No. 26-60344

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

MAHMOUD KHALIL,
Petitioner,
v.

TODD WALLACE BLANCHE, ATTORNEY GENERAL,
Respondent.

ON PETITION FOR REVIEW FROM
THE BOARD OF IMMIGRATION
APPEALS

BRIEF OF *AMICUS CURIAE*
NATIONAL IMMIGRATION PROJECT
IN SUPPORT OF PETITIONER

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SUPPLEMENTAL CERTIFICATE OF INTERESTED PERSONS

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Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Fifth Circuit Rule 29.2, amicus curiae the National Immigration Project through its undersigned counsel, submits this Certificate of Interested Persons to fully disclose all those with an interest in this brief and to provide the required information as to its corporate status and affiliations. The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Rule 28.2.1, in addition to those listed in Petitioner's Certificate of Interested Persons, have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

A. Amicus curiae National Immigration Project is a nonprofit organization that has no parent company and no person or entity owns any part of it.

B. Khaled Alrabe, Counsel for Amicus curiae

Dated: August 20, 2026

/s/ Khaled Alrabe

Khaled Alrabe
Counsel for *Amicus Curiae*

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I. INTRODUCTION AND STATEMENT OF AMICUS CURIAE[1]

A person the government seeks to remove from the United States is entitled to know the case against them. The Department of Homeland Security ("DHS") must plead and present to noncitizens the acts or conduct alleged to be in violation of law and must prove those facts alleged by clear and convincing evidence. The Board of Immigration Appeals ("BIA" or "Board") below departed from that guarantee. It held, among other things, that Petitioner had "sufficient notice" that he could be found removable under 8 U.S.C. § 1227(a)(1)(A) for failing to disclose his involvement and association with the United Nations Relief and Works Agency for Palestine Refugees ("UNRWA"), even though the Immigration Judge ("IJ") had expressly rejected the factual premise of the allegation DHS actually pleaded in support of that charge and which Petitioner successfully defended against: that Petitioner failed to disclose his "membership" in UNRWA. It falls to this Court to decide whether a noncitizen may be ordered removed based on a factual

[1] Pursuant to Fed. R. App. P. 29(a)(4)(E), amicus curiae states that no counsel for a party authored this brief in whole or in part, and no party, party's counsel, or other person or entity, other than amicus curiae and its counsel, contributed money intended to fund preparing or submitting this brief.

assertion of removability DHS did not allege and which the noncitizen was never called upon to admit or deny, nor to defend against. The National Immigration Project respectfully submits this brief to assist the Court with this question. *See* Fed. R. App. P. 29(a).[2] It is of exceptional importance and presents the Court an opportunity to affirm precedent and uphold fair process for noncitizens.

Petitioner's brief lays out several reasons why the Board's decision lacks merit. Amicus fully endorses those arguments. This brief will explain why the Board's notice holding conflicts with the charging scheme the INA and its regulations prescribe, why neither the breadth of the I-485 question that is central to the alleged misrepresentation nor *Matter of D-R-*, 25 I. & N. Dec. 445 (BIA 2011) sustain the Board's holding, and why the Board's rule will have grave consequences for noncitizens in removal proceedings generally.

First, the INA and its implementing regulations require DHS to give a respondent in removal proceedings notice of the acts or conduct alleged to be in violation of law. Those factual allegations define the

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[2] Petitioner and Respondent have consented to the filing of this brief.

case: they identify the propositions the respondent must admit or deny at pleadings, and they fix what DHS must prove by clear and convincing evidence. If DHS's factual theory changes, the regulations supply its remedy. DHS may lodge additional or substituted factual allegations in writing, subject to renewed pleadings. Here, Petitioner rebutted the factual allegation DHS pleaded in support of the misrepresentation charge, yet he was found removable based on a factual allegation DHS did not plead.

Second, neither rationale the Board offered in support of its notice holding is correct. The charging document referenced the I-485 question that is the subject of the dispute, but it specified the alleged misrepresentation DHS believed met the removal ground: Petitioner's failure to disclose 'membership' in UNRWA. Contrary to the BIA's assertions, the mere breadth of the I-485 question cannot supply notice of a factual allegation DHS never made. This is especially true in a misrepresentation case, where willfulness and materiality turn on the specific fact allegedly concealed. And *Matter of D-R-*, the only authority the Board cited, addresses how an alleged fact may be proved, not what facts are alleged. Once the IJ rejected the membership premise, removability rested on an omission Petitioner was not called upon to admit or deny nor to defend against.

