No.

In the Supreme Court of the United States

MONIKA KAPOOR, PETITIONER

v.

VINCENT DEMARCO, UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF NEW YORK, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

The general federal habeas corpus statute, 28 U.S.C. § 2241, extends the Great Writ to detention "in violation of the * * * laws or treaties of the United States." And "[i]n the extradition context * * * , habeas corpus proceedings have long been the appropriate vehicle * * * for detainees to bring claims seeking to bar their transfers." *Trump* v. *J.G.G.*, 145 S. Ct. 1003, 1007 (2025) (Kavanaugh, J., concurring).

In the decision below, the Second Circuit held that 8 U.S.C. § 1252(a)(4)—a provision devoted to judicial review of immigration removal orders—strips the federal courts of habeas jurisdiction over Convention Against Torture (CAT) claims by individuals facing extradition. In so holding, the Second Circuit expressly "part[ed] ways" with the Ninth Circuit on that issue.

The questions presented are:

1. Whether Congress has stripped the federal courts of habeas jurisdiction over CAT claims by individuals facing extradition.

2. Whether application of Section 1252(a)(4) to bar habeas review of CAT claims violates the Suspension Clause.

PARTIES TO THE PROCEEDING

Petitioner is Monika Kapoor, the appellant in the court of appeals.

Respondents are Vincent F. DeMarco, United States Marshal for the Eastern District of New York, and Roberto Cordeiro, Chief Pretrial Services Officer for the Eastern District of New York, the appellees in the court of appeals.

RELATED PROCEEDINGS

United States Court of Appeals (2d Cir.):

Kapoor v. *DeMarco*, No. 22-2806 (Mar. 26, 2025)

United States District Court (E.D.N.Y.):

Kapoor v. *DeMarco*, No. 16-cv-5834 (Sept. 21, 2022)

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OPINIONS BELOW

The opinion of the court of appeals (App., *infra*, 1a-35a) is reported at 132 F.4th 595. The district court's order (App., *infra*, 36a-42a) is unreported but is available at 2022 WL 4357498.

JURISDICTION

The judgment of the court of appeals was entered on March 26, 2025. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

Pertinent statutory provisions are reproduced in the appendix to this petition. App., *infra*, 43a-61a.

STATEMENT

This case concerns federal courts' habeas jurisdiction over torture claims by individuals facing extradition. Petitioner is an Indian citizen facing extradition from the United States to India, where she

credibly fears that she will be tortured. The Secretary of State nevertheless issued a warrant authorizing petitioner's extradition. She therefore filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, claiming that her extradition would violate the United Nations Convention Against Torture (CAT), as implemented by federal law.

The court of appeals held that it lacked jurisdiction over petitioner's habeas claim. Specifically, it concluded that 8 U.S.C. § 1252(a)(4)—a section of the United States Code that applies *only* to orders of removal in immigration proceedings—strips federal courts of habeas jurisdiction over CAT claims by extraditees. Adding insult to injury, the court of appeals further held that, under the so-called "rule of non-inquiry," reading a categorical jurisdictional bar into Section 1252(a)(4) does not violate the Suspension Clause. That holding was based on the panel's view—unsupported by any relevant Founding-era authority—that habeas jurisdiction over extraditees' claims based on anticipated treatment in a receiving country was traditionally unavailable.

The decision below places the Second Circuit in the center of a longstanding and entrenched circuit split. The Second Circuit joins the Fourth and D.C. Circuits, which have likewise held that federal courts are barred from considering CAT claims in extradition proceedings. The en banc Ninth Circuit, however, has held that Congress has not removed habeas jurisdiction over CAT claims by extraditees. That is because, by its terms, Section 1252(a)(4) bars habeas jurisdiction only over challenges to final orders of removal. In total, more than 20 circuit judges from four courts of appeals have expressed differing views

on the questions presented in this petition. Fourteen years of percolation since the last decision contributing to the split have only sown further confusion. The circuit split is ripe for this Court's review.

