

1 ERIC GRANT
United States Attorney
2 SHELLEY D. WEGER
Assistant United States Attorney
3 501 I Street, Suite 10-100
Sacramento, CA 95814
4 Telephone: (916) 554-2700
5 Attorneys for Respondents

6
7
8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
10

11 ANGEL PAUL ARBOLEDA YANEZ,
12 

13 Petitioner,

14 v.

15 U.S. DEPARTMENT OF HOMELAND
SECURITY,

16 Respondents.
17

No. 1:26-CV-05258-TLN-SCR

**OPPOSITION TO PETITION FOR WRIT OF
HABEAS CORPUS**

18 The petition should be denied because Petitioner is subject to mandatory detention pursuant to 8
19 U.S.C. § 1225(b) and 8 U.S.C. § 1226(c). Petitioner was re-detained after being released from jail for
20 shoplifting. An immigration judge ordered Petitioner removed in May 2026, and Petitioner appealed his
21 removal order to the Board of Immigration Appeals. Petitioner remains detained pending the outcome
22 of his appeal.

23 **BACKGROUND**

24 Petitioner entered with United States illegally, on an unknown date, without inspection. Ex. 1 (I-
25 231), 4 (notice to appear), 5 (removal order). Petitioner was first detained by U.S. Border Patrol in New
26 Mexico in 2022 and released on Alternatives to Detention. Ex. 1. Petitioner was again encountered by
27 immigration authorities in 2023 after he was arrested and incarcerated in Newark, New Jersey. Ex. 1 at
28

p. 2. He was transferred into ICE custody on May 2, 2023, granted bond by an immigration judge, Ex. 3 (2023 bond order), and released on bond on September 9, 2023, Ex. 1 at p.2. Between January 2023 and February 5, 2026, Petitioner was arrested on numerous occasions for crimes including simple assault, endangering abuse/neglect of a child, shoplifting, possession of anti-security item, and petit larceny. Ex. 1 at pp. 2-3. The majority of these arrests did not result in convictions. See Ex. 1 at p. 2; Ex. 2 (RAP sheet). In pertinent part, Petitioner was arrested for shoplifting offenses on both April 29, 2025, and February 5, 2026. Ex. 5. Ex. 2 at pp.10-11.

On May 1, 2026, Petitioner was denied all relief from removal and was ordered removed to his native Ecuador. Petitioner appealed his removal order and that appeal remains pending. Ex. 6.

ARGUMENT

1. Detention under 8 U.S.C. § 1226(c)(1)(e)(ii)

Petitioner appears to be subject to detention under 8 U.S.C. § 1226(c)(1)(e)(ii) because he was twice arrested for shoplifting charges, after section 1226(c)(1)(e)(ii) took effect. Petitioner was transferred from criminal custody to immigration custody after his most recent arrest for shoplifting. Ex. 1. Petitioner contends he was not convicted, however, his RAP sheet lists the disposition as “remand lower court.” Ex. 2 at p. 10. Even diversionary or alternative sentences may result in mandatory detention under section 1226(c)(1)(E)(ii). Further, the plain language of section 1226(c)(1)(e)(ii) provides that an alien shall be detained if they were arrested for *or* convicted of acts which constitute the essential elements of shoplifting. 8 U.S.C. § 1226(c)(1)(E)(ii); see *Yaman v. Warden*, No. 1:26-cv-2048-DJC-JDP, 2026 WL 1162729, *2 (E.D. Cal. Apr. 29, 2026) (statute does not require a conviction). Thus, Petitioner’s arrests are sufficient to mandate his detention. To the extent Petitioner wishes to challenge whether the disposition of his most recent arrest or the facts of Petitioner’s case make him subject to mandatory detention under section 1226(c)(1)(e)(ii), he should be required to challenge his detention in the immigration court in the first instance via a *Matter of Joseph* hearing. At a *Matter of Joseph* hearing, a “detainee may avoid mandatory detention by demonstrating that he is not an alien, was not convicted of the predicate crime, or that the INS is otherwise

1 substantially unlikely to establish that he is in fact subject to mandatory detention.” *Demore v. Kim*, 538
2 U.S. 510, 514 (2003).¹

3 **2. Detention under 8 U.S.C. § 1225(b)**

4 At a minimum, even if section 1226(c) does not mandate Petitioner’s detention, this case is in the
5 category of immigration habeas cases for which the Court has typically ordered a bond hearing to
6 determine Petitioner’s suitability for release from detention pending a final order of removal. Petitioner
7 is in pre-order detention² and has criminal history. Ex. 1 (I-213); Ex. 2 (RAP sheet).