Third, the Board's rule would significantly undermine the structure and fairness of removal proceedings in multiple ways. It impermissibly transfers the charging function from DHS to the IJ, encroaching on DHS's exclusive prosecutorial role and compromising the IJ's required neutrality between the parties. The BIA's holding also allows DHS to bypass the procedure laid out in the regulation for amending factual allegations, rendering that regulatory scheme largely superfluous. It also raises serious due process concerns because a respondent is entitled to notice of the case the Government intends to actually prove. Finally, it will fall hardest on the majority of respondents who appear without counsel and cannot be expected to anticipate factual theories DHS did not plead.

The National Immigration Project is a non-profit membership organization of immigration attorneys, legal workers, grassroots advocates, and others working to defend immigrants' rights and to secure a fair administration of the immigration and nationality laws. It provides technical assistance to the bench and bar, hosts continuing legal education seminars on the rights of noncitizens, and is the author of numerous practice advisories as well as Immigration Law and Crimes and three other treatises published by Thomson West. Amicus has a direct interest in ensuring that the procedures governing removal proceedings are fair and predictable.

II. ARGUMENT

A. DHS Must Give Respondents in Removal Proceedings Notice of the Acts or Conduct it Alleges Satisfy the Charged Ground of Removability.

The Immigration and Nationality Act requires DHS to provide noncitizens with the factual basis for removability. A notice to appear must specify not only the "charges against the [noncitizen]," but also "[t]he acts or conduct alleged to be in violation of law." 8 U.S.C. § 1229(a)(1)(C)–(D). The implementing regulations impose the exact same requirements demanding both notice of the charges and "the acts or conduct alleged to be in violation of law." 8 C.F.R. § 1003.15(b)(3)–(4). These requirements reflect the longstanding constitutional guarantee that a noncitizen facing removal is "entitled to notice of the nature of the charge" against him. *Kwong Hai Chew v. Colding*, 344 U.S. 590, 597 (1953).

The charge and the factual allegations serve distinct functions. The charge identifies the statutory ground of removability DHS invokes and the factual allegations identify the specific acts or conduct on which DHS relies to establish that removal ground. 8 C.F.R. § 1003.15(b)(3)–(4). The regulations require both because notice of the legal ground alone does not inform a respondent of the conduct he must defend against.

The regulation's structure confirms the significance of the acts-alleged requirement. Section 1003.15(c) requires items such as the respondent's address and A-Number to be listed in the charging document but expressly provides that their omission "shall not be construed as affording the [noncitizen] any substantive or procedural rights." 8 C.F.R. § 1003.15(c). No comparable disclaimer accompanies subsection (b)(3)'s requirement to state in the notice to appear the "acts or conduct alleged to be in violation of law." *Id.* § 1003.15(b)(3). That textual difference is presumed intentional. *See Russello v. United States*, 464 U.S. 16, 23 (1983); *Sanderson Farms, Inc. v. OSHRC*, 964 F.3d 418, 425–26 (5th Cir. 2020)(applying ordinary rules of statutory construction to agency regulations); *see also Matter of Pena-Mejia*, 27 I.

& N. Dec. 546, 548 (BIA 2019)(rejecting a notice-based challenge in part because § 1003.15(c) includes that disclaimer language). Unlike the ministerial items listed in subsection (c), the factual allegations required by subsection (b)(3) are among the key protections the charging regulations afford the respondent.

The pleading rules similarly reinforce this notice function. At the outset of proceedings, the IJ must require the respondent to "admit[] or deny[] the factual allegations" and to state whether he concedes "removability under the charges contained therein." 8 C.F.R. § 1240.10(c). If respondents concede, the IJ may determine that "removability as charged has been established by the admissions of the respondent." *Id*. The factual allegations, therefore, identify the propositions the respondent is required to admit, deny, and defend against.

The Supreme Court has also emphasized the notice function of the charging document. In *Niz-Chavez v. Garland*, the Court explained that a notice to appear "serves as the basis for commencing a grave legal proceeding" and is "like an indictment in a criminal case [or] a complaint in a civil case." 593 U.S. 155, 163 (2021). The purpose of such case-initiating documents is "to supply an affected party with a single document highlighting certain salient features of the proceedings against him." *Id.* at 163–64. The factual allegations required by 8 U.S.C. § 1229(a)(1)(C) and 8 C.F.R. § 1003.15(b)(3) are among those salient features because they identify the conduct DHS alleges as the basis for removal.

