedings outweighs any marginal
8 benefit from additional hearings. *Mathews*, 424 U.S. at 335; *see also Rodriguez Diaz*, 53 F.4th at
9 1208-13 (government interest in efficient removal proceedings and public safety is substantial).

10 In this District, courts have employed a multifactor test (the "Martinez test") when
11 analyzing whether prolonged detention pursuant to Section 1226(c) satisfies due process. *Martinez*
12 *v. Clark*, No. 2:18-cv-01669, 2019 WL 5968089 (W.D. Wash. May 23, 2019) (Report and
13 Recommendation) (applying multi-factor due process analysis), adopted by, 2019 WL 5962685
14 (W.D. Wash. Nov. 13, 2019). In *Martinez*, the district court declined to adopt a bright-line rule
15 that Section 1226(c) detention becomes unreasonably prolonged after six months. *Martinez*, 2019
16 WL 5968089, at *7. Instead, the court analyzed:

17 (1) the total length of detention to date; (2) the likely duration of future detention;
18 (3) whether the detention will exceed the time petitioner spent in prison for the
19 crime that made him removable; (4) the nature of the crimes that petitioner
20 committed; (5) the conditions of detention; (6) delays in the removal proceedings
caused by petitioner; (7) delays in the removal proceedings caused by the
government; and (8) the likelihood that the removal proceedings will result in a
final order of removal.

21 2019 WL 5968089, at *9.

22 Applying these factors here, Petitioner's detention of approximately six-and-one-half
23 months is not unreasonable. The first factor—the total length of detention to date—weighs only
24 modestly in Petitioner's favor, as courts in this District have routinely found detentions of similar
25 or longer duration reasonable in the context of mandatory custody under 8 U.S.C. § 1226(c).

1 The second factor, the likely duration of future detention, is short because Petitioner's BIA
2 appeal is already pending and removal proceedings are well advanced; a final order is likely in the
3 reasonably near term.

4 The third factor weighs strongly against Petitioner, as his current detention period is far
5 shorter than the lengthy prison sentences he has served for his underlying criminal convictions.

6 The fourth factor—the nature of the crimes committed—also weighs heavily against him,
7 given his recidivist history of serious offenses, including multiple convictions for violating
8 domestic-violence protection orders under RCW 26.50.110, Assault 2 with a handgun, unlawful
9 imprisonment, witness tampering, and harassment involving threats to kill. These crimes
10 demonstrate a pattern of violence and disregard for court orders that directly implicates the
11 government's interest in preventing danger to the community.

12 The fifth factor, conditions of detention at the Northwest ICE Processing Center, is neutral
13 or weighs against release, as Petitioner has not alleged any unusually harsh conditions beyond
14 standard civil immigration detention.

15 The sixth and seventh factors regarding delays are largely neutral or favor the government,
16 as Petitioner reserved appeal and the proceedings have progressed without undue governmental
17 delay.

18 Finally, the eighth factor—the likelihood of a final removal order—strongly favors
19 continued detention, given Petitioner's clear removability and the advanced stage of his case. On
20 balance, the *Martinez* factors demonstrate that Petitioner's detention remains reasonable and does
21 not violate due process.

22 Petitioner's detention is statutorily mandated, constitutionally permissible under *Demore*
23 and *Jennings*, and consistent with due process. His military service and naturalization claim, while
24 positive equities, do not override Congress's clear mandate or render his detention arbitrary.

1 **C. Petitioner's Invocation of 8 U.S.C. § 1231(a)(6) and *Zadvydas* Is Premature and**
2 **Inapplicable**

3 Petitioner claims that his continued post-order detention violates 8 U.S.C. § 1231(a)(6).
4 Dkt. No. 1 at 12. This argument is both factually and legally misplaced. *Zadvydas*, 533 U.S. 678,
5 and its statutory predicate, 8 U.S.C. § 1231(a)(6), apply only after an alien's removal order has
6 become administratively final and the government is actively engaged in efforts to execute
7 removal. Petitioner's situation does not meet this threshold requirement.

8 The Supreme Court has made clear that the transition from pre-final-order detention under
9 8 U.S.C. § 1226 to post-final-order detention under 8 U.S.C. § 1231 occurs only when the removal
10 order becomes final. *See Johnson*, 594 U.S. at 529, 536-37. In *Johnson*, the Court explicitly held
11 that detention during the pendency of administrative review (including judicial review) is governed
12 by 8 U.S.C. § 1226, not 8 U.S.C. § 1231. *Id.* at 529. The Court explained that 8 U.S.C. § 1231(a)
13 applies only after the removal order is final within the meaning of 8 U.S.C. § 1101(a)(47)(B), that
14 is, when it is no longer subject to administrative appeal or judicial review, or when such review
15 has concluded with affirmance. *Id.* at 536-37. Until that point, the automatic stay of removal during
16 a BIA appeal keeps the case in the pre-final-order stage. *See* 8 C.F.R. § 1003.6(a).

17 Here, Petitioner's removal order was entered on January 9, 2026. He filed a notice of appeal
18 with the Board of Immigration Appeals on February 3, 2026, and the Board acknowledged receipt
19 of the resubmitted appeal and fee/fee-waiver request on February 5, 2026. Because the appeal
20 remains pending, the removal order has not become administratively final. Consequently,
21 Petitioner's detention continues to be governed by the mandatory provisions of 8 U.S.C. § 1226(c),
22 not the post-removal-order rules of 8 U.S.C. § 1231(a)(6). *Johnson*, 594 U.S. at 536-37.