A. Legal Background

1. Section 2241 of Title 28 of the U.S. Code provides that "[w]rits of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions." The writ of habeas corpus may issue where detention is a "violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Section 2241 is sometimes referred to as the "general habeas corpus statute," *Jones* v. *Hendrix*, 599 U.S. 465, 469 (2023), and it "traces its ancestry to the first grant of federal-court jurisdiction: Section 14 of the Judiciary Act of 1789," *Rasul* v. *Bush*, 542 U.S. 466, 473 (2004).

2. Under 18 U.S.C. § 3184, when the government files a complaint charging a person in the United States with a crime allegedly committed in a foreign state covered by an extradition treaty, a judge may issue an arrest warrant for the person so charged. If the judge determines that the government's "evidence of criminality" is "sufficient to sustain the charge under the provisions of the proper treaty," the judge "shall certify * * * to the Secretary of State" that the Secretary may issue a surrender warrant. *Ibid.* That certification is not subject to direct appeal, *In re Metzger*, 46 U.S. (5 How.) 176, 191 (1847), and under the so-called "rule of non-contradiction," the extraditee is prohibited from presenting evidence in the proceeding that contradicts the evidence of guilt

offered by the requesting foreign country, *Noeller* v. *Wojdylo*, 922 F.3d 797, 807 (7th Cir. 2019). Upon a certification of extraditability, the Secretary of State "may order the person * * * to be delivered to any authorized agent of such foreign government, to be tried for the offense of which charged." 18 U.S.C. § 3186.

Because the certification proceedings are circumscribed, "[a] petition for habeas corpus is the only means available to challenge an international extradition order." 15B Charles Alan Wright et al., *Federal Practice and Procedure* § 3918.3 & n.20 (2d ed. 2025 update); see also *Vitkus* v. *Blinken*, 79 F.4th 352, 362 (4th Cir. 2023) ("Because a certification order is not a final appealable order under 28 U.S.C. § 1291, an extraditee * * * can only challenge such an order in federal court by pursuing habeas corpus relief under 28 U.S.C. § 2241.").

3. In 1984, the United Nations General Assembly adopted CAT. CAT Article 3 provides that "[N]o State Party shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture." Art. 3, 1465 U.N.T.S. 114. Article 3 directs the "competent authorities," in making that determination, to "take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights." *Ibid.*

CAT is a non-self-executing treaty. Following its ratification of CAT, Congress enacted the Foreign Affairs Reform and Restructuring Act of 1998 (FARRA), which states, in relevant part:

> It shall be the policy of the United States not to expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, regardless of whether the person is physically present in the United States.

Pub. L. No. 105-277, Div. G, § 2242(a), 112 Stat. 2681-822 (codified as note to 8 U.S.C. § 1231).

Section 2242(d) of FARRA sets forth the following rule of construction:

> Notwithstanding any other provision of law, and except as provided in the regulations described in subsection (b), * * * nothing in this section shall be construed as providing any court jurisdiction to consider or review claims raised under the Convention or this section, or any other determination made with respect to the application of the policy set forth in subsection (a), except as part of the review of a final order of removal pursuant to section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

8 U.S.C. § 1231 note.

Under FARRA, the State Department promulgated regulations outlining its CAT obligations when evaluating the torture claims of an extraditee. Among other things, those regulations require the government to consider "whether a person facing

extradition from the U.S. 'is more likely than not' to be tortured in the State requesting extradition." 22 C.F.R. § 95.2(b). The regulations further provide that "appropriate policy and legal offices [shall] review and analyze information relevant to the case in preparing a recommendation to the Secretary as to whether or not to sign the surrender warrant." *Id.* § 95.3(a). According to the regulations, the determination resulting from that opaque process is a "matter[] of executive discretion not subject to judicial review." *Id.* § 95.4.