The Board has likewise explained that a charging document must be "sufficiently explicit" to tell the respondent "*what actions were in violation of the law*, and what law he violated, so as to enable him to mount a defense." *Matter of Herrera-Vasquez*, 27 I. & N. Dec. 825, 829 (BIA 2020) (emphasis added) (quoting *Matter of Chery & Hasan*, 15 I. & N. Dec. 380, 381 (BIA 1975)) (explaining that this standard, which applied to an order to show cause remains instructive under current § 1003.15(b)(1)–(4)).

Amicus does not argue that DHS's charging document was facially deficient in this case. DHS amended the charges in a Form I-261 to add the 8 U.S.C. § 1227(a)(1)(A) charge and alleged a specific factual basis for removability that satisfied § 1003.15(b)(3) on its face. The statutes, regulations, and case law on notice in removal proceedings referenced here establish the function of the factual allegation: to identify the conduct DHS says violated the law and that the respondent must defend against.

B. DHS Must Prove the Factual Basis It Alleges in Support of the Charged Ground of Removability.

Once a respondent denies a factual allegation that DHS relies on to establish removability, the case moves from pleading to proof. 8 C.F.R. § 1240.10(c)–(d). DHS bears the burden of proving by clear and convincing evidence that the respondent is "deportable *as charged*." 8 C.F.R. § 1240.8(a) (emphasis added); *see* 8 U.S.C. § 1229a(c)(3)(A). That burden has long been tied to the factual allegations themselves. *Woodby v. INS*, 385 U.S. 276, 286 (1966) (requiring the Government to prove "that the facts alleged as grounds for deportation are true"). And after pleadings, if "issues of law or fact remain," the IJ receives evidence "as to any unresolved issues." *Matter of Tepec-Garcia*, 29 I. & N. Dec. 371, 372–73 (BIA 2025); *see* 8 C.F.R. § 1240.10(d). A factual allegation that remains disputed and on which DHS relies to establish removability therefore remains an issue for DHS to prove.

This statutory scheme does not require DHS to plead its evidence. The factual allegations identify the facts DHS must prove but they do not limit the evidence by which DHS may prove them. The Board has recognized, for example, that an adjudicator may draw "reasonable inferences from direct and circumstantial evidence" in deciding whether a disputed fact has been established. *Matter of D-R-*, 25 I. & N. Dec. 445, 454–55 (BIA 2011). *D-R-* defines an inference as "a reasoned, logical decision to conclude that a disputed fact exists on the basis of another fact that is known to exist." *Id.* at 454. An inference under *D-R-* is therefore a means of establishing the fact alleged and in dispute; it does not permit an adjudicator to rest a finding on a fact DHS never placed in dispute, which is the error that the IJ committed in Petitioner's case.

Moreover, the regulations provide DHS with a procedure for changing the factual allegations. "At any time during the proceeding," DHS may lodge "additional or substituted . . . factual allegations" in writing. 8 C.F.R. § 1240.10(e). *Accord* 8 C.F.R. § 1003.30. The new allegations are served on the respondent and subjected to the pleading process. 8 C.F.R. § 1240.10(e). A change in the factual allegation is therefore a pleading issue, not simply a matter of evidence. *See Matter of Dingus*, 28 I. & N. Dec. 529, 532 & n.7, 538–39 (BIA 2022) (remanding to the IJ to reassess an orally amended factual allegation to which the respondent had not been permitted to plead). Accordingly, under this regulatory scheme, if DHS does not amend its factual basis it must prove the one it alleged. And if it fails to do so, it has not carried its burden to prove the respondent "deportable as charged." 8 C.F.R. § 1240.8(a).

C. The Board Erred in Holding That the I-485 Question Supplied Sufficient Notice.

The Board's decision with respect to notice here impermissibly departs from the scheme described above and blurs the line between allegation and proof.