23 *Zadvydas* itself is limited to situations in which an alien is subject to a final order of
24 removal and there is no significant likelihood of removal in the reasonably foreseeable future.
25 *Zadvydas*, 533 U.S. at 699-701 (an alien's release from detention is not required if his removal is
26 reasonably foreseeable). The Supreme Court emphasized that the six-month presumptive period
27 in *Zadvydas* applies only after a final order and after the government has had a reasonable time to
effect removal. *Id.* at 701. Because Petitioner's order is stayed pending BIA review, removal is not

1 currently being attempted, and the *Zadvydas* framework has no application. *See also Johnson*, 594
2 U.S. at 536 (reaffirming that the constitutional concerns animating *Zadvydas* arise only after
3 finality).

4 Petitioner's reliance on 8 U.S.C. § 1231(a)(6) therefore fails on its face. Even if the Court
5 were to consider the length of detention, the proper framework remains the due process analysis
6 under *Demore* and *Jennings* addressed above. Petitioner cannot bootstrap a premature *Zadvydas*
7 claim to circumvent the mandatory detention statute that Congress enacted specifically for criminal
8 aliens such as himself.

9
10 **D. The Removability Charge Is Legally Sufficient and Supervisory Discretion Is Not Reviewable in Habeas**

11 Petitioner contends that the charge under 8 U.S.C. § 1227(a)(2)(E)(ii) is legally deficient
12 because he allegedly does not meet the statutory elements and that his detention rests on arbitrary
13 supervisory discretion. Dkt. No. 1 at 7-8. Both assertions are meritless and provide no basis for
14 habeas relief.

15 First, the removability charge is legally sufficient and well-supported by Petitioner's
16 criminal record. 8 U.S.C. § 1227(a)(2)(E)(ii) renders an alien deportable if the alien is convicted
17 of a violation of any protection order issued to prevent domestic violence, stalking, or other
18 specified conduct. Petitioner has multiple qualifying convictions under Washington law for
19 violating domestic-violence protection and no-contact orders. Specifically, he was convicted on
20 November 30, 2005, February 27, 2007, May 29, 2009, and November 4, 2010, of Domestic
21 Violence Violation of a Court Order in violation of RCW 26.50.110(1)(4). He also has a
22 documented January 6, 2006, King County Superior Court conviction for violating a domestic-
23 violence no-contact order. *See Van Daley Decl.*, Ex. 5. These repeated violations directly satisfy
24 the elements of 8 U.S.C. § 1227(a)(2)(E)(ii). *See Matter of Obshaiko*, 27 I&N Dec. 173, 176-77
25 (BIA 2017) (a conviction for violation of a protection order under state law qualifies under 8
26 U.S.C. § 1227(a)(2)(E)(ii) if the order was issued to prevent domestic violence or similar conduct).
27 The Immigration Judge correctly found Petitioner removable on this ground after a full hearing on

1 January 9, 2026. Petitioner's bare assertion in his declaration that he was unaware of one 2006
2 conviction does not negate the documented court records or undermine the statutory basis for the
3 charge.

4 Second, Petitioner's characterization of his detention as arbitrary executive confinement
5 based on supervisory discretion misapprehends the governing law. Petitioner is not detained
6 pursuant to discretionary authority under 8 U.S.C. § 1226(a); he is subject to mandatory detention
7 under 8 U.S.C. § 1226(c) because of his qualifying criminal convictions. The decision to initiate
8 enforcement action through the Criminal Alien Program and to arrest him at his workplace was an
9 exercise of prosecutorial and enforcement discretion committed to the Executive Branch. Such
10 decisions are generally not subject to judicial review. *See Reno v. American-Arab Anti-*
11 *Discrimination Committee*, 525 U.S. 471, 485-86 (1999) (immigration enforcement decisions,
12 including whom to detain or remove, are presumptively unreviewable absent clear congressional
13 intent to the contrary); *see also Heckler v. Chaney*, 470 U.S. 821, 831 (1985) (agency decisions
14 not to enforce are traditionally committed to agency discretion). Habeas corpus is not a vehicle to
15 second-guess ICE's enforcement priorities or the manner in which it executes valid removal
16 proceedings.

17 Because the removability charge is supported by multiple qualifying convictions and
18 Petitioner's detention is statutorily mandated rather than discretionary, his claims of legal
19 deficiency and arbitrary confinement fail to state a cognizable basis for habeas relief.

20 V. CONCLUSION

21 For the foregoing reasons, the Petition for Writ of Habeas Corpus should be denied in its
22 entirety. Petitioner remains a lawful permanent resident subject to mandatory detention under 8
23 U.S.C. § 1226(c) while his administrative appeal is pending. His military service and naturalization
24 eligibility, while noteworthy, provide no basis for release. No constitutional or statutory violation
25 has been demonstrated, and no relief is warranted.

26 //

27 //

1 DATED this 17th day of April, 2026.

2 Respectfully submitted,

3 s/ Lawrence Van Daley

4 LAWRENCE VAN DALEY, WSBA No. 53102

5 Special Assistant United States Attorney

6 United States Attorney's Office

7 Western District of Washington

8 1201 Pacific Ave., Ste. 700

9 Tacoma, WA 98402

10 Phone: (253) 428-3825

11 Fax: (253) 428-3826

12 Email: lawrence.van.daley@usdoj.gov

13 *Attorney for Federal Respondents*

14 I certify that this memorandum contains 4,184
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:

Garnet Smith, *Pro Se* Petitioner
A# [REDACTED]
NW Detention Center
1623 E. J Street, Suite 5
Tacoma, WA 98421-1615

DATED this 17th day of April, 2026.

s/ Albert Kidd
ALBERT KIDD, Paralegal Specialist
United States Attorney's Office
Western District of Washington
700 Stewart Street, Suite 5220
Seattle, Washington 98101-1271
Phone: 206-553-7970
Fax: 206-553-4073
Email: paul.albert.kidd@usdoj.gov