

**UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 26-60344

MAHMOUD KHALIL
Petitioner,
v.

TODD BLANCHE, *UNITED STATES ATTORNEY GENERAL*
Respondent

On Petition for Review of an Order of the Board of Immigration Appeals

**BRIEF OF AMICI CURIAE FORMER IMMIGRATION JUDGES AND
FORMER BIA APPELLATE IMMIGRATION JUDGES IN SUPPORT OF
GRANTING PETITIONER’S PETITION FOR REVIEW**

ALICIA J. TRICHE
Triche Immigration Appeals
PO Box 3210
Memphis, TN 38173



Counsel for Amici Curiae

TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

CORPORATE DISCLOSURE STATEMENT 1

FRAP RULE 29 STATEMENT 1

INTEREST OF AMICI CURIAE..... 1

ARGUMENT..... 2

 I. The “Best Reading” of the Foreign Policy Ground Requires an Immigration
 Judge—in Regular Removal Proceedings—to Assess If It Is Properly
 Charged and Fully Proven 3

 II. Congress Knows How to Permit a Single Official to Determine
 Removability Without Judicial Review and Chose Not to Do So for the
 Foreign Policy Ground 5

 III. Immigration Judges, as Fact-Finders, Have Long Tested Conclusions From
 the State Department Against the Entire Record..... 6

 IV. A Core Function of Judges Is to Police Against Overreach by the Other
 Branches 11

CONCLUSION..... 13

AMICI CURIAE SIGNATORIES 14

CERTIFICATE OF COMPLIANCE..... 18

CERTIFICATE OF SERVICE..... 18

TABLE OF AUTHORITIES

Federal Cases

Alexandrov v. Gonzales, 442 F.3d 395 (6th Cir. 2006)	7
Ambartsoumian v. Ashcroft, 388 F.3d 85 (3d Cir. 2004)	9
Banat v. Holder, 557 F.3d 886 (8th Cir. 2009)	10
Camara v. Ashcroft, 378 F.3d 361 (4th Cir. 2004)	9
Chaib v. Ashcroft, 397 F.3d 1273 (10th Cir. 2005)	10
Gailius v. INS, 147 F.3d 34 (1st Cir. 1998)	6, 8
Gebremichael v. INS, 10 F.3d 28 (1st Cir. 1993)	9
Gramatikov v. INS, 128 F.3d 619 (7th Cir. 1997)	9–10
Kaczmarczyk v. INS, 933 F.2d 588 (7th Cir. 1991)	6
Kasravi v. Immigr. & Naturalization Serv., 400 F.2d 675 (9th Cir. 1968)	8
Keene Corp. v. United States, 508 U.S. 200 (1993)	6
Li Wu Lin v. INS, 238 F.3d 239 (3d Cir. 2001)	7

Loper Bright Enters. v. Raimondo, 603 U.S. 369 (2024)	4
Mapouya v. Gonzales, 487 F.3d 396 (6th Cir. 2007)	9
Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803)	11
Marcu v. INS, 147 F.3d 1078 (9th Cir. 1998)	7
Massieu v. Reno, 91 F.3d 416 (3d Cir. 1996)	4
Matter of S-H- 23 I & N Dec. 462 (BIA 2002)	6
Mullin v. Al Otro Lado, — U.S. —, 146 S. Ct. 2079 (2026)	6
Niam v. Ashcroft, 354 F.3d 652 (7th Cir. 2004)	8
Pereida v. Wilkinson, 592 U.S. 224 (2021)	5
Rojas v. INS, 937 F.2d 186 (5th Cir. 1991)	7
Russello v. United States, 464 U.S. 16 (1983)	6
Shah v. INS, 220 F.3d 1062 (9th Cir. 2000)	10
Shaughnessy v. United States ex rel. Mezei, 345 U.S. 206 (1953)	4

