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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

ULISES VALDIOSERA GODINEZ, Petitioner, v. MARKWAYNE MULLIN, Secretary of the Department of Homeland Security; *et al.*, Respondent.	Case No.: 26-cv-04090-GPC-SBC **RETURN TO PETITION FOR WRIT OF HABEAS CORPUS**

I. INTRODUCTION

Ulises Valdiosera Godinez ("Petitioner") has filed a petition for writ of habeas corpus that alleges his immigration detention under 8 U.S.C. § 1225(b)(2), rather than 8 U.S.C. § 1226(a), constitutes a violation of the Administrative Procedure Act (APA), the Due Process Clause of the Fifth Amendment, as well as the Immigration and Nationality Act (INA). Dkt. 1 at 9-11. To remedy these alleged violations, Petitioner requests that the Court order Respondents to immediately release him from immigration custody after being detained for approximately two months. Dkt 1 at 2, 12 ("Prayer for Relief") ¶ 2.

However, Petitioner's detention is mandated under 8 U.S.C § 1226(c)(1)(E) (enacted by the Laken Riley Act), due to criminal charges resulting from a September 9, 2025, felony arrest for Receiving Stolen Property under California Penal Code § 496(A). *See* Exhibit 4 (RAP Sheet). Accordingly, because Petitioner has failed to

demonstrate (1) that his mandatory detention under § 1226(c)(1)(E) is unlawful, or (2) that his detention has become unconstitutionally prolonged, Respondents respectfully request that the Court deny the Petition.

II. FACTUAL BACKGROUND[1]

Petitioner is a native and citizen of Mexico, who admitted to unlawfully re-entering the United States on approximately July 1, 2011, after having already been allowed to voluntarily return to Mexico once prior. *See* Exhibit 1 (Form I-213) at 4. Immigration officials found and arrested him on May 14, 2026, and Petitioner was charged with inadmissibility under On February 21, 2026, Petitioner was arrested by immigration officials and charged with inadmissibility under 8 U.S.C. §§ 1182(a)(6)(A)(i), and (a)(7)(A)(i)(I). *See* Exhibit 2 (Notice to Appear) at 4.

On September 9, 2025, Petitioner was arrested in Riverside, California for on January 4, 2026, and charged with Receiving Stolen Property under California Penal Code § 496(A), a felony. *See* Exhibit 4 (RAP Sheet). Petitioner is subject to mandatory detention under 8 U.S.C. § 1226(c)(1)(E) while his immigration proceedings are pending.

III. ARGUMENT

A. Petitioner fails to plead sufficient information

Petitioner has failed to plead sufficient information or establish how mandatory detention under 8 U.S.C. § 1226(c)(1)(E) violates the INA, the APA, or his Fifth Amendment right to due process. "Absent a real and immediate threat of future injury there can be no case or controversy, and thus no Article III standing for a party seeking injunctive relief." *Wilson v. Brown*, No. 05-cv-1774-BAS-MDD, 2015 WL 8515412, at *3 (S.D. Cal. Dec. 11, 2015) (citing *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 190 (2000) ("[I]n a lawsuit brought to force compliance, it is the plaintiff's burden to establish standing by demonstrating that, if unchecked by the

[1] The attached exhibits are true copies, with few redactions of private information, of documents obtained from ICE counsel.

litigation, the defendant's allegedly wrongful behavior will likely occur or continue, and that the threatened injury is certainly impending.") (simplified)). At the "irreducible constitutional minimum," standing requires that a petitioner demonstrate the following: (1) an injury in fact (2) that is fairly traceable to the challenged action of the United States and (3) likely to be redressed by a favorable decision. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992).

Moreover, the Supreme Court has held that "[h]abeas Corpus Rule 2(c) is more demanding [than Federal Rule of Civil Procedure 8(a)]. It provides that the petition must 'specify all the grounds for relief available to the petitioner' and 'state the facts supporting each ground.'" *Mayle v. Felix*, 545 U.S. 644, 655 (2005) (citing Rules Governing Section 2254 Cases in the United States District Court ("Federal Habeas Rules"); *see also James v. Borg*, 24 F.3d 20, 26 (9th Cir. 1994) ("Conclusory allegations which are not supported by a statement of specific facts do not warrant habeas relief."). As stated by the Advisory Committee's Note on Habeas Corpus Rule 4, 28 U.S.C., p. 471, "notice pleading is not sufficient, for the petition is expected to state facts that point to a real possibility of constitutional error.") (internal quotation marks omitted).

