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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RICHARD JEUDY,



Petitioner,

v.

WARDEN, CENTRAL VALLEY ANNEX
DETENTION FACILITY,

Respondent.

No. 1:26-CV-05329-TLN-CKD

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

I. INTRODUCTION

Petitioner is a career felon with a criminal record spanning over two decades. Because of his criminal record, Petitioner is subject to mandatory detention under 8 U.S.C. §§ 1226(c)(1)(A) and (B); specifically, on account of his drug convictions involving heroin and cocaine. Petitioner has been in immigration detention since February 28, 2026. Because Petitioner's detention is mandatory under §§ 1226(c)(1)(A) and (B), and because his detention has not become prolonged, this Court should deny his requests for relief. Respondent does not request a hearing.

II. FACTUAL BACKGROUND

Petitioner is a native and citizen of Haiti who was admitted to the United States as a Lawful Permanent Resident on or about December 28, 2000. Exhibit A (Notice to Appear). Petitioner has a criminal record spanning over the course of 25 years in the United States. Exhibit B (rap sheet). His

1 arrests include the crimes of Forgery, Battery, Heroin Possession, Grand Theft, Possession of Cocaine
2 for Sale, Petit Theft, and Driving With a Suspended License. *Id.* On July 13, 2015, Petitioner was
3 convicted of heroin possession in the Circuit Court for Palm Beach County, Florida. Exhibits B, C
4 (criminal records), D (I-213). On February 27, 2017, Petitioner was convicted of possession of cocaine
5 in the Circuit Court in and for Palm Beach County, Florida. *Id.* On February 26, 2026, Petitioner was
6 encountered by immigration authorities and lawfully placed into DHS custody. Exhibit E (I-
7 200). Petitioner is currently housed at the Central Valley Annex, McFarland, California. Exhibit F (I-
8 830).

9 On February 26, 2026, Petitioner was placed into immigration proceedings and issued a Notice
10 to Appear (“NTA”). Exhibit A. In a search incident to his arrest, immigration authorities located a vial
11 of oxycodone pills. Exhibit D. Petitioner was charged under section 237(a)(2)(B)(i) of the Immigration
12 and Nationality Act (“INA”) or (“Act”) for having been convicted of a violation of (or a conspiracy or
13 attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a
14 controlled substance, other than a single offense involving possession for one’s own use of 30 grams or
15 less of marijuana. *Id.* He was also charged under section 237(a)(2)(A)(ii) of the INA for having been
16 convicted of two crimes involving mortal turpitude not arising out of a single scheme of criminal
17 misconduct. *Id.* The charge under section 237(a)(2)(A)(ii) of the INA was withdrawn. *Id.*
18 Petitioner’s individual hearing is scheduled for August 20, 2026. Exhibit G (Notice of Hearing).

19 III. LEGAL ARGUMENT

20 A. Petitioner is Subject to Mandatory Detention Under 8 U.S.C. § 1226(c)

21 The detention of a noncitizen pending removal proceedings is governed by 8 U.S.C. 1226. *See*
22 *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022). Under section 1226(a), the “Attorney
23 General may issue a warrant for the arrest and detention of an alien ‘pending a decision on whether the
24 alien is to be removed from the United States.’” *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018)
25 (citation omitted). In general, “the Attorney General ‘may release’ an alien detained under section
26 1226(a) ‘on . . . bond’ or ‘conditional parole.’” *Id.* (citation omitted).

27 However, “[s]ection 1226(c) . . . carves out a statutory category of aliens who may *not* be
28 released.” *Id.* at 289 (emphasis in original). Under this subsection, “the ‘Attorney General shall take

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

6 Consequently, the detention of noncitizens “within [the] scope” of section 1226(c) “*must*
7 continue ‘pending a decision on whether the [noncitizen] is to be removed from the United States.’” *Id.*
8 (citation omitted) (emphasis in original); *see also Avilez v. Garland*, 69 F.4th 525, 535 (9th Cir. 2023)
9 (concluding that section 1226(c) “applies throughout the administrative and judicial phases of removal
10 proceedings”). The subsection does not “limit the length of the detention it authorizes.” *Jennings*, 583
11 U.S. at 303. In fact, “in *Demore v. Kim*, the Supreme Court rejected a due process challenge to
12 mandatory detention under Subsection C on the ground that the detention authorized by Subsection C is
13 relatively short-lived.” *Avilez*, 69 F.4th at 536 (citing *Demore v. Kim*, 538 U.S. 510, 529 (2003)). The
14 Court distinguished section 1226(c) from section 1231(a)(6) (which governs detention following the
15 entry of a final order of removal) “by pointing out that detention under [the former] has ‘a definite
16 termination point’: the conclusion of removal proceedings.” *Jennings*, 583 U.S. at 304 (quoting *Demore*,
17 538 U.S. at 529).