Sotelo-Aquije v. Slattery,
17 F.3d 33 (2d Cir. 1994) 9

United States ex rel. Accardi v. Shaughnessy,
347 U.S. 260 (1954) 12

Xiu Ying Wu v. U.S. Att’y Gen.,
712 F.3d 486 (11th Cir. 2013) 10

Zhu v. Gonzales,
493 F.3d 588 (5th Cir. 2007) 9

Federal Statutes

8 U.S.C. § 1182(a)(3)(C)(iii) 3

8 U.S.C. § 1225(b)(1) 5

8 U.S.C. § 1227(a)(4)(C)(ii) 2–3

8 U.S.C. § 1228(b) 5

8 U.S.C. § 1231(a)(5) 5

Other Authorities

Jennifer Lee Koh, Removal in the Shadows of Immigration Court,
90 S. Cal. L. Rev. 181 (2017) 5–6

Chief Justice John G. Roberts, Jr., Remarks at the 125th Anniversary
Celebration of the U.S. District Court for the Western District of
New York (May 7, 2025) 11

CORPORATE DISCLOSURE STATEMENT

Amici Curiae state that they, their subsidiaries and any corporate interests involved in this matter, do not have any monetary interest in the outcome of this case.

FRAP RULE 29 STATEMENTS

Pursuant to Federal Rules of Appellate Procedure, Rule 29(a) and Circuit Rule 29-3, the attorneys representing Petitioner consent to the filing of this amicus brief . The attorney representing Respondent also consents to this filing as long as it is timely filed and filed in conformance with the Federal Rules of Appellate Procedure.

Amici Curiae state that no counsel for any party authored this brief in whole or in part, and no party, party's counsel, or person or entity other than Amici and their counsel contributed money that was intended to fund the preparing or submitting of the brief.

INTEREST OF AMICI CURIAE

Amici Curiae, Former Immigration Judges and Former BIA Appellate Immigration Judges, bring centuries of combined government and judicial service and possess an exceptional degree of substantive and practical knowledge of the U.S. immigration system. Amici curiae are invested in the resolution of this appeal because they have dedicated their careers to improving the fairness and efficiency

of the U.S. immigration system and because they are invested in ensuring the proper and faithful interpretation of statutes and regulations, including through appropriate appellate review. Their firsthand experience in adjudicating tens of thousands of removal proceedings uniquely positions them to inform the Court of the practical consequences of the result each party seeks.

ARGUMENT

Drawing on their substantial experience interpreting and applying immigration statutes, Amici Curiae’s collective assessment is that Congress deliberately and intentionally drafted the “Foreign Policy Ground” of deportability, 8 U.S.C. § 1227(a)(4)(C)(ii), to permit the Secretary of State to identify deportable conduct while empowering an immigration judge, in regular removal proceedings, to independently assess if that conduct is properly charged and fully proven.¹ Four considerations support this interpretation: (1) the plain meaning of the statutory text; (2) Congress’ demonstrated ability to vest one official with the authority to adjudicate deportability outside of a hearing, which Congress did not choose to do here; (3) immigration judges’ routine practice of weighing State Department statements against the full record when finding facts material to deportability; and (4) the Judiciary’s role to serve as a check on Congressional and Executive

¹ The question of the constitutionality of the “Foreign Policy Ground” of deportability, 8 U.S.C. § 1227(a)(4)(C)(ii) is beyond the scope of this brief.

overreach.

I. The “Best Reading” of the Foreign Policy Ground Requires an Immigration Judge—in Regular Removal Proceedings—to Assess If It Is Properly Charged and Fully Proven

The Foreign Policy Ground provides that:

An alien whose presence or activities in the United States the Secretary of State has reasonable ground to believe would have potentially serious adverse foreign policy consequences for the United States is deportable.

