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

9 MIGLAN ALVARADO MARTINEZ,

10 Petitioner,

11 v.

12 CHRISTOPHER CHESTNUT ET AL.,

13 Respondents.

CASE NO. 1:26-CV-05175-VC

RESPONSE TO PETITION

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15
16 INTRODUCTION

17 This Court should deny Petitioner Miglan Alvarado Martinez's petition for a writ of
18 habeas corpus. Martinez's custody is governed by 8 U.S.C. § 1226(c) because his 2003 con-
19 viction for committing second degree murder in violation of Cal. Penal Code § 187(a) is an
20 aggravated felony. Exh. B at 3, 11. A noncitizen removable for an aggravated felony con-
21 viction under 8 U.S.C. § 1227(a)(2)(A)(iii) is subject to mandatory detention. 8 U.S.C.
22 § 1226(c)(1)(B). He is therefore ineligible for bond; at most, he may request a *Joseph* hear-
23 ing. *Matter of Joseph*, 22 I. & N. Dec. 799 (BIA 1999).

24 FACTUAL BACKGROUND

25 Martinez, a citizen of El Salvador was admitted to the United States as a lawful
26 permanent resident in 1992. Exh. A at 3. On December 11, 2003, he was convicted of con-
27 victed of second-degree murder for the unlawful killing of a human being and received an
28 indeterminate sentence. Exh. B at 3, 11.

RESPONSE TO PETITION

1 On February 27, 2026, he was released from state prison and detained by the De-
2 partment of Homeland Security (DHS). Exh. A at 2–3; *Petition* ¶ 19.

3 He attended a custody redetermination hearing on March 20, 2026, but withdrew
4 his request. Exh. C.

5 ARGUMENT

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

7 DHS must detain Martinez under 8 U.S.C. § 1226(c)(1)(B) because he is removable
8 by reason of an aggravated-felony murder conviction. 8 U.S.C. §§ 1101(a)(43)(A),
9 1227(a)(2)(A)(iii). The Ninth Circuit has held that Cal. Penal Code § 187(a) is divisible be-
10 tween fetal and human killings, and that generic murder excludes fetal killing. *Gomez*
11 *Fernandez v. Barr*, 969 F.3d 1077, 1087–90 (9th Cir. 2020). Martinez’s conviction records
12 specify the unlawful killing of a human being, bringing the offense within the generic defi-
13 nition. Exh. B at 3, 11.

14 He therefore stands convicted of aggravated felony murder, is deportable under
15 § 1227(a)(2)(A)(iii), and is subject to mandatory detention under § 1226(c). 8 U.S.C.
16 § 1226(c)(1)(B).

17 B. Martinez’s detention is constitutional.

18 Detention during removal proceedings is not indefinite; it ends when those proceed-
19 ings conclude. *Jennings v. Rodriguez*, 583 U.S. 281, 304 (2018). Section 1226(c) detention
20 is facially constitutional. *Demore v. Kim*, 538 U.S. 510, 531 (2003).

21 It remains constitutional as long as it serves its immigration purposes—ensuring
22 appearance and protecting the public. *Kim*, 538 U.S. at 527. The government’s interests
23 are “of the highest order” and may strengthen over time as removal approaches. *Rodriguez*
24 *Diaz v. Garland*, 53 F.4th 1189, 1208 (9th Cir. 2022).

25 Martinez has been detained for four months to protect the public and ensure his ap-
26 pearance at removal proceedings. His conviction demonstrates dangerousness and limits
27 his prospects of obtaining relief from removal. The record shows no basis to deem his de-
28 tention unconstitutional.

CONCLUSION

Because Martinez's detention stems from his aggravated felony conviction, he falls squarely within § 1226(c)'s mandatory-detention framework. His detention since February 2026 has not become unconstitutionally prolonged. The Court should deny all relief.

Dated: July 17, 2026

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