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

9 FERLEY LOPEZ TORRES,

10 Petitioner,

11 v.

12 WARDEN, CALIFORNIA CITY DETENTION
FACILITY,

13 Respondent.
14

CASE NO. 1:26-CV-05190-DJC-JDP

RESPONSE TO ORDER TO SHOW CAUSE

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18 **INTRODUCTION**

19 This Court should deny Petitioner Ferley Lopez Torres's petition for writ of habeas cor-
20 pus and motion for temporary restraining order. Torres's custody is governed by 8 U.S.C.
21 § 1226(c) because his 2008 drug trafficking conviction resulted in a four-year prison sentence.
22 Exh. A at 1–2. He is detained under § 1226(c) and thus not eligible for bond. At most, he may
23 request a *Joseph* hearing. *Matter of Joseph*, 22 I. & N. Dec. 799 (BIA 1999).

24 This case is materially different from the Court's prior orders in *Garcia Mariagua*, *Or-*
25 *tega*, and *Lopez*. Those cases addressed applicants or § 1226(a) detainees re-detained
26 without pre-deprivation process; none involved mandatory detention under § 1226(c) based on
27 a criminal classification and focused instead on pre-deprivation process for applicants or
28 § 1226(a) detainees. They do not control here.

RESPONSE TO ORDER TO SHOW CAUSE

FACTUAL BACKGROUND

Torres, a citizen of Colombia, entered the United States without inspection in 2022 and was released on his own recognizance. Exh. B at 10–13. Department of Homeland Security (DHS) record checks revealed no criminal history. *Id.* at 10.

Torres did not disclose a 2008 drug trafficking conviction in Colombia. Exh. A at 1. He claims that he has “no penal antecedents in Colombia, nor any part of this world.” *Petition* ¶ 23, Doc. 1. Torres admitted that he is inadmissible to the United States and so an immigration judge (IJ) sustained the charges of removability and designated Colombia as the country of removal. Exh. A at 5.

On June 19, 2026, after learning of the foreign conviction, DHS detained Torres at his last known address. Exh. B at 2–4. He admitted he is inadmissible, and an IJ sustained removability and designated Colombia for removal. *Id.* at 5. His next immigration-court hearing is July 21, 2026. Exh. C. He has not asked an IJ to review DHS’s claim that § 1226(c) governs his custody.

ARGUMENT

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

Section 1226(c)(1)(A) requires DHS to detain any noncitizen “inadmissible by reason of having committed any offense covered in” § 1182(a)(2). 8 U.S.C. § 1226(c)(1)(A); *see* 8 U.S.C. § 1182(a)(2). One of those covered grounds, § 1182(a)(2)(C)(i), renders inadmissible “any alien who the ... Attorney General knows or has reason to believe is or has been an illicit trafficker in any controlled substance.” 8 U.S.C. § 1182(a)(2)(C)(i). Because § 1182(a)(2)(C) sits within § 1182(a)(2), mandatory detention under § 1226(c) attaches.

Mandatory detention applies to aliens described in § 1226(c)(1), regardless of arrest timing. *Nielsen v. Preap*, 586 U.S. 392, 414–15 (2019). *Preap* also recognizes that § 1226(c)(1) predicates include categories that do not require a criminal conviction—confirming that Congress keyed detention to the description, not to conviction-timing formalities. *Id.* at 417.

The “reason to believe” standard does not require a conviction; it is met by probable cause grounded in reliable evidence and may be shown through circumstantial proof. *See*,

1 e.g., *Alarcon-Serrano v. INS*, 220 F.3d 1116, 1119–20 (9th Cir. 2000). On this record—Torres’s
2 certified judgment reflecting drug-trafficking conduct and the four-year sentence—DHS had
3 ample reason to believe he is or has been an illicit trafficker in controlled substances. Exh. A at
4 1–2.

5 If Torres disputes inclusion in § 1226(c), his remedy is the *Matter of Joseph* process.
6 The immigration judge may release a detainee only if the noncitizen shows DHS is substan-
7 tially unlikely to establish that he falls within § 1226(c). *Matter of Joseph*, 22 I. & N. Dec. 799,
8 800–01 (BIA 1999). That hearing is available now.

9 **B. Torres’s detention is constitutional.**

10 Detention during removal proceedings is finite and lawful; it ends when those proceed-
11 ings conclude. *Jennings v. Rodriguez*, 583 U.S. 281, 304 (2018). Detention under Section
12 1226(c) is constitutional as part of the removal process. *Demore v. Kim*, 538 U.S. 510, 531
13 (2003)

14 Detention remains valid so long as it serves its immigration purposes—ensuring appear-
15 ance and protecting the public. *Kim*, 538 U.S. at 527. The government’s interests are “of the
16 highest order” and may strengthen over time. *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1208
17 (9th Cir. 2022) (quoting *Kim*, 538 U.S. at 515). Indeed the “longer the challenges to an IJ’s or-
18 der of removal take, the more resources the government devotes to securing an alien’s
19 ultimate removal” and, correspondingly, “[t]he risk of a detainee absconding also inevitably es-
20 calates as the time for removal becomes more imminent.” *Id.*

21 Here, Torres’s trafficking judgment is directly tied to danger to the community and flight
22 risk. DHS may detain him under § 1226(c) while his case proceeds.

23 **CONCLUSION**

24 Torres’s detention stems from DHS’s reason-to-believe determination under
25 § 1182(a)(2)(C)(i) and falls squarely within § 1226(c)’s mandatory-detention framework. His
26 brief time in custody is not unconstitutionally prolonged. The Court should deny the petition
27 and the motion for a temporary restraining order.

1 Dated: July 14, 2026

ERIC GRANT
United States Attorney

2
3 By: /s/ Jonathan Williams
4 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 14, 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:

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