Petitioner bears the burden of establishing that his detention is unlawful. However, given his prior criminal history, Petitioner has failed to articulate any facts that establish why mandatory detention for two months under 8 U.S.C. § 1226(c)(1)(E) violates the INA, the APA, or Due Process. Instead, Petitioner's claims for relief are all presupposed by his belief that he currently detained under 8 U.S.C. § 1226(a). Dkt 1 at 9-11. Habeas relief is available to challenge only the legality or duration of confinement. *Pinson v. Carvajal*, 69 F.4th 1059, 1067 (9th Cir. 2023); *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979); *Dep't of Homeland Security v. Thraissigiam*, 591 U.S. 103, 117 (2020) (The writ of habeas corpus historically "provide[s] a means of contesting the lawfulness of restraint and securing release."). Because Petitioner has not challenged the legality or length of his detention under § 1226(c)(1)(E), Respondents request that the Court dismiss the Petition. *See Alonso Velasquez v. LaRose*, No. 25-cv-

3216-JES-AHG, 2025 WL 3473773 (S.D. Cal. Dec. 3, 2025) (dismissing without prejudice habeas petition that failed to allege sufficient factual information).

B. Petitioners statutory and constitutional claims are without merit

Even if the Court finds that Petitioner has sufficiently challenged the legality or length of his detention, his claims fail on the merits. Section 1226(a) applies to an alien who is "detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). Petitioner argues he is detained pending removal proceedings, that 1226(a) applies to him, and that he is accordingly entitled to at least a bond hearing. Dkt 1 at 9-11, 12 (Prayer for Relief) at ¶¶ 2-3. However, § 1226(c) carves out exceptions to § 1226(a), requiring that certain people be subject to mandatory detention. 8 U.S.C. § 1226(c). Specifically, § 1226(c)(1)(E) (enacted by the Laken Riley Act) requires mandatory detention for people who are (1) inadmissible under § 1182(a)(6)(A), (6)(C), or (7); and (2) "[are] charged with" or "arrested for" acts which constitute any "burglary, theft, larceny, shoplifting, or assault of a law enforcement officer offense . . . ." 8 U.S.C. § 1226(c)(1)(E). Having been charged by NTA as inadmissible under 8 U.S.C. § 1182(a)(6)(A), and arrested and charged with Receiving Stolen Property under California Penal Code § 496(A), Petitioner satisfies both criteria. *See* Exhibits 2, 4.

As to whether Petitioner's mandatory detention under § 1226(c) violates due process, the Supreme Court in *Demore v. Kim* held no. *See* 538 U.S. 510, 513 (2003). In so holding, the *Demore* court recognized that for over a hundred years, the Supreme Court "has firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens." *Id.* at 522 (collecting cases). Consequently, the Supreme Court has, time and time again, "recognized [that] detention during deportation proceedings [is] a constitutionally valid aspect of the deportation process." *Id.* at 523; *see Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1217 (9th Cir. 2022) (Bumatay, concurring) ("For over a century, whenever Congress has granted the Executive authority to detain aliens pending removal proceedings, the

Supreme Court has repeatedly upheld such detention as consistent with the Constitution.").

Because Petitioner was arrested on September 9, 2025, for Receiving Stolen Property under California Penal Code § 496(A), his detention falls squarely within § 1226(c)(1)(E). Accordingly, his continued detention does not violate the INA nor the APA. Nor does his current detention time of less than three months violate his "due process" rights. *See Demore v. Kim*, 538 U.S. 510, 531 (denying habeas relief after "six months" of immigration detention under 8 U.S.C. § 1226(c)).CONCLUSION

For the reasons stated herein, Respondents respectfully request that the Court dismiss the Petition or deny it on the merits.

DATED: July 23, 2026

Respectfully submitted,

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