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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION**

Yeni Mota Aparicio,

Petitioner,

v.

Christopher Chestnut, et al.,

Respondents.

Case Number: **1:26-cv-05110-KES-EGC**

**PETITIONER'S REPLY IN SUPPORT
OF PETITION FOR WRIT OF HABEAS
CORPUS AND REQUEST FOR
INJUNCTIVE RELIEF**

INTRODUCTION

Respondents' Opposition rests entirely on the assertion that Petitioner is subject to mandatory detention under 8 U.S.C. § 1226(c)(1)(A). But Respondents have not established the statutory premise necessary for that conclusion: that Petitioner is "inadmissible by reason of" an offense covered by 8 U.S.C. § 1182(a)(2).

Respondents rely on Petitioner's 2016 conviction under California Penal Code § 484. Their own Opposition, however, acknowledges that the offense carried a maximum sentence of six months and that Petitioner received a sentence of 180 days.

Those facts satisfy the penalty limitations of the petty-offense exception. Respondents, however, do not establish that Petitioner falls outside that exception because they never demonstrate that her later conviction under California Penal Code § 242 constitutes a crime involving moral turpitude.

1 Respondents did not submit a Form I-286, any contemporaneous custody determination,
2 or another DHS record identifying the statutory basis for Petitioner's detention. Instead, they
3 rely on an I-213, an NTA charging only inadmissibility under § 1182(a)(6)(A)(i), and a
4 criminal-history summary.
5

6 Because Respondents have not established that Petitioner falls within § 1226(c), their
7 reliance on *Jennings*, *Demore*, *Avilez*, and *Oth* does not resolve the threshold issue before the
8 Court. Petitioner remains likely to establish that she is not subject to mandatory detention and
9 that she is entitled to an individualized bond hearing.

10 ARGUMENT

11 I. RESPONDENTS HAVE NOT ESTABLISHED THAT PETITIONER IS 12 INADMISSIBLE UNDER § 1182(a)(2) OR SUBJECT TO § 1226(c)(1)(A)

13 Section 1226(c)(1)(A) applies to a noncitizen who "is inadmissible by reason of having
14 committed any offense covered in section 1182(a)(2)." Respondents therefore must first
15 establish that Petitioner is inadmissible under § 1182(a)(2).

16 Respondents identify Petitioner's 2016 conviction under California Penal Code § 484
17 as the relevant crime involving moral turpitude. Opp. at 3. They rely on *Silva v. Barr*, 965 F.3d
18 724, 729 (9th Cir. 2020), for the proposition that petty theft under § 484 may constitute a crime
19 involving moral turpitude.

20 That does not complete the statutory analysis. Section 1182(a)(2)(A)(ii)(II) contains an
21 exception when: (1) The noncitizen committed only one crime involving moral turpitude; (2)
22 the maximum possible penalty did not exceed imprisonment for one year; and (3) the sentence
23 imposed did not exceed six months.

24 Respondents effectively concede the second and third elements. They state that the theft
25 offense carried a maximum possible sentence of six months and that the actual sentence imposed
26 was 180 days. Opp. at 3–4.

27 Respondents attempt to defeat the first element merely by observing that Petitioner later
28 sustained another conviction under California Penal Code § 242. But Respondents do not argue,

1 much less demonstrate, that the § 242 conviction is itself a crime involving moral turpitude.
2 They cite no authority analyzing § 242, identify no qualifying element of moral turpitude, and
3 submit no conviction records showing the factual or legal basis of the plea.
4

5 The Opposition therefore confuses “only one crime involving moral turpitude” with
6 “only one criminal conviction of any kind.” The statutory text uses the former standard. A
7 second conviction does not eliminate the petty-offense exception unless Respondents establish
8 that the second offense is also relevant under § 1182(a)(2).

9 Respondents identify the 2016 theft conviction as a crime involving moral turpitude.
10 They do not argue, however, that Petitioner’s later conviction under California Penal Code §
11 242 is likewise a crime involving moral turpitude. Nor do they provide any categorical analysis,
12 conviction records, or authority supporting that proposition. Consequently, Respondents have
13 not established that Petitioner falls outside the petty-offense exception.

14 Accordingly, Respondents have not established the predicate required for mandatory
15 detention under § 1226(c)(1)(A).

16 **II. RESPONDENTS HAVE NOT ESTABLISHED THAT RESPONDENT IS**
17 **SUBJECT TO 1226(C) DETENTION**

18 Respondents assert that Petitioner is detained under §1226(c), yet they did not submit the
19 contemporaneous DHS custody determination or another comparable record identifying that
20 statutory classification.
21

22 The Opposition does not include:

- 23 1. a Form I-286, Notice of Custody Determination.
- 24 2. another DHS custody-classification record identifying § 1226(c) as the basis for
25 detention.
- 26 3. a decision from an Immigration Judge finding Petitioner subject to § 1226(c).
- 27 4. a *Joseph*-hearing determination.
- 28 5. a certified judgment or disposition for the 2016 conviction.
6. the plea agreement or plea transcript.

