

IN THE SUPREME COURT OF THE UNITED STATES

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No. 20-437

UNITED STATES OF AMERICA, PETITIONER

v.

REFUGIO PALOMAR-SANTIAGO

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ON WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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MOTION FOR LEAVE TO DISPENSE WITH  
PREPARATION OF A JOINT APPENDIX

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Pursuant to Rule 26.8 of the Rules of this Court, the Acting Solicitor General, on behalf of the United States, respectfully seeks leave to dispense with the requirement of a joint appendix in this case. The question presented in this case is whether a defendant charged with unlawful reentry into the United States following removal automatically satisfies all three prerequisites in 8 U.S.C. 1326(d) -- namely, that the defendant "demonstrates that" he "exhausted any administrative remedies that may have been available to seek relief against" a prior order of removal, 8 U.S.C. 1326(d)(1), the removal proceedings "deprived [him] of the

opportunity for judicial review," 8 U.S.C. 1326(d)(2), and "the entry of the [removal] order was fundamentally unfair," 8 U.S.C. 1326(d)(3) -- solely by showing that he was removed for a crime that would not be considered a removable offense under current circuit law. The opinion of the court of appeals is included in the appendix to the petition for a writ of certiorari, as are certain documents from respondent's prior removal proceeding. In our view, no other portion of the record merits special attention such as would warrant the preparation and expense of a joint appendix, and preparation of a joint appendix would not materially assist the Court's consideration of the case. We are authorized to state that counsel for respondent agrees that a joint appendix is not necessary.

Respectfully submitted.

ELIZABETH B. PRELOGAR  
Acting Solicitor General  
Counsel of Record

JANUARY 2021