18 A person “who believes that he is not covered by § 1226(c) may . . . ask for what is known as a
19 ‘Joseph hearing’” from the immigration court. *Jennings*, 583 U.S. at 289 n.1 (citing *Matter of Joseph*,
20 22 I&N Dec. 799 (BIA 1999)). At such a hearing, “the detainee may avoid mandatory detention by
21 demonstrating that he is not an alien, was not convicted of the predicate crime, or that the [government]
22 is otherwise substantially unlikely to establish that he is in fact subject to mandatory detention.”
23 *Demore*, 538 U.S. at 514 n.3 (2003).

24 Here, Petitioner has two separate convictions for possession of heroin and possession of cocaine.
25 For the cocaine offense, he was sentenced to 210 days in prison. Exhibits B, C. Section 1226(c)
26 expressly provides that the “Attorney General shall take into custody any alien who . . . is inadmissible
27 by reason of having committed any offense covered in section 1182(a)(2) of this title.” 8 U.S.C. §
28 1226(c)(1)(A). A person is inadmissible under 8 U.S.C. § 1182(a)(2) if they are convicted of, or admits

1 having committed, or admits committing acts which constitute the essential elements of a violation of
 2 any law or regulation of a State, the United States, or a foreign country related to a controlled substance.
 3 8 U.S.C. § 1182(a)(2)(A)(i)(II). Petitioner's convictions violated the laws of the State of Florida under
 4 Florida Statutes § 893.13(6)(a) – Possession of Heroin, and Fla. Stats. § 893.13(6)(a) – Possession of
 5 Cocaine. These state crimes equate to the federal drug offenses codified under Title 21 of the United
 6 States Code. *See* 21 U.S.C. §§ 841(a)(1), 844.

7 Petitioner's detention is also mandated by 8 U.S.C. § 1226(c)(1)(B) which makes an alien
 8 deportable by reason of having committed any offense covered in section 1227(a)(2)(B). In turn,
 9 1227(a)(2)(B) states that an "alien who at any time after admission has been convicted of a violation of
 10 any law or regulation of a State, the United States, or a foreign country relating to a controlled substance
 11 other than a single offense involving possession for one's own use of 30 grams or less of marijuana, is
 12 deportable." 8 U.S.C. § 1226(c)(1)(B)(i). Petitioner's convictions qualify as requiring mandatory
 13 detention under 8 U.S.C. § 1226(c)(1)(B).

14 **B. Petitioner's Detention Under § 1226(c) is Constitutional**

15 Petitioner is currently detained pursuant to 8 U.S.C. § 1226(c) while his removal proceedings are
 16 pending. This is not a case where detention is indefinite. Rather, "detention under § 1226(c) has a
 17 definite termination point: the conclusion of removal proceedings." *Jennings*, 583 at 304 (quotation
 18 marks omitted).

19 The Supreme Court has upheld mandatory detention under Section 1226(c) as facially
 20 constitutional. *Demore*, 538 U.S. at 531 ("Detention during removal proceedings is a constitutionally
 21 permissible part of that process."). The Supreme Court stated that "Congress, justifiably concerned that
 22 deportable criminal aliens who are not detained continue to engage in crime and fail to appear for their
 23 removal hearings in large numbers, may require that persons such as [the lawful permanent resident at
 24 issue in *Demore*] be detained for the brief period necessary for their removal proceedings." *Id.* at 513.
 25 It observed that Congress enacted § 1226(c) to curb the risk of flight by deportable criminal noncitizens:

26 Congress also had before it evidence that one of the major causes of the
 27 INS' failure to remove deportable criminal aliens was the agency's failure
 28 to detain those aliens during their deportation proceedings. . . . Once
 released, more than 20% of deportable criminal aliens failed to appear for
 their removal hearings. . . . Some studies presented to Congress suggested

1 that detention of criminal aliens during their removal proceedings might be
2 the best way to ensure their successful removal from this country. *See, e.g.*,
3 1989 House Hearing 75; Inspection Report, App. 46; S. Rep. 104-48, at 32
4 (“Congress should consider requiring that all aggravated felons be detained
5 pending deportation. Such a step may be necessary because of the high rate
of no-shows for those criminal aliens released on bond”). It was following
those Reports that Congress enacted 8 U.S.C. § 1226, requiring the
Attorney General to detain a subset of deportable criminal aliens pending a
determination of their removability.

