

1 ERIC GRANT
United States Attorney
2 ELISA M. RODRIGUEZ
Assistant United States Attorney
3 2500 Tulare Street, Suite 4401
Fresno, CA 93721
4 Telephone: (559) 497-4000
Facsimile: (559) 497-4099
5
6 Attorneys for Respondents

7
8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10
11 YENI MOTA APARICIO,



12
13 Petitioner,

14 v.

15 CHRISTOPHER CHESTNUT, *et al.*,

16 Respondents.

CASE NO. 1:26-CV-05110-KES-EGC

**OPPOSITION TO PETITION FOR
WRIT OF HABEAS CORPUS AND
ALL INJUNCTIVE RELIEF**

17
18 On the face of the habeas petition, Petitioner does not appear to be a member of the class
19 certified in *Maldonado Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM (C.D. Cal), because she is
20 detained under 8 U.S.C. § 1226(c)(1)(A).¹ Petitioner is subject to mandatory detention until her removal
21 becomes final, because of her recent battery conviction and 2016 petty theft conviction. This case
22 differs factually and legally from those identified in the Court's July 6, 2026, Order (Dkt. 5) because
23 Petitioner's criminal conduct predating detention goes to the heart of a § 1226(c) analysis. The
24 petitioners in the cases cited were not subject to § 1226(c) detention entailing a different analysis.

25
26 ¹ In *Maldonado Bautista*, the court certified the following class: "All noncitizens in the United States without
27 lawful status who (1) have entered the United States without inspection; (2) were not or will not be apprehended
28 upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231
at the time the Department of Homeland Security makes an initial custody determination. *Maldonado Bautista v.*
Noem, No. 5:25-cv-01873, 2025 WL 3713987, at *2 (C.D. Cal. Dec. 18, 2025).

I. BACKGROUND

Petitioner is a citizen and native of Mexico. Exhibit A (I-213). She entered the United States without admission or parole. Exhibit B (Notice to Appear). Petitioner voluntarily returned to Mexico at least three times – once in 2001, and twice in 2007. Exhibit A. On March 9, 2016, Petitioner was convicted of California Penal Code § 484 – Theft and sentenced to 180 days in jail. Exhibits A, C (rap sheet). On July 13, 2025, Petitioner was arrested for child cruelty with possible injury or death, willful cruelty to a child, and infliction of injury/etc upon a child. Exhibit C. Petitioner was eventually convicted in December 2025 of California Penal Code § 242 – Battery and sentenced to 45 days in jail. *Id.* Petitioner was detained by immigration authorities on June 15, 2026, as a result of her battery conviction. Exhibits A, B. Petitioner filed the instant habeas action on July 3, 2026. Dkt. 1.

II. ARGUMENT

A. Petitioner is subject to mandatory detention under 8 U.S.C. § 1226(c).

The detention of a noncitizen pending removal proceedings is governed by 8 U.S.C. § 1226. *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022). Petitioner is presently in removal proceedings however, since Petitioner engaged in qualifying criminal conduct, her detention remains governed by section 1226(c). *See Prieto-Romero v. Clark*, 534 F.3d 1053 at 1058 (9th Cir. 2008) (finding section 1226 applied to initial detention and detention during BIA review of removal order based on conviction of aggravated felony).²

Under section 1226(a), the “Attorney General may issue a warrant for the arrest and detention of an alien ‘pending a decision on whether the alien is to be removed from the United States.’” *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (citation omitted). In general, “the Attorney General ‘may release’ an alien detained under section 1226(a) ‘on ...bond’ or ‘conditional parole.’” *Id.* (citation omitted).

Additionally, “[s]ection 1226(c) . . . carves out a statutory category of aliens who may *not* be released.” *Id.* at 289 (emphasis in original). Under this subsection, “the ‘Attorney General shall take into custody any alien’ who falls into one of several enumerated categories involving criminal offenses .

² Here, subsection (a) applied because despite being an aggravated felon, Prieto-Romero was never subject to mandatory detention under subsection (c) because he was “released from his non-Service custodial setting (i.e., from criminal custody)” before October 8, 1998. 534 F.3d at 1058 n.3.

1 . . . The Attorney General may release aliens in those categories ‘only if the Attorney General decides . . .
 2 . . . that release of the alien from custody is necessary’ for witness-protection purposes and ‘the alien
 3 satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of
 4 property and is likely to appear for any scheduled proceeding.’” *Id.* (citations omitted).