Congress addressed judicial review of claims under CAT in the immigration context when it enacted 8 U.S.C. § 1252(a)(4) as part of the REAL ID Act of 2005 (REAL ID Act), Pub. L. No. 109-13, Div. B, § 106(a)(1)(B), 119 Stat. 302, 310. That provision—in a section titled "Judicial review of orders of removal," and appearing in a subchapter titled "Immigration"—states:

> Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of any cause or claim under the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment, except as provided in subsection (e).

8 U.S.C. § 1252(a)(4).

B. Factual and Procedural Background

1. Petitioner was born in 1972 in New Delhi into a traditional Hindu home. She completed high school but, like many women and girls in India, did not continue her education after her marriage, which was arranged by her parents when she was nineteen years old. Petitioner immediately became a housewife and did not work oustide of the home.

Around 1994, petitioner's two brothers started a jewelry import-export business. See Application for Stay of Mandate, No. 24A1108, Appendix (Stay App.), 65a. Although she had no involvement in the business, her brothers opened the business under her name and called it "Monika Overseas." *Ibid.* In India, it is considered auspicious to use a female name in a business venture. *Ibid.*

The brothers' business proved successful. Consequently, beginning around 1999 it became the target of politicians and bureaucrats who made extortive demands on it. Stay App. 90a-91a. When those demands were not met, petitioner's entire family—and petitioner in particular—became the target of torture, abuse, and harassment. *Ibid.* On more than fifteen occasions, government agents forced their way into her home and detained her for extended periods, without any access to food, water, or toilet facilities. *Id.* at 65a-66a. During those detentions, petitioner was subjected to abusive interrogations. *Id.* at 66a. Government agents threatened to kidnap her children. *Ibid.* And they threatened her with (and in one instance attempted) sexual assault. *Ibid.* Petitioner's husband was detained under similar conditions, except that he was also beaten, burned with cigarettes, and forced to stand naked. *Ibid.*

To escape that abuse, and because she feared that she and her children would eventually be killed by government authorities, petitioner fled with her two children to the United States in October 1999. Stay App. 67a. She ultimately overstayed her visa.

2. a. In March 2010, petitioner was placed in immigration removal proceedings. App., *infra*, 10a. Because of the torture and abuse that she had endured in India, she applied for asylum, withholding of removal, and relief under CAT. Stay App. 78a-91a. In April 2010, after learning of her immigration proceedings, the Indian government initiated criminal process against petitioner in the Court of the Metropolitan Magistrate in New Delhi. *Id.* at 54a. The arrest warrant asserted a suite of property crimes—like forgery and "dishonestly inducing delivery of property"—alleging that petitioner and her brothers had defrauded the Indian government of approximately $680,000. App., *infra*, 10a-11a. Petitioner maintains that those charges are based on false accusations and fabricated evidence. Stay App. 91a.

In October 2010, the Indian government submitted a request to the State Department for petitioner's extradition. App., *infra*, 11a. On May 2, 2011, the United States filed a complaint in the U.S. District Court for the Eastern District of New York, seeking an arrest warrant based on India's extradition request. *Ibid.* A magistrate issued the arrest warrant that same day, and petitioner was arrested. *Ibid.* Because she is not a flight risk, however, petitioner was granted bail in June 2011 pending resolution of the extradition proceedings. *Ibid.* Since then, petitioner has abided by all movement restrictions

imposed on her and has been in the custody of respondents and pretrial services for the Eastern District of New York.

In response to India's extradition request, the Department of Justice froze—and has kept frozen—petitioner's immigration proceedings. App., *infra*, 11a. In April 2012, the magistrate judge granted the government's request and certified the extradition. *Id.* at 12a.

b. In June 2012, petitioner filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241. App., *infra*, 12a. Petitioner argued that the magistrate judge erred by excluding certain evidence that she had offered at the extradition hearing and that CAT's dual criminality requirement had not been satisfied. *Ibid.* The district court denied the petition in May 2014, concluding that the magistrate judge properly excluded Kapoor's proffered evidence and that dual criminality was shown. *Ibid.* The Second Circuit affirmed. See *Kapoor* v. *Dunne*, 606 Fed. Appx. 11 (2d Cir. 2015).