DHS charged Petitioner under 8 U.S.C. § 1227(a)(1)(A), based on inadmissibility under § 1182(a)(6)(C)(i), alleging in the I-261 that he failed to disclose that he was a "member" of UNRWA "as a political officer" in response to a question on his Form I-485. *Matter of M-K-*, 29 I. & N. Dec. 556, 560 (BIA 2026). The IJ, however, found that UNRWA "is not a membership-based organization" rejecting the factual premise DHS had alleged and Petitioner had been given notice to defend. *Id.* The IJ nevertheless sustained the charge on the basis that Petitioner was "involved and associated with UNRWA." *Id.* at 561. The Board affirmed because, in its view, the breadth of the underlying I-485 question itself supplied “sufficient notice” of removability based on involvement “regardless of whether” Petitioner was a member.[3] *Id.* at 560. The Board also cited *Matter of D-R-*’ s rule permitting reasonable factual inferences in support of this holding. *Id.* Neither rationale is sound. The breadth of the I-485 question cannot supply notice of a factual allegation DHS never made, and, as explained above, *Matter of D-R-* addresses how an alleged fact may be established, not what facts are alleged. *See supra* § II.B.

Under the charging scheme discussed above, DHS’s choice of factual allegations provides the necessary notice to the respondent and defines the scope of DHS’ burden. *See supra* § II.A; 8 C.F.R. § 1240.10(c). In this case, the Board erred in treating the I-485 as sufficient notice of a factual basis DHS did not allege. The I-261 cited

[3] The Board framed this holding as one the IJ herself made. *See Matter of M-K-*, 29 I. & N. Dec. at 560 (stating that the IJ “permissibly found that DHS provided sufficient notice that the respondent was being charged with removability based on a misrepresentation regarding his involvement with UNRWA”). The IJ made no such finding; she addressed what the I-485 required Petitioner to disclose, not whether the I-261 gave notice of an involvement or association theory. *See* Pet’r Br. 55. The Board reviews the IJ’s findings for clear error and may not make its own. 8 C.F.R. § 1003.1(d)(3)(i),(iv).

the relevant I-485 question, but then specified the alleged omission: that Petitioner had failed to disclose membership in UNRWA. The case against Petitioner is defined by the allegation DHS made, not by the broader wording of the I-485 question it referenced. *See supra* § II.B. For that reason alone, the Board erred in holding that the I-485 question provided Petitioner sufficient notice.

The Board's error is not trivial. This case demonstrates why adherence to the statutory and regulatory notice scheme is essential for two reasons.

First, although membership and association may appear to be similar, whether Petitioner failed to disclose membership in UNRWA or failed to disclose involvement or association with it called for different defense responses and strategies. That is precisely why the Board requires charging allegations to identify the conduct at issue with enough specificity for the respondent to "mount a defense." *Herrera-Vasquez*, 27 I. & N. Dec. at 829. To rebut the allegation DHS actually made, Petitioner presented evidence that he could not have been a member of UNRWA, and the IJ agreed. *Matter of M-K-*, 29 I. & N. Dec. at 560. But the involvement theory on which the IJ sustained removability rested on a different ostensible omission raising different questions: what the I-485 required him to disclose, what his Columbia disclosure already conveyed, and whether any alleged omission was willful and material. Petitioner thus successfully rebutted the factual allegation DHS pleaded in support of this charge, yet he was found removable on an allegation DHS never made and that he had no opportunity to admit or deny or defend against.

Second, notice specificity is especially important when the charge is based on misrepresentation. The alleged misrepresentation is the conduct DHS says triggers removability, and the necessary showing of willfulness and materiality depend on identifying the specific fact allegedly concealed. *See Kungys v. United States*, 485 U.S. 759, 771–72 (1988) (materiality turns on whether the misrepresentation or concealment had a natural tendency to influence the agency's decision); *Matter of A.J. Valdez & Z. Valdez*, 27 I. & N. Dec. 496, 498 (BIA 2018) (willfulness requires a misrepresentation "deliberately made with knowledge of [its] falsity").

The Fifth Circuit has recognized the importance of that specificity in the analogous criminal false-statement context. This Court has explained that when the Government "chooses to specifically charge the manner in which the defendant's statement is false," it must prove falsity "*for that reason*." *United States v. Hoover*, 467 F.3d 496, 502 (5th Cir. 2006) (emphasis added). The specificity is key because the defendant "may have reasonably relied on the indictment" in preparing his defense. *Id*. The same concern applies here. *See Niz-Chavez*, 593 U.S. at 164 (describing a notice to appear as analogous to an indictment or complaint); *see supra* § II.A. DHS specified the alleged falsehood as Petitioner's failure to disclose membership in UNRWA. A failure to disclose involvement or association identifies a different alleged falsehood and therefore presents different questions of willfulness and materiality and may well require a different defense.