5 Consequently, the detention of noncitizens “within [the] scope” of section 1226(c) “*must*
 6 continue ‘pending a decision on whether the [noncitizen] is to be removed from the United States.’” *Id.*
 7 (citation omitted) (emphasis in original); *see also Avilez v. Garland*, 69 F.4th 525, 535 (9th Cir. 2023)
 8 (concluding that section 1226(c) “applies throughout the administrative and judicial phases of removal
 9 proceedings”). The subsection does not “limit the length of the detention it authorizes.” *Jennings*, 583
 10 U.S. at 303. In fact, “in *Demore v. Kim*, the Supreme Court rejected a due process challenge to
 11 mandatory detention under Subsection C on the ground that the detention authorized by Subsection C is
 12 relatively short-lived.” *Avilez*, 69 F.4th at 536 (citing *Demore v. Kim*, 538 U.S. 510, 529 (2003)). The
 13 facts of *Demore* resound with the facts of this case – there, the petitioner was a permanent resident with
 14 a petty theft conviction. *See Demore*, 538 U.S. at 515. In the same vein, this court has previously
 15 declined to find that an alien has a due process right to a bond hearing under § 1226(c). *See Oth v.*
 16 *Chestnut*, No. 1:25-cv-01367-KES-HBK, 2026 WL 323053, at *8 (E.D. Cal. Feb. 6, 2026).

17 **1. Detention is Mandatory Under 8 U.S.C. § 1226(c)(1)(A) – Moral Turpitude**

18 Petitioner is subject to mandatory detention under 8 U.S.C. § 1226(c)(1)(A) because of her 2016
 19 criminal conviction for a crime involving moral turpitude (CIMT) rendering her inadmissible under 8
 20 U.S.C. § 1182(a)(2)(A)(i)(I). A conviction of a CIMT constitutes an independent ground for mandatory
 21 detention under § 1226(c). *See* 8 U.S.C. § 1226(c)(1)(A) (“The Attorney General shall take into custody
 22 any alien who is inadmissible by reason of having omitted any offense covered in section 1182(a)(2) of
 23 this title.”)

24 Because of her CIMT – the 2016 theft conviction, DHS placed her in removal proceedings by
 25 charging her with a Notice to Appear. *See Silva v. Barr*, 965 F.3d 724, 729 (9th Cir. 2020) (“Under our
 26 precedent, petty theft under section 484(a) of the California Penal Code is a crime involving moral
 27 turpitude”). The petty theft exception under 8 U.S.C. § 1182(a)(2)(A)(ii) does not apply because
 28 Petitioner is not convicted of only one offense – she falls out of the exception because of her conviction

1 in December 2025, the petty theft offense carries a maximum penalty of less than one year (6 months)
2 and the actual sentence imposed was less than or equal to six months – 180 days.

3 **2. Joseph Mandates Detention for Qualifying Convictions**

4 A person “who believes that he is not covered by § 1226(c) may . . . ask for what is known as a
5 ‘Joseph hearing’” from the immigration court. *Jennings v. Rodriguez*, 583 U.S. 281, 289 n.1 (citing
6 *Matter of Joseph*, 22 I. & N. Dec. 799 (BIA 1999)). At such a hearing, “the detainee may avoid
7 mandatory detention by demonstrating that he is not an alien, was not convicted of the predicate crime,
8 or that the [government] is otherwise substantially unlikely to establish that he is in fact subject to
9 mandatory detention.” *Id.* (quoting *Demore*, 538 U.S. 510, 514 n.3 (2003)). The petition indicates that
10 Petitioner believes she is not subject to § 1226(c). An immigration court is the appropriate forum for
11 Petitioner to address his detention determination.

12 **III. CONCLUSION**

13 Petitioner’s detention is mandatory under 8 U.S.C. § 1226(c). She is not entitled to a bond
14 hearing nor release. The petition and all injunctive relief should be denied.

15 Dated: July 8, 2026

Respectfully submitted,

16 ERIC GRANT
17 United States Attorney

18 By: /s/ Elisa M. Rodriguez
19 ELISA M. RODRÍGUEZ
20 Assistant United States Attorney
21 Attorneys for Respondents
22
23
24
25
26
27
28