On September 18, 2015, the State Department granted India's extradition request and issued a warrant authorizing Kapoor's surrender to India under 18 U.S.C. § 3186. App., *infra*, 12a-13a. The State Department also sent petitioner a letter notifying her of the surrender decision. Stay App. 92a-93a. Although the State Department's letter and attached declaration recounted the extradition process and cited the legal standard under CAT, neither the letter nor the declaration contained any discussion concerning the actual merits of petitioner's CAT claim, nor any analysis of the evidence that she had submitted in support of her claim. See *id.* at 92a-

97a. Instead, the letter simply asserted that her extradition complied with CAT following review of "all pertinent information." *Id.* at 92a. The accompanying declaration did not confirm that the Secretary had complied with its obligations under CAT or that there was not a substantial risk that petitioner would endure torture in India if extradited. See *id.* at 94a-97a.

In October 2015, petitioner filed a second habeas petition challenging the State Department's decision to extradite her. App., *infra*, 13a. Petitioner withdrew that petition after the State Department stated that it would review additional materials submitted by petitioner related to her torture claims. *Ibid.* In August 2016, the State Department informed petitioner that it was not changing its extradition decision. *Ibid.* The State Department's August 2016 letter was as conclusory as its prior one. Stay App. 100a-101a.

Petitioner filed a third habeas petition under 28 U.S.C. § 2241 in October 2016, and that is the operative habeas petition now on appeal. App., *infra*, 14a. The instant petition, in conjunction with its attached exhibits, describes the factual basis for petitioner's claim that she will be tortured if returned to India. See Stay App. 48a-91a. Petitioner submitted additional evidence supporting her claim in advance of a hearing in the district court. The habeas petition further alleges that the State Department ignored evidence supporting her claim of likely torture and failed to make any genuine factual findings as to the likelihood of her torture in India. *Id.* at 56a. The petition seeks release from executive detention and an injunction restraining her custodians from

extraditing her, and it asks the district court to "[a]ssume jurisdiction over this matter and consider" the facts and evidence in support of her CAT claim. *Id.* at 59a.

The district court denied petitioner's habeas petition in September 2022. App., *infra*, 17a, 42a. Relying on the D.C. Circuit's decision in *Omar* v. *McHugh*, 646 F.3d 13 (D.C. Cir. 2011), the district court held that 8 U.S.C. § 1252(a)(4) prohibits judicial review of her CAT claim in a habeas proceeding. *Id.* at 42a. The district court further held that its reading of Section 1252(a)(4) to withhold habeas jurisdiction did not effect a suspension of the writ of habeas corpus in violation of the Suspension Clause. *Ibid.* Kapoor appealed.

c. The court of appeals affirmed. App., *infra*, 35a.

First, the court of appeals held that "Section 1252(a)(4) bars courts from exercising habeas jurisdiction over CAT claims raised by individuals facing extradition." App., *infra*, 35a. It read Section 1252(a)(4) as containing "a clear statement of congressional intent to bar all habeas jurisdiction over CAT claims," rejecting petitioner's argument that the provision can, and should, be construed to limit only habeas challenges to final orders of removal. *Id.* at 22a-23a.[1]

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[1] The Second Circuit had previously held that Section 2242(d) of FARRA did "not speak with sufficient clarity to exclude CAT claims from § 2241 jurisdiction." *Wang* v. *Ashcroft*, 320 F.3d 130, 142 (2d Cir. 2003). The decision below accepted *Wang* as governing circuit law, App., *infra*, 20a, and thus disagreed with the FARRA-based rationale of the Fourth Circuit in *Mironescu* v. *Costner*, 480 F.3d 664 (4th Cir. 2007). See pp. 16-17, *infra*.