Matter of D-R-, the only authority the Board cited in support of its notice holding, does not support that holding. As explained above, that case addresses how an alleged fact may be established, it does not address what facts are alleged. *See supra* § II.B. Had the IJ inferred from Petitioner's internship that he was a member of UNRWA, *Matter of D-R-* would be on point. Instead, she found that UNRWA is not a membership-based organization at all and sustained the charge based on Petitioner's involvement and association with it. That finding did not establish the alleged fact by inference, rather it rested removability on a fact DHS never alleged as the basis of removability and that Petitioner did not have an opportunity to admit or deny or defend against.

For these reasons, the Board's notice holding cannot stand. To resolve this case, the Court need not decide how closely DHS's proof must track its factual allegations in every case. Here, the IJ did not simply rely on additional evidence or draw an inference to establish the allegation DHS pleaded; she rejected that allegation and sustained removability on a different one – one that was *never* alleged. Once the membership premise failed, the breadth of the I-485 question could not supply notice that removability would rest on Petitioner's involvement or association with UNRWA. The Board therefore erred in treating that question as notice of a factual allegation DHS never made.

D. The Board's Rule Undermines the Structure and Fairness of Removal Proceedings

The Board's notice rule has grave consequences beyond this case. It permits an IJ, after rejecting the factual basis DHS alleged in support of a charge, to sustain the same charge on a factual basis DHS never alleged. Under that rule, the factual allegations would identify only the general subject of the dispute rather than the specific acts or conduct DHS alleges as the factual basis for removal. The Board's holding not only conflicts with the statutory and regulatory charging scheme described above, it is also untenable for four additional reasons.

First, the Board's rule impermissibly transfers part of the charging function from DHS to the IJ. The regulations expressly assign DHS, not the IJ, the task of lodging "additional or substituted . . . factual allegations." 8 C.F.R. §§ 1003.30, 1240.10(e). *See also Matter of Ponce De Leon*, 21 I. & N. Dec. 154, 158 (BIA 1996) ("The Board and Immigration Judges . . . only have such authority as is created and delegated by the Attorney General [through the regulations]."). In recent years, the Board has consistently emphasized DHS's "exclusive authority to control the prosecution of [removable] [noncitizens]." *Matter of Ibarra-Vega*, 29 I. & N. Dec. 476, 482 (BIA 2026) (reversing an IJ's refusal to recalendar proceedings over DHS's objection) (quoting *Matter of J-A-B- & I-J-V-A-*, 27 I. & N. Dec. 168, 171 (BIA 2017)). The Board has explained that removal proceedings are adversarial and IJs adjudicate "cases brought by DHS" and should not "act in the place of either of the parties." *Matter of B-N-K-*, 29 I. & N. Dec. 96, 99–100 (BIA

2025). These principles cannot run in only one direction. The Board has stressed that an IJ's obligation of neutrality "extends equally" to both parties and that IJs "must assiduously refrain from becoming advocates for either party." *Matter of I-B-M-S-*, 29 I. & N. Dec. 628, 632–33 (BIA 2026) (quotations omitted). If an IJ may not displace DHS's prosecutorial choices to benefit the respondent, neither may the IJ supplement those choices to benefit DHS. An IJ who rescues a failed allegation by supplying a different factual basis DHS never chose to plead is no longer adjudicating the case DHS brought – they are prosecuting it.

Second, the Board's rule allows DHS to bypass the prescribed procedure for changing factual allegations. If DHS's factual theory changes, it may "[a]t any time during the proceeding" lodge an "additional or substituted" factual allegation in writing. 8 C.F.R. § 1240.10(e); accord id. § 1003.30; *see supra* § II.B. The Board's rule here instead gives DHS the kind of extra-procedural latitude the Supreme Court rejected in *Niz-Chavez*. There, the Government argued that because it could later amend the time and place of proceedings, requiring a compliant notice at the outset served no meaningful purpose. 593 U.S. at 169–70. The Court rejected that argument, refusing to treat the prescribed contents of a charging document as an "empty formality" and observing that agencies rarely afford individuals "the same latitude" the Government sought for itself. *Id.* The Court concluded that if individuals "must turn square corners" with the Government, the Government must do the same. *Id.* at 172. The same principle applies here.