7. a certified judgment or disposition for the 2025 conviction or
8. other conviction records establishing that the § 242 offense is a crime involving moral turpitude.

Petitioner does not assert that no Form I-286 exists or that it was never served. Petitioner's counsel does not presently possess that document, and Respondents did not submit it. The present record therefore does not establish when DHS made the alleged § 1226(c) determination, what evidence DHS considered, or how DHS concluded that the petty-offense exception did not apply.

The I-213 and criminal-history summary may report the existence of arrests or convictions, but they do not substitute for the legal analysis and conviction records necessary to establish that Petitioner is inadmissible under § 1182(a)(2).

Respondents ask this Court to deny habeas relief based on § 1226(c), yet the documents they submitted do not establish the factual and legal predicates for that classification.

III. THE NTA CONTRADICTS RESPONDENTS' ASSERTION THAT DHS PLACED PETITIONER IN REMOVAL PROCEEDINGS "BECAUSE OF HER CIMT"

Respondents state:

"Because of her CIMT—the 2016 theft conviction, DHS placed her in removal proceedings by charging her with a Notice to Appear."

Opp. at 3.

The NTA does not support that statement. The NTA alleges that Petitioner:

1. is not a citizen or national of the United States.
2. is a native and citizen of Mexico.
3. entered at an unknown place and on an unknown date and
4. was not admitted or paroled after inspection.

Based on those allegations, DHS charged Petitioner only under INA § 212(a)(6)(A)(i), as a person present without admission or parole. The NTA does not charge inadmissibility under §

1 212(a)(2), does not identify the theft conviction as a ground of inadmissibility, and does not allege
2 that Petitioner is inadmissible because of a crime involving moral turpitude.
3

4 Petitioner recognizes that a detention classification and a removability charge are legally
5 distinct inquiries. The absence of a § 212(a)(2) charge from the NTA is therefore not, standing
6 alone, dispositive. It nevertheless is inconsistent with Respondents' assertion that DHS placed
7 Petitioner in removal proceedings "because of her CIMT" and further illustrates the absence of a
8 contemporaneous record supporting Respondents' present litigation position.

9 The only DHS charging document presently before the Court alleges inadmissibility
10 solely under INA § 212(a)(6)(A)(i).

11 **IV. RESPONDENTS OMIT MATERIAL EVIDENCE OF PETITIONER'S**
12 **REHABILITATION AND COMPLIANCE**

13 Respondents' Opposition discusses Petitioner's criminal history but omits undisputed
14 evidence demonstrating her rehabilitation and compliance with every condition imposed by the
15 state court. Prior to her arrest by ICE, Petitioner successfully completed court-ordered parenting
16 classes, successfully completed the required child abuse program, complied with probation,
17 completed community service, and voluntarily appeared at her state-court compliance hearing. It
18 was while appearing for that compliance hearing, not while evading authorities, that ICE arrested
19 her. Respondents do not dispute these facts. Although this evidence does not determine the
20 statutory applicability of §1226(c), it substantially undermines any suggestion that Petitioner
21 presents an ongoing danger or is unwilling to comply with court orders and strongly supports the
22 equitable factors governing the requested relief.
23

24 **V. RESPONDENTS' AUTHORITIES DO NOT RESOLVE WHETHER**
25 **PETITIONER FALLS WITHIN § 1226(c)**

26 Respondents rely on *Jennings v. Rodriguez*, 583 U.S. 281 (2018), *Avilez v. Garland*, 69
27 F.4th 525 (9th Cir. 2023), *Demore v. Kim*, 538 U.S. 510 (2003), and *Oth v. Chestnut*, No. 1:25-
28 cv-01367-KES-HBK, 2026 WL 323053 (E.D. Cal. Feb. 6, 2026).

1 Those authorities address detention after a noncitizen falls within § 1226(c). They do not
2 eliminate the need to determine whether the statutory prerequisites apply in the first place.

3 *Jennings* explains the operation of § 1226(c) for noncitizens who fall within its
4 enumerated categories. It does not hold that the Government may establish membership in those
5 categories through an unsupported litigation assertion.

6 *Avilez* concerns how long § 1226(c) continues to govern once it applies. It does not
7 determine whether Petitioner's particular convictions place her within § 1226(c)(1)(A).

8 *Demore* likewise does not resolve the threshold dispute presented here. Petitioner is not
9 presently asking the Court to impose a general temporal limitation on detention that has already
10 been established as mandatory. She disputes that Respondents have demonstrated that her
11 detention is mandatory at all.

12 *Oth* is similarly distinguishable. Before the Court may apply authority concerning the
13 consequences of § 1226(c), Respondents must first establish that Petitioner comes within that
14 provision.

15 The unresolved statutory question is therefore anterior to Respondents' cited authorities:
16 whether Petitioner is inadmissible under § 1182(a)(2), despite the petty-offense exception.
17 Respondents have not carried that threshold showing.

18
19 **VI. THE POSSIBILITY OF A *JOSEPH* HEARING DOES NOT JUSTIFY DENIAL**
20 **OF THE PETITION ON THE PRESENT RECORD**

21 Respondents argue that Petitioner may ask the Immigration Court for a hearing under
22 *Matter of Joseph*, 22 I. & N. Dec. 799 (BIA 1999). Opp. at 4.