In reaching that conclusion, the court of appeals disagreed with the Ninth Circuit's decision in *Trinidad y Garcia* v. *Thomas*, 683 F.3d 952 (9th Cir. 2012) (en banc) (per curiam). App. *infra*, 26a. There, the Ninth Circuit held that Section 2241 provides a remedy to a person challenging the legality of extradition proceedings under CAT—and that Section 1252(a)(4) addresses only "final orders of removal, without affecting federal habeas jurisdiction" over petitions challenging the legality of extradition. 683 F.3d at 956; see *id.* at 958 (Thomas, J., concurring) ("[T]he REAL-ID Act's jurisdiction-stripping provisions do *not* remove federal habeas jurisdiction over petitions that do not directly challenge a final order of removal."). The court of appeals expressly "part[ed] ways" with the Ninth Circuit, and instead joined the D.C. Circuit in holding that extraditees may not obtain habeas review of CAT claims. App. *infra*, 24a (citing *Omar*, 646 F.3d 13), 26a.

Second, the court of appeals held that application of Section 1252(a)(4) to bar habeas review of CAT claims by extraditees does not violate the Suspension Clause. App., *infra*, 35a. Section 1252(a)(4), the panel explained, would violate the Constitution only if it precluded the type of habeas review historically protected by the Suspension Clause. *Id.* at 27a. But in the court's view, the "rule of non-inquiry bars courts from evaluating the fairness and humaneness of another country's criminal justice system" and "requir[es] deference to the Executive Branch on such matters." *Ibid.* (internal quotation marks and citation omitted). Despite citing virtually no pre-Founding or Founding-era legal authority or materials, the court of appeals held that extraditees "have not traditionally been able to maintain a habeas claim

based on their anticipated treatment in a receiving country." *Ibid.*

d. On April 25, 2025, petitioner moved the court of appeals to stay its mandate pending the filing and disposition of this petition for a writ of certiorari. The court of appeals denied the motion. On May 15, petitioner filed an application asking this Court to stay the Second Circuit's mandate pending the filing and disposition of the petition for a writ of certiorari. Justice Sotomayor denied the stay application on May 30.

REASONS FOR GRANTING THE PETITION

The court of appeals held that Section 1252(a)(4) strips federal courts of habeas jurisdiction over CAT claims by individuals facing extradition. In doing so, the court deepened a split with the Ninth Circuit, which has held that Congress has not removed federal habeas jurisdiction over such claims. The court of appeals' statutory holding is wrong. Section 1252(a)(4) is confined to addressing final orders of removal, and thus does nothing to preclude habeas review of CAT claims by extraditees.

The court of appeals also erred in holding that its application of Section 1252(a)(4) to bar habeas review does not violate the Suspension Clause. The historical writ extended to challenges to executive detention in all its forms, and the rule of non-inquiry was never a jurisdictional bar to review, as the court of appeals held. The questions presented are important and recurring. This Court's review is warranted.

I. There Is A Circuit Split

As the court of appeals acknowledged, the circuits are split over whether Congress has stripped federal courts of habeas jurisdiction to review CAT claims asserted by persons facing extradition. App., *infra*, 26a ("[W]e (like the D.C. and Fourth Circuits) part ways with our sister Circuit."). And that split is inextricably connected to the scope of the privilege of the writ protected by the Suspension Clause.

1. The en banc Ninth Circuit has held that Congress has not stripped the federal courts of habeas jurisdiction over CAT claims by individuals facing extradition. *Trinidad y Garcia* v. *Thomas*, 683 F.3d 952 (9th Cir. 2012) (en banc) (per curiam).

In *Trinidad y Garcia*, the Ninth Circuit concluded that neither Section 1252(a)(4) nor Section 2242(d) of FARRA strips federal courts of habeas jurisdiction over CAT claims by extraditees. The Ninth Circuit relied on this Court's guidance in *INS* v. *St. Cyr*, 533 U.S. 289 (2001), to reach its conclusion. In *St. Cyr*, the Court held that courts must look for a "a clear statement of congressional intent to repeal habeas jurisdiction." 533 U.S. at 298. And even if such a statement exists, courts are still "obligated" to give the statute a jurisdiction-preserving interpretation where such an interpretation is "fairly possible." *Id.* at 300.