6 *Id.* at 519–21. The Supreme Court held that “[i]n the exercise of its broad power over naturalization
7 and immigration, Congress regularly makes rules that would be unacceptable if applied to citizens.” *Id.*
8 at 521 (citation omitted). It reaffirmed that immigration detention can be constitutional even in the
9 absence of any showing that an individual detainee posed a flight risk or a danger to the community.
10 *See id.* at 523–27 (discussing *Carlson v. Landon*, 342 U.S. 524 (1952), and concluding that detention
11 was constitutional “even without any finding of flight risk” or “individualized finding of likely future
12 dangerousness”). In short, “the Supreme Court recognized [that] there is little question that the civil
13 detention of aliens during removal proceedings can serve a legitimate government purpose, which is
14 ‘preventing deportable . . . aliens from fleeing prior to or during their removal proceedings, thus
15 increasing the chance that, if ordered removed, the aliens will be successfully removed.’” *See Prieto-*
16 *Romero v. Clark*, 534 F.3d 1053, 1065 (9th Cir. 2008) (quoting *Demore*, 538 U.S. at 528).

17 Detention during removal proceedings remains constitutional so long as it continues to “serve its
18 purported immigration purpose.” *Demore*, 538 U.S. at 527. Those purposes—ensuring an alien’s
19 appearance for removal proceedings and preventing him from committing further offenses—are present
20 throughout removal proceedings and do not abate over time while those proceedings are still pending.²
21 *Id.* Further, “[t]he government has an obvious interest in ‘protecting the public from dangerous criminal
22 aliens.’” *Rodriguez Diaz*, 53 F.4th at 1208 (quoting *Demore*, 538 U.S. at 515). “These are interests of
23 the highest order that only increase with the passage of time.” *Id.* “The longer detention lasts and the
24 longer the challenges to an IJ’s order of removal take, the more resources the government devotes to
25 securing an alien’s ultimate removal” and, correspondingly, “[t]he risk of a detainee absconding also
26 inevitably escalates as the time for removal becomes more imminent.” *Id.* This precedent has led at
27 least one court in this district to hold that “[d]ue process doesn’t require bond hearings for criminal
28 aliens mandatorily detained under § 1226(c)—even for prolonged periods.” *Keo v. Warden of the Mesa*

1 *Verde ICE Processing Center*, 1:24-cv-00919-HBK (HC), 2025 WL 1029392, at *7 (E.D. Cal. Apr. 7,
2 2025).

3 There is no bright line rule that detention beyond six months is constitutionally impermissible.
4 *See Gonzalez v. Bonnar*, No. 18-cv-05321-JSC, 2019 WL 330906, at *2 (N.D. Cal. Jan. 25, 2019)
5 (“[T]he Supreme Court’s decision in *Jennings* establishes there is no . . . bright-line rule.”). There is
6 a general dearth of guidance on the appropriate test or standard to apply to an as-applied challenge to
7 prolonged detention claims. Some courts have applied bright line rules. *See, e.g., Rodriguez v. Nielsen*,
8 No. 18-cv-04187-TSH, 2019 WL 7491555, at *6 (N.D. Cal. Jan. 7, 2019). Others have applied the
9 three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). *See, e.g., Henriquez v. Garland*,
10 no. 22-cv-869-EJD, 2022 WL 2132919 (N.D. Cal. June 14, 2022); *Ramazan v. Andrews*, No. 1:25-cv-
11 01356-KES-SKO, 2025 WL 3145562, at *6 (E.D. Cal. Nov. 10, 2025). Still, others have fashioned their
12 own “myriad of overlapping balancing tests.” *Keo*, 2025 WL 1029392, at *5 (collecting cases).

13 Without persuasive guidance on which test applies, “the decision depends on the individual
14 circumstances of each case.” *Gonzalez*, 2019 WL 330906, at *2. And each balancing test is rife with
15 criticisms. For example, “while the *Mathews* factors may be well-suited to determining whether due
16 process requires a second bond hearing, they are not particularly dispositive of whether prolonged
17 mandatory detention has become unreasonable in a particular case.” *Sanchez-Rivera v. Matuszewski*,
18 No. 22-cv-1357-MMA (JLB), 2023 WL 139801, at *5 (S.D. Cal. Jan. 9, 2023) (internal quotation
19 omitted). Similarly, elements in other balancing tests do help in determining whether detention has
20 become unreasonably prolonged. *See Lopez v. Garland*, 631 F. Supp. 3d 870, 879 (E.D. Cal. Sept. 29,
21 2022) (these factors, “the conditions of detention, the likelihood that the removal proceedings will result
22 in a final order of removal, whether the detention will exceed the time the petitioner spent in prison for
23 the crime that made him removable, and the nature of the crimes the petitioner committed[,] are not
24 particularly suited to assisting the Court”).

