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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 DARWIN CASTILLO,
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13 Petitioner,
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15 v.
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17 CHRISTOPHER J. LAROSE, et al.,
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19 Respondents.
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Case No.: 26-cv-2516-BAS-AHG

RESPONSE TO PETITION

1 **I. INTRODUCTION**

2 Petitioner has filed a habeas petition under 28 U.S.C. § 2241, requesting that the
3 Court order he be provided an individualized bond hearing. However, Petitioner is subject
4 to mandatory civil immigration detention under 8 U.S.C. § 1226(c). As Petitioner has only
5 been detained in immigration custody since February, there is no due process violation.
6 Therefore, this Court should deny relief.

7 **II. FACTUAL BACKGROUND**

8 Petitioner is a native and citizen of Guatemala, who entered the United States
9 without inspection or admission at an unknown place and date. *See* Exh. 1 at 2 (I-213).¹
10 On January 27, 2026, Immigration and Custom Enforcement (ICE) lodged an Immigration
11 Detainer for Petitioner, as Petitioner was in state custody at the time. *Id.* Petitioner was
12 transferred to ICE custody on February 12, 2026. *Id.* On February 15, 2026, ICE served
13 Petitioner with a Notice to Appear (NTA), charging him with inadmissibility under
14 removability under section 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA)
15 and filed it with the Immigration Court. *See* Exh. 2 (Notice to Appear).

16 Petitioner has criminal convictions for Disorderly Conduct – Solicit Lewd Act in
17 Public, and Stalking. Exh. 3 (RAP sheet).

18 **III. ARGUMENT**

19 The Court should deny Petitioner’s habeas petition because he has not met his
20 burden of demonstrating that his detention under 8 U.S.C. § 1226(c) is unlawful under the
21 Fifth Amendment’s Due Process Clause. Section 1226(c) provides for the mandatory
22 detention of specific categories of aliens, including, as applicable here, “any alien who . . .
23 is inadmissible by reason of having committed any offense covered in section 1182(a)(2)
24 of this title.” Title 8 U.S.C. § 1182(a)(2) states that “any alien convicted of . . . a crime
25 involving moral turpitude . . . is inadmissible.”

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

1 According to Petitioner's criminal history, Petitioner was convicted of Stalking, a
2 violation of California Penal Code Section 646.9(A). Because Petitioner was arrested for a
3 crime which the Ninth Circuit has held to be categorially a crime of moral turpitude
4 (*Orellana v. Barr*, 967 F.3d 927 (9th Cir. 2020)), Petitioner is subject to mandatory
5 detention under § 1226(c).

6 The Supreme Court has held that mandatory detention under § 1226(c) does not
7 violate due process. *See Demore v. Kim*, 538 U.S. 510, 513 (2003). In so holding, it
8 recognized that for over a hundred years, the Supreme Court "has firmly and repeatedly
9 endorsed the proposition that Congress may make rules as to aliens that would be
10 unacceptable if applied to citizens." *Id.* at 522 (collecting cases). Consequently, the
11 Supreme Court has, time and time again, "recognized [that] detention during deportation
12 proceedings [is] a constitutionally valid aspect of the deportation process." *Id.* at 523; *see*
13 *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1217 (9th Cir. 2022) (Bumatay, concurring)
14 ("For over a century, whenever Congress has granted the Executive authority to detain
15 aliens pending removal proceedings, the Supreme Court has repeatedly upheld such
16 detention as consistent with the Constitution.").

17 In addressing the constitutionality of § 1226(c), the *Demore* court deemed it
18 critically important to address the immigration purpose underlying Congress's enactment
19 of the statute. *See* 538 U.S. at 527–31. In its analysis, the Supreme Court observed that
20 Congress "adopted [§ 1226(c)] against a backdrop of wholesale failure by the [government]
21 to deal with increasing rates of criminal activity by aliens." *Id.* at 518. It noted that when
22 enacting § 1226(c), Congress had before it a multitude of evidence to support its
23 determination to mandate detention of criminal noncitizens, including: that (1) "criminal
24 aliens who were deported swiftly [had] reentered the country illegally in great numbers";
25 (2) "[the] near-total inability to remove deportable criminal aliens imposed more than a
26 monetary cost on the Nation"; (3) "deportable criminal aliens who remained in the United
27 States often committed more crimes before being removed"; (4) "one of the major causes
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1 of the [the government's] failure to remove deportable criminal aliens was the agency's
2 failure to detain those aliens during their deportation proceedings"; (5) "even with
3 individualized screening, releasing deportable criminal aliens on bond would lead to an
4 unacceptable rate of flight"; and (6) "evidence suggest[ed] that permitting discretionary
5 release of aliens pending their removal hearings would lead to large numbers of deportable
6 criminal aliens skipping their hearings and remaining at large in the United States
7 unlawfully." *Id.* at 518–33.