Third, the Board's rule raises serious due process concerns. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Reno v. Flores*, 507 U.S. 292, 306 (1993). And deportation is "always 'a particularly severe penalty,'" *Lee v. United States*, 137 S. Ct. 1958, 1968 (2017) (quoting *Padilla v. Kentucky*, 559 U.S. 356, 365 (2010)), one that "may result in the loss of all that makes life worth living." *Bridges v. Wixon*, 326 U.S. 135, 147 (1945) (internal quotation marks omitted). In a proceeding with those stakes, due process requires "notice of the charges against [a noncitizen], a hearing before an executive or administrative tribunal, and a fair opportunity to be heard." *Okpala v. Whitaker*, 908 F.3d 965, 971 (5th Cir. 2018). The Board's rule severs the factual-allegation requirement from its notice function. If the breadth of an application question referenced in the charging allegation – rather than the factual allegation DHS actually pleads – supplies, after the hearing is closed, the notice of what DHS must prove, then a respondent could learn the factual basis for his removal only from the decision sustaining the charge, after the record has closed and after his opportunity to defend against that factual basis has passed. That is the antithesis of constitutional notice principles.

Fourth, the uncertainty created by the Board's rule will fall hardest on the majority of respondents, who appear before an IJ without counsel. The INA guarantees a respondent the privilege of representation, but "at no expense to the Government." 8 U.S.C. § 1229a(b)(4)(A); *see id.* § 1362. And most respondents in the current pending immigration-court docket are unrepresented. Vera Inst. of Just., *Immigration Court Legal Representation Dashboard*, https://www.vera.org/ending-mass-incarceration/reducing-incarceration/detention-of-immigrants/advancing-universal-representation-initiative/immigration-court-legal-representation-dashboard [https://perma.cc/5DY4-A66G] (last visited Aug. 18, 2026).

The stakes of representation are substantial. An analysis of EOIR data from fiscal years 2019 through 2024 found removal orders in 26.9 percent of represented cases, compared with 61.8 percent of unrepresented cases. *See* Am. Immigr. Council, *Where Can You Win in Immigration Court?* (Nov. 20, 2025), https://www.americanimmigrationcouncil.org/report/immigration-court/ [https://perma.cc/43FA-LH9C].

A rule that requires respondents to somehow anticipate and mount a defense against factual theories DHS never pleaded imposes its greatest burden on those least equipped to carry it. A pro se respondent can admit or deny the factual allegations DHS has made and gather evidence to rebut them; he cannot reasonably be expected to defend against allegations DHS never made. Indeed, if the Board's rule can produce that result in a fully counseled case, see supra § II.C, its effect on unrepresented respondents will be far more severe.

III. CONCLUSION

For the foregoing reasons this Court should hold that both the BIA and IJ erred in finding removability based on a fact—*even if* established—that DHS failed to allege, hold that DHS failed to establish removability on the misrepresentation charge, dismiss that charge, and vacate the BIA's decision.

Respectfully submitted,

/s/ Khaled Alrabe

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CERTIFICATE OF CONSENT

I hereby certify, pursuant to Fed. R. App. P. 29(a)(2), that counsel for Petitioner and counsel for Respondent have consented to the filing of this brief.

Dated: August 20, 2026

/s/ Khaled Alrabe

Khaled Alrabe
Counsel for *Amicus Curiae*

CERTIFICATE OF SERVICE

I hereby certify that on August 20, 2026, 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 further 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 20, 2026

/s/ Khaled Alrabe

Khaled Alrabe
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CERTIFICATE OF COMPLIANCE

1- This brief complies with the type-volume limitation of Fed. R. App. P. 29(a)(5) and 32(a)(7)(B) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f) and 5th Cir. R. 32.2, it contains 4,199 words.

2- This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and 5th Cir. R. 32.1 and the type-style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced, serifed typeface using Microsoft Word, in 14-point Century Schoolbook.

3- Pursuant to 5th Cir. R. 25.2.1 and this Court's ECF filing standards, counsel certifies that any required privacy redactions have been made, that the electronic submission is an exact copy of any corresponding paper document, and that the document has been scanned for viruses with the most recent version of a commercial virus-scanning program and is free of viruses.

Dated: August 20, 2026

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