25 Under any of the above tests, Petitioner’s detention is constitutional. He has been detained since
26 February 26, 2026, approximately four months before filing the instant habeas petition and less than six
27 months as of the time of this filing. This relatively short time is hardly prolonged and due, in principal
28 part, to his decision to apply for relief in immigration court. *Accord Rodriguez Diaz*, 53 F.4th at 1208

1 (“[W]e cannot simply count his months of detention and leave it at that. We must also consider the
2 process he received during this time, the further process that was available to him, and the fact that his
3 detention was prolonged due to his decision to challenge his removal order.”); *see also Rivas Avalos v.*
4 *Sessions*, no. 18-cv-02342-HSG, 2018 WL 11402701, at *2 (N.D. Cal. May 25, 2018) (“delay caused by
5 petitioner’s litigation strategy does not ripen his detention into a constitutional claim”) (internal
6 quotation omitted)). Moreover, Petitioner’s detention has “a definite and evidently impending
7 termination point” when his removal proceedings conclude. *Soberanes v. Comfort*, 388 F.3d 1305, 1311
8 (10th Cir. 2004); *see also Prieto-Romero*, 534 F.3d at 1065 (holding that an alien’s detention was not
9 unconstitutionally indefinite when it was prolonged by a challenge to his removal order and
10 distinguishing a case in which the government made an “unusual move” that delayed resolution).

11 The government’s interest here is also strong. “The government has an obvious interest in
12 ‘protecting the public from dangerous criminal aliens.’” *Rodriguez Diaz*, 53 F.4th at 1208 (quoting
13 *Demore*, 538 U.S. at 515). This is a particularly salient concern where, as here, Petitioner has a history
14 of committing serious—and at times violent—crimes. In light of the individual facts in this case,
15 Petitioner’s detention is constitutional, and this Court should deny the petition and all injunctive relief.

16 **C. Petitioner is not Entitled to a Bond Hearing where the Government Bears the Burden of**
17 **Proving Danger and Flight Risk by Clear and Convincing Evidence**

18 In the event that the petition is granted, the only appropriate relief is a bond hearing, not release
19 from detention. *See, e.g., Demore*, 538 U.S. at 532 (Kennedy, J., concurring) (explaining that “an
20 individualized determination as to his risk of flight and dangerousness” is the proper remedy “if the
21 continued detention became unreasonable or unjustified”); *Mansoor v. Figueroa*, No. 3:17-cv-01695-
22 GPC (NLS), 2018 WL 840253, at *4 (S.D. Cal. Feb. 13, 2018) (Immigration Judges are well suited to
23 assess eligibility for release, while a district court “lacks the factual support to make a determination
24 about Petitioner’s risk of flight or dangerousness to the community”).

25 If this Court orders a bond hearing, the Constitution does not require the government to bear the
26 burden of establishing that the noncitizen will be a flight risk or danger—much less that the government
27 be subject to a clear-and-convincing-evidence standard—to justify temporary detention pending removal
28 proceedings. The Supreme Court has consistently affirmed the constitutionality of detention pending

removal proceedings, notwithstanding that the government has not held the burden to justify that detention by clear and convincing evidence. *See Demore*, 538 U.S. at 531; *Reno v. Flores*, 507 U.S. 292, 306 (1993); *Carlson*, 342 U.S. at 538; *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). In fact, the Supreme Court has repeatedly upheld detention pending removal proceedings on the basis of a categorical, rather than individualized, assessment that a valid immigration purpose warranted interim custody. *See Demore*, 538 U.S. at 531; *Flores*, 507 U.S. at 306; *Carlson*, 342 U.S. at 538. In *Zadvydas*, the Court placed the burden on the noncitizen, not the government, to show that his detention was unjustified. *Zadvydas*, 533 U.S. at 701 (noncitizen must first “provide good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future,” only after which “the Government must respond with evidence sufficient to rebut that showing”). Indeed, the Ninth Circuit questioned (in the § 1226(a) context) how the burden-shifting and standard of proof that Petitioner demands could be constitutionally required:

Nothing in this record suggests that placing the burden of proof on the government was constitutionally necessary to minimize the risk of error, much less that such burden-shifting would be constitutionally necessary in all, most, or many cases. There is no reason to believe that, as a general proposition, the government will invariably have more evidence than the alien on most issues bearing on alleged lack of future dangerousness or flight risk.

Rodriguez Diaz, 53 F.4th at 1212 (9th Cir. 2022). Accordingly, if the Court grants Petitioner a bond hearing, he should bear the burden of proof at the hearing.

IV. CONCLUSION

For the reasons set forth above, Respondent respectfully requests that the Court deny Petitioner's petition for writ of habeas corpus and all injunctive relief.

Dated: July 15, 2026

Respectfully submitted,

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