8 U.S.C. § 1227(a)(4)(C)(ii).

The Foreign Policy Ground’s text confines it in notable ways. The triggering conduct is limited to “presence or activities,” the resulting conduct must “have potentially serious adverse foreign policy consequences,” and the burden of proof is a “reasonable ground to believe.” 8 U.S.C. § 1227(a)(4)(C)(ii). Congress also built in a statutory exception, which is that “past, current, or expected beliefs, statements, or associations” are not deportable conduct, unless the Secretary of State certifies that the noncitizen’s continued residence in the United States “compromise[s] a compelling United States foreign policy interest.” *See* 8 U.S.C. § 1227(a)(4)(C)(ii) (invoking 8 U.S.C. § 1182(a)(3)(C)(iii)).

Every one of these constraints presupposes a judicial check on the Secretary of State’s judgment and contemplates a legal process whereby an immigration judge—not a single official—confirms that the alleged conduct falls within the Foreign Policy Ground, the Secretary’s assessment comports with a “reasonable

belief,” and the statutory exception, a “compelling United States foreign policy interest,” is not applicable to the facts of any given case. Construing the statute in this manner allows for the proper balance of foreign policy and due process interests.²

When Justice Samuel Alito sat on the Third Circuit, he authored a decision accepting this interpretation as the correct one. *See Massieu v. Reno*, 91 F.3d 416, 426 (3d Cir. 1996) (Alito, J.). In discussing the deportability ground’s operation, then-Judge Alito assumed that an immigration judge would be the one to decide its proper application to the Mexican national charged under this ground. Alito noted that the foreign national has a “statutory exception argument [that] is not frivolous, and we have no way of knowing whether the Secretary would have made the necessary statutory finding. *These issues could and should have been litigated before the immigration judge* and the Board of Immigration Appeals.” *Id.* (emphasis added).

The “best reading” of the Foreign Policy Ground thus permits the Secretary of State to identify potential conduct implicating foreign policy concerns and requires an immigration judge—in regular removal proceedings—to find that the charge is properly lodged and proven by clear and convincing evidence. *Loper*

² *See Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 217 (1953) (J. Black, dissenting) (stating that “[n]o society is free where government makes one person’s liberty depend upon the arbitrary will of another.”)

Bright Enters. v. Raimondo, 603 U.S. 369, 373, 400–01 (2024) (federal courts must adopt a statute’s “best reading” after “applying all relevant interpretative tools”); *see Pereira v. Wilkinson*, 592 U.S. 224, 234 (2021) (Congress “knows how to impose the burden on the government” to establish certain deportability grounds and knows how to “flip the burden” in certain applications for relief).

II. **Congress Knows How to Permit a Single Official to Determine Removability Without Judicial Review and Chose Not to Do So for the Foreign Policy Ground**

The operation of the statutory Foreign Policy Ground, which contemplates that an immigration judge will review the Secretary of State’s deportability designation, is not an accident of drafting. It certainly does not foreclose such review.

Congress knows how to authorize a single government official to charge, order, and execute removal outside of a regular removal proceeding, with limited or no judicial review. It has done so three times: expedited removal, 8 U.S.C. § 1225(b)(1); reinstatement of removal, 8 U.S.C. § 1231(a)(5); and administrative removal of certain individuals who have committed aggravated felonies. 8 U.S.C. § 1228(b). In each of these three legal processes, “[f]ront-line immigration officers act as investigator, judge, and jury, with the immigration courts completely uninvolved in the removability determination,” and each process “places restrictions on judicial review, at times above existing statutory bars to judicial

review.” Jennifer Lee Koh, *Removal in the Shadows of Immigration Court*, 90 S. CAL. L. REV. 181, 194–95 (2017).

Where Congress uses specific language elsewhere in the Immigration and Nationality Act to permit one officer to decide removability outside of a hearing and omits that language from the Foreign Policy Ground, it is presumed that “Congress enacted the disparate language ‘intentionally and purposefully.’” *Mullin v. Al Otro Lado*, ___ U.S. ___, 146 S. Ct. 2079, 2091 (2026) (quoting *Keene Corp. v. United States*, 508 U.S. 200, 208 (1993) (quoting *Russello v. United States*, 464 U.S. 16, 23 (1983))).