Following those directives, the Ninth Circuit held that Section 1252(a)(4) does not remove habeas jurisdiction over CAT claims by extraditees because the provision "can be construed as being confined to addressing final orders of removal." *Trinidad y Garcia*, 683 F.3d at 956. And Section 2242(d) of FARRA likewise does not strip courts of habeas

jurisdiction because it "lacks sufficient clarity to survive the 'particularly clear statement' requirement" of *St. Cyr*. *Ibid.*

Trinidad y Garcia reasoned further that the "rule of non-inquiry"—which other circuits have viewed as removing habeas jurisdiction over CAT claims by extraditees—"implicates only the *scope* of habeas review; it does not affect federal habeas *jurisdiction*." 683 F.3d at 956 (emphasis in original). Thus, a federal court exercising its habeas jurisdiction has the authority to review the Secretary of State's compliance with his statutory and regulatory obligations under FARRA and its implementing regulations. *Id.* at 957. And the Ninth Circuit determined that the declaration submitted by the State Department in Trinidad y Garcia's case failed to show that the Secretary had, in fact, complied with those obligations. *Ibid.* Accordingly, in the Ninth Circuit, an extraditee can obtain review via habeas of the Secretary of State's determination that her surrender to the requesting country will not violate CAT or its implementing regulations.

Several judges wrote separately to elaborate on why Section 1252(a)(4) does not strip courts of habeas jurisdiction over CAT claims by extraditees. Judge Tallman—joined by Judges Ikuta, Clifton, and M. Smith—explained that limiting Section 1252(a)(4) to removal orders was a "fairly possible" alternative construction of the provision under *St. Cyr*. *Trinidad y Garcia*, 683 F.3d at 972 (Tallman, J., dissenting).[2]

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[2] After finding habeas jurisdiction, Judge Tallman explained his view that, on the merits, the rule of non-inquiry precluded review of the substance of the Secretary of State's decision to

Judge Thomas (joined by Judges Wardlaw and Berzon), however, viewed Section 1252(a)(4) as facially applicable only to "federal habeas jurisdiction over final orders of removal," without resort to *St. Cyr*'s rules of construction. *Id.* at 958 (Thomas, J., concurring). Judge Berzon, joined by Judge Fletcher, agreed, and wrote separately to emphasize the robust merits review of CAT claims that she saw as available via habeas. See *id.* at 984-987 (Berzon, J., concurring in part and dissenting in part). Judge Pregerson, joined by Judge Fletcher, likewise believed there was jurisdiction over the CAT claims and room for substantive merits review via habeas. *Id.* at 1002-1009 (Pregerson, J., concurring in part and dissenting in part).

Other courts have agreed with the Ninth Circuit—and disagree with the conclusion reached by the court of appeals here. In *Aguasvivas* v. *Pompeo*, for example, the First Circuit suggested that federal courts retain habeas jurisdiction over CAT claims notwithstanding the so-called rule of non-inquiry. See *Aguasvivas* v. *Pompeo*, 984 F.3d 1047, 1052 n.6 (1st Cir. 2021) (assuming jurisdiction over habeas claim and stating that it has "no reason to believe that any principle of non-inquiry implicates federal court jurisdiction—much less Article III jurisdiction"). And in *Taylor* v. *McDermott*, a district court recently construed Section 1252(a)(4) to preserve habeas jurisdiction over CAT claims in order to avoid conflict with the Suspension Clause. See *Taylor* v. *McDermott*, 516 F. Supp. 3d 94, 109 (D. Mass. 2021) ("[T]o avoid a construction that violates the

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extradite. *Trinidad y Garcia*, 683 F.3d at 962 (Tallman, J., dissenting).

Suspension Clause, the court concludes that it has jurisdiction to hear the Taylors' claims brought under the Convention Against Torture, as implemented by the FARR Act.").