8 With the statute's purpose in mind, the Supreme Court upheld the constitutionality
9 of § 1226(c), repeatedly noting, as it had several times before, that detention of a noncitizen
10 during ongoing removal proceedings is constitutional. *See id.* at 513 ("We hold that
11 Congress, justifiably concerned that deportable criminal aliens who are not detained
12 continue to engage in crime and fail to appear for their removal hearings in large numbers,
13 may require that [such] persons . . . be detained for the brief period necessary for their
14 removal proceedings."). The Supreme Court, however, did not foreclose the possibility that
15 a noncitizen detained under § 1226(c) may establish a due process violation depending on
16 the circumstances of their case.

17 In addressing such due process claims (as here), the Court must be principally guided
18 by *Demore*. *See Hohn v. United States*, 524 U.S. 236, 252–53 (1998) ("Our decisions
19 remain binding precedent until we see fit to reconsider them[.]"); *Hart v. Massanari*, 266
20 F.3d 1155, 1171 (9th Cir. 2001) ("A decision of the Supreme Court will control that corner
21 of the law unless and until the Supreme Court itself overrules or modifies it. Judges of the
22 inferior courts may voice their criticisms, but follow it they must."); *see also Rodriguez*
23 *Diaz v. Garland*, 53 F.4th at 1214 (Bumatay, concurring) (The Supreme Court "has
24 recently backed away from multi-factorial grand unified theories for resolving legal
25 issues.") (simplified, citing *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 533 (2022)).
26 And *Demore* teaches that detention of noncitizens under § 1226(c) is constitutional so long
27 as detention serves its purported immigration purpose. *See* 538 U.S. at 527–28 (stating that
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1 detention of such noncitizens “necessarily serves the purpose of preventing deportable
2 criminal aliens from fleeing prior to or during their removal proceedings, thus increasing
3 the chance that, if ordered removed, the aliens will be successfully removed” and that the
4 evidence Congress had before it in enacting § 1226(c) “certainly support[ed] the approach
5 it selected” in declining to afford such noncitizens bond hearings during removal
6 proceedings).

7 Justice Kennedy’s concurring opinion provided further guidance on when a
8 noncitizen mandatorily detained under § 1226(c) may suffer a due process violation. *See*
9 *id.* at 532–33. He stated that “since the Due Process Clause prohibits arbitrary deprivations
10 of liberty, a lawful permanent resident alien [] could be entitled to an individualized
11 determination as to his risk of flight and dangerousness if the continued detention became
12 unreasonable or unjustified.”² *Id.* at 532. He then explained what circumstances may meet
13 the unreasonable or unjustified standard: “Were there to be an unreasonable delay by
14 [DHS] in pursuing and completing deportation proceedings, it could become necessary
15 then to inquire whether the detention is not to facilitate deportation, or to protect against
16 risk of flight or dangerousness, but to incarcerate for other reasons.” *Id.* at 532–33.

17 Here, Petitioner has only been detained in immigration custody since February, a
18 detention period of less than four months. Therefore, this Court should find that at this
19 time, Petitioner’s mandatory detention does not violate the Due Process Clause.

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27 ² Notably, Petitioner is not a lawful permanent resident and is thus arguably not entitled to
28 such a due process challenge. *See* Exh. 1. Even assuming he was, he has not established a
violation as more fully explained below.

1 **IV. CONCLUSION**

2 For the reasons stated herein, Respondents respectfully request the Court to deny
3 this habeas petition.

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