III. Immigration Judges, as Fact-Finders, Have Long Tested Conclusions From the State Department Against the Entire Record

The Foreign Policy Ground, when interpreted properly to require an immigration judge to weigh all evidence, is consistent with how immigration judges have long operated in immigration proceedings when assessing foreign-affairs expertise in removal proceedings. As fact finders, immigration judges are well-suited for this role. *See Matter of S-H-*, 23 I & N Dec. 462, 465 (BIA 2002) (requiring immigration judges to “include clear and complete findings of fact in their decisions”).

“State Department opinions receive considerable weight in the courts because of the State Department’s expertise.” *Gailius v. INS*, 147 F.3d 34, 46 (1st Cir. 1998); *Kaczmarczyk v. INS*, 933 F.2d 588, 594 (7th Cir. 1991) (“we give

considerable weight to that [State] Department’s opinion in matters concerning international affairs, *its area of expertise*”) (emphasis added); *see also Rojas v. INS*, 937 F.2d 186, 190 (5th Cir. 1991) (noting that the State Department country reports are “*the most appropriate and perhaps the best resource* the Board could look to in order to obtain information on political situations in foreign nations”) (emphasis added); *Marcu v. INS*, 147 F.3d 1078, 1082 (9th Cir. 1998) (same).

But federal courts have never treated that expertise as a substitute for review. The Third Circuit put it directly: “the Board’s decisions *cannot be sustained simply by invoking the State Department’s authority*. We are expected to conduct review of the Board’s decisions, and that procedural safeguard would be destroyed if the Board could justify its decisions simply by invoking assertions by the State Department that themselves provide no means for evaluating their validity.” *Li Wu Lin v. INS*, 238 F.3d 239, 246 (3d Cir. 2001) (emphasis added); *see also Alexandrov v. Gonzales*, 442 F.3d 395, 405 (6th Cir. 2006) (“This Court has also cautioned against excessive reliance upon hearsay reports prepared by the Department of State” because “[a]sylum applicants are entitled to the due process of law and *excessive deference to the government or a shallow evaluation of the evidence* by the immigration court would be unwarranted”) (internal citations and quotation marks omitted) (emphasis added).

One reason for careful review arises from the recognition that State Department reporting may be influenced by diplomatic considerations. Sixty years ago, the Ninth Circuit recognized that “[a] frank, but official, discussion of the political shortcomings of a friendly nation is not always compatible with the high duty to maintain advantageous diplomatic relations with nations throughout the world.” *Kasravi v. Immigr. & Naturalization Serv.*, 400 F.2d 675, 677 (9th Cir. 1968). The First Circuit likewise noted “there is perennial concern that the [State] Department softpedals human rights violations by countries that the United States wants to have good relations with.” *Gailius*, 147 F.3d at 46 (quotation marks and citations omitted).

And the Seventh Circuit illustrated how the 2004 State Department treated an unfriendly state against a friendly one. “[T]he United States is not at all friendly to Sudan, which we bombed in 1998 and continue to designate as one of seven nations that sponsor terrorism, and the country report in Niam’s case pulls no punches in describing the atrocities committed by the Sudanese regime. (For all we know, it *exaggerates* those atrocities—but this is not contended.)” *Niam v. Ashcroft*, 354 F.3d 652, 658 (7th Cir. 2004) (emphasis in original). “But we are very friendly with the former communist states of central and eastern Europe, and so the country report on Bulgaria can be expected to emphasize the bright side of Bulgarian politics.” *Id.*