23 That observation does not establish that Respondents are entitled to denial of this habeas
24 petition. Respondents have not shown:

- 25
- 26 1. that Petitioner received a custody determination identifying § 1226(c).
 - 27 2. that she was informed of an opportunity to seek review of that determination.
 - 28 3. that a *Joseph* hearing has been scheduled or conducted.
 4. that an Immigration Judge has reviewed the petty-offense exception or

1 5. that any administrative decision supports Respondents' position.

2 The existence of a potential administrative procedure cannot substitute for Respondents'
3 obligation to justify the detention they ask this Court to uphold. Nor does the Opposition identify
4 any authority holding that Petitioner must complete a *Joseph* hearing before this Court may
5 examine the legal basis for her physical custody under § 2241.
6

7 At minimum, the Court should not deny the petition without requiring Respondents to
8 produce the custody determination and conviction records on which their § 1226(c) assertion
9 depends.

10 **VII. PETITIONER REMAINS LIKELY TO ESTABLISH THAT SHE IS ELIGIBLE**
11 **FOR AN INDIVIDUALIZED BOND HEARING**

12 The class definition in *Maldonado Bautista* excludes persons subject to detention under §
13 1226(c), § 1225(b)(1), or § 1231 when DHS makes its initial custody determination.

14 Respondents rely exclusively on § 1226(c) to argue that Petitioner is excluded. For the
15 reasons above, they have not established that § 1226(c) applies.

16 The undisputed record otherwise shows that Petitioner:

- 17 1. entered the United States without inspection.
18 2. was not apprehended upon her most recent entry,
19 3. lived in the interior of the United States for many years and
20 4. was arrested by ICE in the interior on June 15, 2026.
21

22 If Petitioner is not subject to § 1226(c), Respondents have not identified another statutory
23 basis that excludes her from the bond-eligible class. She therefore remains likely to succeed on
24 her claim that continued detention requires an individualized custody hearing.

25 **VIII. RESPONDENTS DO NOT ADDRESS PETITIONER'S EVIDENCE OF**
26 **IRREPARABLE HARM OR THE REMAINING EQUITABLE FACTORS**

27 Respondents' four-page argument does not meaningfully address Petitioner's evidence
28 concerning irreparable harm, the balance of equities, or the public interest.

Petitioner submitted a detailed declaration describing:

- deterioration of her physical and mental health.
- interruption and delay of medical treatment.
- severe cold and allegedly unsanitary conditions.
- inadequate access to food, water, clothing, and hygiene supplies.
- recurring anxiety and inability to sleep.
- separation from her two United States citizen minor daughters and
- substantial emotional, medical, educational, and financial consequences for her family.

Nor do Respondents dispute Petitioner's evidence demonstrating her compliance with probation, completion of court-ordered rehabilitative programs, or her voluntary appearance at the state-court hearing where ICE arrested her. Those undisputed facts further support the balance of equities in Petitioner's favor.

Respondents also do not dispute that Petitioner was arrested while appearing voluntarily at a state-court compliance hearing. That circumstance is inconsistent with an inference that she was evading authorities or unwilling to comply with judicial obligations.

The Government has a legitimate interest in ensuring Petitioner's appearance and protecting the community. But those interests can be addressed through an individualized bond hearing at which the relevant evidence, ability to pay, and alternatives to detention may be considered. The Government has not shown why continued detention without such a hearing is necessary.

CONCLUSION

Respondents have not established that Petitioner is inadmissible under § 1182(a)(2) or subject to mandatory detention under § 1226(c)(1)(A). Their own description of the 2016 theft conviction satisfies the sentencing limitations of the petty-offense exception, and they have neither argued nor shown that Petitioner's later § 242 conviction is another crime involving moral turpitude.

Petitioner respectfully requests that the Court:

1. grant the petition and order her release or an individualized bond hearing within a time certain;
2. grant appropriate temporary and preliminary injunctive relief preventing her transfer outside this District while the petition remains pending; or,
3. alternatively, if the Court concludes that the present record is insufficient to resolve whether §1226(c) applies, Petitioner respectfully requests that the Court require Respondents to supplement the record with the contemporaneous custody determination and competent conviction records supporting their assertion that Petitioner is subject to mandatory detention.

The Court should not deny the petition based solely on an unsubstantiated assertion that Petitioner is subject to § 1226(c).

Dated: July 13, 2026,

Respectfully Submitted,

/s/ Mario Salgado
Mario Salgado, Esq.

CERTIFICATE OF SERVICE

I, Mario Salgado, am over the age of 18 and maintain a business address at 605 Market Street, Suite 1111, San Francisco, California 94105. I electronically served the **PETITIONER'S REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR INJUNCTIVE RELIEF** to the United States Attorney's Office for the Eastern District of California, 501 I Street, Suite 10-100, Sacramento, CA 95814, via this Court's electronic filing system.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: July 13, 2026,

Respectfully Submitted,

/s/ Mario Salgado
Mario Salgado, Esq.