8 Should the Court find due process requires a bond hearing, Respondents do not offer any
9 opposition at this time to the Court ordering a bond hearing. Respondents would request a 14-day
10 period in which to set the ordered bond hearing.

11 Respondents preserve their position that Petitioner is subject to the mandatory pre-order
12 detention statute, 8 U.S.C. § 1225(b). Petitioner entered the United States illegally is thus an “applicant
13 for admission” who is subject to mandatory detention. *Joaquin Herrera Avila v. Bondi*, No. 25-3741
14 (8th Cir. March 25, 2026); *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330, at *1 (5th
15 Cir. Feb. 6, 2026); *see also Cortes Alonzo v. Noem*, 1:25-cv-01519-WBS-SCR at Dkt. 14 (E.D. Cal.
16 Nov. 17, 2025). Petitioner does not possess a right to freedom from immigration detention in any form
17 other than the form provided by Congress. *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206,
18 212 (1953), *reaffirmed in DHS v. Thuraissigiam*, 591 U.S. 103, 139 (2020).

19 Because Petitioner remains in pre-order detention while he appeals his removal order, the question
20 he raises of whether his removal is imminent (i.e., whether there is a significant likelihood of removal in
21 the reasonably foreseeable future) is inapposite. *See* ECF 1 at p. 8. That inquiry only ever applies post-
22 removal and once a petitioner has been detained beyond the 90-day removal period. Here, Petitioner’s
23 detention is mandated by statute through the conclusion of his removal proceedings. Thus, his detention
24 has a definite end point, and this case does not raise the same constitutional concerns as *Zadvydas v.*

25
26
27 ¹ This decision was issued prior to addition of subsection 1226(c)(1)(E)(ii) that mandates
detention based on not only a conviction but also an arrest.

28 ² Although Petitioner has been ordered removed, he is still in pre-order detention because he has
appealed his removal decision to the BIA. Thus, his removal order is not administratively final.

Davis, where the petitioners were stuck in removable-but-unremovable limbo.³

CONCLUSION

For these reasons and because Petitioner is subject to mandatory detention, the Court should deny the petition.

Dated: July 17, 2026

Respectfully submitted,

ERIC GRANT
United States Attorney

By: /s/ Shelley D. Weger
SHELLEY D. WEGER
Assistant United States Attorney
Attorneys for Respondents

³ To the extent Petitioner contends that ICE has not yet secured a travel document for his removal, ICE does not begin the process of securing any necessary travel document until after the removal order becomes administratively final.

Petitioner's separate complaints about the standard of medical care are not properly considered in a habeas petition. "[A] habeas claim is one challenging the fact of confinement, rather than the conditions of confinement." *Doe v. Garland*, 109 F.4th 1188, 1194 (9th Cir. 2024); accord *Pinson v. Carvajal*, 69 F.4th 1059, 1069 (9th Cir. 2023) ("the writ of habeas corpus is limited to attacks upon the legality or duration of confinement") (citation omitted); see, e.g., *Garcia Boscan v. Becerra*, 2026 WL 1865473 (E.D. Cal. June 28, 2026) (dismissing petition alleging inadequate medical care).

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Eastern District of California and is a person of such age and discretion to be competent to serve papers. She also certifies that on July 17, 2026, a copy of the OPPOSITION was served by placing said copy in a postpaid envelope addressed to the person(s) hereinafter named, at the place(s) and address(es) stated below, which is/are the last known address(es), and by depositing said envelope and contents in the United States Mail at Sacramento, California.

Addressee: **Angel Paul Arboleda Yanez**


CALIFORNIA CITY (ICE)
P.O. Box 2513
22844 Virginia Boulevard
California City, CA 93505

/s/ Shelley D. Weger
SHELLEY D. WEGER