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6
7 IN THE UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA

9 MERCY REBECCA COWO,

10 Petitioner,

11 v.

12 WARDEN OF THE CALIFORNIA CITY
13 DETENTION FACILITY ET AL.,

14 Respondents.

CASE NO. 1:26-CV-05191-KES-SAB

RESPONSE TO PETITION

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16 INTRODUCTION
17

18 This petition should be denied because Petitioner Mercy Rebecca Cowo is held un-
19 der 8 U.S.C. § 1226(c) and her custody remains constitutional under controlling precedent.
20 Detention during removal proceedings is a permissible part of removal proceedings and
21 does not require court-crafted bond procedures in the mandatory-detention posture.
22 *Demore v. Kim* confirms that “detention during removal proceedings is a constitutionally
23 permissible part of that process,” and may last for the brief period necessary to complete
24 those proceedings. *Demore v. Kim*, 538 U.S. 510, 513, 531 (2003). *Jennings v. Rodriguez*
25 underscores that detention has a definite termination point tied to adjudication. *Jennings*
26 *v. Rodriguez*, 583 U.S. 281, 304–06 (2018). Applying *Mathews*, the record shows adequate
27 procedures and no need for judge-made safeguards or burden shifting. *Rodriguez Diaz v.*
28 *Garland*, 53 F.4th 1189, 1207–10 (9th Cir. 2022).

RESPONSE TO PETITION

FACTUAL BACKGROUND

Cowo is a citizen of Belize, was admitted to the United States as a lawful permanent residence in 1996. Exh. A at 2. In the United States, she committed a series of crimes that made her removable from the United States. *Id.* at 2–3, 5–8; Exh. B. On October 1, 2014, she was convicted of violating Cal. Penal Code § 32 and received a three-year jail sentence. Exh. B at 32, 45, 83. On March 26, 2025, after her latest arrest, the county sheriff released her to the Department of Homeland Security (DHS) who detained her and resumed removal proceedings. Exh. A at 2–3; 5–8.

On April 4, 2025, she appeared for a custody redetermination hearing and withdrew her request for release. Exh. C.

She then attended multiple hearings and filed an application for cancellation of removal. *See* Exh. D at 6–18. On May 18, 2026, she asked for another continuance that the immigration judge granted. *See id.* at 6–7. The IJ granted a continuance and set a final merit hearing for June 10, 2026. *Id.* at 2. At that hearing, the IJ found that Cowo had been convicted of an aggravated felony, denied relief, and ordered removal to Belize. *Id.* at 2–4. She served DHS with a notice of appeal that has not yet been accepted by the Board of Immigration Appeals. *See* Exh. E.

ARGUMENT

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

Section 1226(c) requires DHS to detain noncitizens deportable on enumerated criminal grounds, including aggravated felonies. 8 U.S.C. § 1226(c)(1)(B). Cowo's Cal. Penal Code § 32 conviction is a categorical obstruction-of-justice offense that qualifies as an aggravated felony when the sentence is one year or more. INA § 101(a)(43)(S); *Matter of Valenzuela Gallardo*, 29 I. & N. Dec. 536, 540 (BIA 2026). A noncitizen convicted of an aggravated felony is removable under INA § 237(a)(2)(A)(iii), and noncitizens deportable under that section are subject to mandatory detention. 8 U.S.C. § 1226(c)(1)(B).

1 Cowo disputed the aggravated-felony finding before the IJ, but the IJ found her con-
2 victed of an aggravated felony. Exh. D at 3. Disputes about mandatory detention proceed,
3 at most, to a *Joseph* hearing before the IJ, not to habeas. *Demore*, 538 U.S. at 513, 531.

4 **B. Cowo's detention is constitutional under *Mathews*.**

5 Under *Mathews v. Eldridge*, courts balance (1) the private interest affected, (2) the
6 risk of erroneous deprivation and the probable value of additional safeguards, and (3) the
7 Government's interests, including administrative burdens. This framework, as applied in
8 immigration detention, does not require categorical burden shifting or automatic second
9 bond hearings; existing procedures satisfy due process absent a case-specific showing of
10 inadequacy. *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1207–14 (9th Cir. 2022); *Mathews*
11 *v. Eldridge*, 424 U.S. 319, 335 (1976).

12 Cowo's has a liberty interest that is limited by the fact she is properly detained dur-
13 ing removal proceedings which have a definite termination point. This brief period of
14 detention is constitutional during removal proceedings. *Demore*, 538 U.S. at 513, 531.

15 Delays have been caused by her choices. While detained for fifteen months before
16 her final hearing, that delay was caused by her desire to present additional evidence. *See*
17 Exh. D at 6–7 (requesting additional preparation time fourteen months after detention).
18 Under such circumstances, disputes about mandatory detention proceed, at most, to a *Jo-*
19 *seph* hearing before the IJ; due process does not require a bond hearing. Cowo has not
20 shown that existing procedures create a material risk of erroneous detention that addi-
21 tional safeguards would mitigate. *Rodriguez Diaz*, 53 F.4th at 1209–10.

22 Ensuring appearance and protecting the community are interests “of the highest or-
23 der,” and they remain weighty in this case where custody is predicated on an
24 aggravated-felony conviction that led to a three-year sentence and an IJ has already found
25 she lacks a pathway to remaining in the United States. Imposing additional procedures in
26 the mandatory-detention posture would undercut those interests and add administrative
27 burdens that *Rodriguez Diaz* disfavors absent a concrete showing of procedural inade-
28 quacy. *Rodriguez Diaz*, 53 F.4th at 1208.

1 Applying *Mathews* as explained in *Rodriguez Diaz*, Cowo's detention under
2 § 1226(c) remains constitution. She is not entitled to relief.

3 CONCLUSION

4 Cowo's detention falls within § 1226(c)'s mandatory-detention framework. Her de-
5 tention has not become unconstitutionally prolonged while proceedings advance, and any
6 delay stems from her own litigation choices. The petition should be denied or dismissed.

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8 Dated: July 29, 2026

ERIC GRANT
United States Attorney

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10 By: /s/ Jonathan Williams
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PROOF OF SERVICE

I certify that I am an employee in the Office of the United States Attorney for the Eastern District of California and a person of such age and discretion to be competent to serve papers; that on July 29, 2026, I prepared these documents for mailing and sent them to a member of the U.S. Attorney support staff to place in the United States Mail at Sacramento, California, to deliver to the addressee, at the place and address stated below, which is the last known address.

Addressee:

Mercy Rebecca Cowo


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