Immigration judges have routinely balanced foreign policy interests and due process concerns. On a daily basis, they have weighed statements made in the State Department reports against all relevant evidence to make case-specific factual finding that are reliable and accurate. *See Gebremichael v. INS*, 10 F.3d 28, 39 (1st Cir. 1993) (due process requires that noncitizens have “an opportunity to respond” to information contained in State Department reports and the immigration judge will make the appropriate finding); *see also Sotelo-Aquije v. Slattery*, 17 F.3d 33, 38 (2d Cir. 1994) (reversing BIA and IJ because their finding of no well-founded fear contradicted State Department reporting “on the broad reach of the Shining Path” across the country); *Ambartsoumian v. Ashcroft*, 388 F.3d 85, 91 (3d Cir. 2004) (upholding the IJ’s findings based on the State Department report because “there is no significant evidence in the record to the contrary”); *Camara v. Ashcroft*, 378 F.3d 361, 371 (4th Cir. 2004) (evaluating IJ’s assessment of country conditions by analyzing statements in the State Department report and “independent evidence” from other sources); *Zhu v. Gonzales*, 493 F.3d 588, 601 (5th Cir. 2007) (reviewing the State Department report and granting withholding of removal because the BIA had not considered all relevant evidence regarding future persecution); *Mapouya v. Gonzales*, 487 F.3d 396, 413 (6th Cir. 2007) (granting remand with instructions for the BIA and IJ to consider petitioner’s evidence that refutes statements in the State Department reports); *Gramatikov v. INS*, 128 F.3d

619, 620 (7th Cir. 1997) (Posner, J.) (even knowing the potential limitations of State Department reporting, the agency must also evaluate the quality of any evidence offered to rebut specific county condition reporting); *Banat v. Holder*, 557 F.3d 886, 893 (8th Cir. 2009) (holding that the IJ violated due process when giving blanket deference to a State Department letter because it “provided no details about the investigation that would allow the IJ to assess the investigation’s reliability or trustworthiness and which contained multiple levels of hearsay”); *Shah v. INS*, 220 F.3d 1062, 1069 (9th Cir. 2000) (the BIA and IJ erred when “relying exclusively on a blanket statement in a State Department report” because they “failed to make the individualized analysis of an applicant’s credibility that our case law mandates”); *Chaib v. Ashcroft*, 397 F.3d 1273, 1280 (10th Cir. 2005) (reversing IJ’s finding that does not explain how it reached a conclusion that “is in direct contradiction” with material parts in the State Department report); *Xiu Ying Wu v. U.S. Atty. Gen.*, 712 F.3d 486, 496 (11th Cir. 2013) (reversing IJ for not considering additional evidence that rebutted the State Department report because “the “use of country reports cannot substitute for an analysis of the unique facts of each applicant’s case”) (citation, internal modifications, internal quotation marks omitted).

//

//

IV. A Core Function of Judges Is to Police Against Overreach by the Other Branches

The settled practice of immigration judges analyzing all evidence when the government invokes foreign-affairs expertise is further compelled by the judiciary’s unique role in our country’s constitutional order. For more than two hundred years, it has been “emphatically the province and duty of the judicial department to say what the law is,” and, when the legislative or executive branch exceeds its authority, to say so. *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177–78 (1803).

That duty is an animating premise of judicial review that applies in full force to this case. Chief Justice John Roberts recently explained that a judge’s job “is to obviously decide cases, but in the course of that, check the excesses of Congress or the executive, and that does require a degree of independence.” Chief Justice John G. Roberts, Jr., *Remarks at the 125th Anniversary Celebration of the U.S. District Court for the Western District of New York* (May 7, 2025), in Justice Roberts Fireside Chat Buffalo (Rev.com transcript, May 8, 2025 at 27:35), <https://www.rev.com/transcripts/justice-roberts-fireside-chat>

The Chief Justice noted that the judiciary’s oversight power is a distinctive innovation of the U.S. Constitution. Unlike the English parliamentary system where the judiciary is part of the Parliament, the U.S. Constitution created the Judiciary as “a coequal branch of government separate from the others” with the

authority to scrutinize “acts of Congress or acts of the President” to ensure that they comport with the law and U.S. Constitution. *Id.*

Although immigration judges are also housed within the Executive branch, decades of circuit case law have made clear that their purpose is to decide cases independently, and not to simply accede to that branch’s interests. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266, (1954) (recognizing the BIA’s need “to exercise its own judgment when considering appeals.”). A Foreign Policy Ground unreviewed by an immigration judge—resting solely on the Secretary’s initial assessment of law and facts—is precisely the kind of unchecked executive action the separation of powers was designed to prevent.

This concern is not hypothetical. Petitioner alleges that the Executive Branch operated a coordinated effort to identify, apprehend, and charge the Petitioner based on his speech with the intent to chill the speech of other noncitizens and citizens who share his viewpoint. *See Pet. Opening Brief at 8–11.* The existence of such serious allegations is the very reason that an immigration judge ***must*** have authority to evaluate statements and evidence in any given case involving the Foreign Policy Ground. The “best interpretation” of the Foreign Policy Ground, under its text and the Constitution, requires immigration courts and federal courts to review the specific facts in any given case to ensure that the charge is properly brought and fully proven.

CONCLUSION

For the foregoing reasons, Amici respectfully request that this Court interpret the Foreign Policy Ground to provide that the Secretary of State may allege deportable conduct and an immigration judge must evaluate whether the charge is lawfully lodged and sufficiently proven.

Dated: August 21, 2026

Respectfully submitted,

/s/ Alicia J. Triche
ALICIA J. TRICHE

Counsel for Amici Curiae

AMICI CURIAE SIGNATORIES

Hon. Steven Abrams, Immigration Judge, New York, Varick St., and Queens Wackenhut, 1997-2013

Hon. Terry A. Bain, Immigration Judge, New York, 1994-2019

Hon. Maria Baldini-Potermine, Immigration Judge, Chicago, 2023-2025

Hon. Jenny Beverly, Immigration Judge, Chelmsford, MA, 2024- 2025

Hon. Lucy Billings, Immigration Judge, New York, 2023-2025

Hon. Brea C. Burgie, Immigration Judge, Denver, 2019-2026

Hon. Sarah M. Burr, Assistant Chief Immigration Judge and Immigration Judge, New York, 1994-2012

Hon. Sarah Cade, Immigration Judge, Boston, 2021-2025

Hon. Olivia Cassin, Immigration Judge, New York, 2015-2025

Hon. Daniel Caudillo, Immigration Judge, Laredo, TX 2021-2025

Hon. Florence Chamberlin, Immigration Judge, San Francisco, 2023-2025

Hon. George T. Chew, Immigration Judge, New York, 1995 - 2017

Hon. Jeffrey S. Chase, Immigration Judge, New York, 1995-2007

Hon. Joan V. Churchill, Immigration Judge, Washington, D.C./ Arlington, VA - 1980 - 2005

Hon. Cecelia M. Espinoza, Appellate Immigration Judge, Board of Immigration Appeals, 2000-2003

Hon. Carla I. Espinoza, Immigration Judge, Chicago, 2023-2025

Hon. Noel A Ferris, Immigration Judge, New York, 1994-2013

Hon. James R. Fujimoto, Immigration Judge, Chicago, 1990-2019

Hon. Annie S. Garcy, Immigration Judge, Newark, NJ, and Philadelphia, 1990-2023

Hon. Alberto E. Gonzalez, Immigration Judge, San Francisco, 1995 - 2005

Hon. John F. Gossart, Jr., Immigration Judge, Baltimore, 1982-2013

Hon. Miriam Hayward, Immigration Judge, San Francisco, 1997-2018

Hon. Rebecca Holt, Immigration Judge, Memphis, 2010-2025

Hon. Sandy Hom, Immigration Judge, New York, 1993-2018

Hon. Rebecca Jamil, Immigration Judge, San Francisco, 2016-2018

Hon. William P. Joyce, Immigration Judge, Boston, 1996-2002

Hon. Edward F. Kelly, Appellate Immigration Judge, Board of Immigration Appeals, 2017-2021; Deputy Chief Immigration Judge, 2013-2017; Assistant Chief Immigration Judge, EOIR Headquarters, 2011-2013

Hon. Amiena Khan, Assistant Chief Immigration Judge, Immigration Judge, New York, 2010-2025

Hon. David K.S. Kim, Immigration Judge, New York, 2022-2025

Hon. Carol King, Immigration Judge, San Francisco, 1995-2017

Hon. Eliza C. Klein, Immigration Judge, Miami, Boston, Chicago, 1994-2015; Senior Immigration Judge, Chicago, 2019-2023

Hon. David Koelsch, Immigration Judge, Baltimore, Hyattsville, MD, 2018-2025

Hon. Elizabeth A. Lamb, Immigration Judge, New York, 1995 - 2018

Hon. Shira M. Levine, Immigration Judge, San Francisco, 2021-2025

Hon. Kyra S. Lilien, Immigration Judge, San Francisco, Concord, CA, 2023-2025

Hon. Homero Lopez, Appellate Immigration Judge, Board of Immigration Appeals, 2024-2025

Hon. Dana Leigh Marks, Immigration Judge, San Francisco, 1987-2021

Hon. Margaret McManus, Immigration Judge, New York, 1991-2018

Hon. Maria E. Navarro, Immigration Judge, New York, 2017-2025

Hon. Maureen O’Sullivan, Immigration Judge, Boston and Los Angeles, 2010-2025

Hon. George Pappas, Immigration Judge, Boston and Chelmsford, MA, 2023-2025

Hon. Charles Pazar, Immigration Judge, Memphis, 1998-2017

Hon. Anam Rahman Petit, Immigration Judge, Annandale, VA, 2023-2025

Hon. George Proctor, Immigration Judge, Los Angeles, San Francisco, 2003-2008

Hon. Laura L. Ramirez, Immigration Judge, San Francisco, 1997-2018

Hon. Carmen Maria Rey Caldas, Immigration Judge, Stewart (Lumpkin, GA) and New York, 2022-2025

Hon. Lory D. Rosenberg, Appellate Immigration Judge, Board of Immigration Appeals, 1995-2002

Hon. Susan G. Roy, Immigration Judge, Newark, 2008-2010

Hon. Shifra Rubin, Immigration Judge, Newark, NJ and New York, 2016-2025

Hon. Andrea Sáenz, Appellate Immigration Judge, Board of Immigration Appeals, 2021-2025

Hon. Paul W. Schmidt, Chairperson and Appellate Immigration Judge, Board of Immigration Appeals, 1995-2003; Immigration Judge, Arlington, VA, 2003-2016

Hon. Noelle Sharp, Assistant Chief Immigration Judge, Houston, 2021-2025

Hon. Patricia M. B. Sheppard, Immigration Judge, Boston, 1993-2006

Hon. Ilyce S. Shugall, Immigration Judge, San Francisco, 2017-2019

Hon. Helen Sichel, Immigration Judge, New York, 1997-2020

Hon. Gabriel C. Videla, Immigration Judge, New York and Miami, 1994-2022

Hon. Robert D. Vinikoor, Immigration Judge, Chicago, 1984-2017

Hon. Polly A. Webber, Immigration Judge, San Francisco, 1995-2016

Hon. Robert D. Weisel, Assistant Chief Immigration Judge, Immigration Judge, New York, 1989-2016

Hon. Elizabeth Young, Regional Deputy Immigration Judge, Assistant Chief Immigration Judge, Immigration Judge, San Francisco, 2016-2025

CERTIFICATE OF COMPLIANCE

I certify that: Pursuant to Fed. R. App. P., Rule 32(a)(7)(B) and (C), Rule (a)(5) and (6), and Fifth Circuit Rules 32-1 and 32-4, the attached brief is proportionally spaced, has a typeface of 14 points or more, and contains approximately 2,725 words, exclusive of the table of contents, table of authorities, corporate disclosure statement, certificates of counsel, signature block, and any appendix, which is does not exceed the 6,500 word-limit for an amicus brief. The word count includes the FRAP RULE 29 Statement and all footnotes.

CERTIFICATE OF SERVICE

I, Kari Hong, hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fifth Circuit by using the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: August 21, 2026

Respectfully submitted,

/s/ Alicia J. Triche
ALICIA J. TRICHE