2. In the decision below, the Second Circuit "part[ed] ways" with the Ninth Circuit's approach. App., *infra*, 26a. It held that "Section 1252(a)(4) bars courts from exercising habeas jurisdiction over CAT claims raised by individuals facing extradition." *Id.* at 35a. In the court of appeals' view, Section 1252(a)(4) "contains a clear statement of congressional intent to bar all habeas jurisdiction." *Id.* at 22a. The court of appeals thus concluded that no other reading of the provision is "fairly possible," even though a majority of the en banc Ninth Circuit had construed the provision as applying only to challenges to removal orders, as a means to ensure compliance with this Court's directive in *St. Cyr*.

The D.C. Circuit has read Section 1252(a)(4) the same way. See *Omar* v. *McHugh*, 646 F.3d 13 (D.C. Cir. 2011). *Omar* involved a habeas petition by a military transferee in U.S. military custody in Iraq. He sought to block his transfer to custody of the Iraqi government, arguing that such a transfer would result in his likely torture. *Id.* at 15. In a 2-1 decision, the D.C. Circuit held that Section 1252(a)(4) "made clear" that neither "*extradition* [n]or military transferees" had a right to judicial review of the conditions of the receiving country. *Id.* at 18 (emphasis added). In other words, though the case involved a military transferee, the D.C. Circuit expressly extended its holding to persons facing extradition. Judge Griffith concurred with the court's conclusion that Section 1252(a)(4) purports to remove

habeas jurisdiction for CAT claims by transferees but went on to explain that, in his view, the Suspension Clause *preserved* habeas jurisdiction over such claims. *Id.* at 27 (Griffith, J., concurring in the judgment) ("If the Suspension Clause protects the writ as it existed in 1789, then it surely allows a prisoner to argue that his transfer violates an act of Congress.") (internal quotation marks and citation omitted).[3]

The Fourth Circuit has also held that Congress has stripped federal courts of habeas jurisdiction to review CAT claims by extraditees. *Mironescu* v. *Costner*, 480 F.3d 664 (4th Cir. 2007). But unlike the Second and D.C. Circuits, which relied on Section 1252(a)(4), the Fourth Circuit rested its conclusion on Section 2242(d) of FARRA. *Mironescu* quoted Section 2242(d) and, with no other textual analysis, determined that it "plainly conveys that although courts may consider or review CAT or FARR Act claims as part of their review of a final removal order, they are otherwise precluded from considering or reviewing such claims." *Id.* at 674. The Fourth Circuit emphasized that its holding was jurisdictional, explaining that "[a]s Mironescu presents his claim as part of his challenge to extradition, rather than removal, § 2242(d) clearly precluded the district court from exercising jurisdiction." *Ibid.* The court determined that its

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[3] Ultimately, Judge Griffith concluded that the detainee in *Omar* would not prevail on such a claim because he was already in Iraq, and thus could not be "transferred" to Iraq in violation of the statute. *Id.* at 29. Here, however, because petitioner is located in the United States and not in the requesting country, removing habeas jurisdiction to review her CAT claim would likely violate the Suspension Clause under Judge Griffith's view.

construction of Section 2242(d) adhered to *St. Cyr*'s directive because there was no other plausible jurisdiction-preserving interpretation of Section 2242(d). *Id.* at 676.

In short, the Second, D.C., and Fourth Circuits have all held that federal courts lack habeas jurisdiction over CAT claims asserted by individuals facing extradition, while the Ninth Circuit has held that Congress has not stripped federal courts of habeas jurisdiction over such claims.

3. In addition to the statutory circuit split, judges have expressed conflicting views on the question whether removing habeas jurisdiction over CAT claims by extraditees would violate the Suspension Clause.

The Second Circuit held below that "[a]pplication of Section 1252(a)(4) to bar habeas review of CAT claims brought by extraditees does not violate the Suspension Clause." App., *infra*, 35a. In *Omar*, two members of the panel, then-Judge Kavanaugh and Judge Ginsburg, reached the same conclusion—that, even under the court's jurisdiction-stripping interpretation, Section 1252(a)(4) does not violate the Suspension Clause. Both decisions anchor their Suspension Clause analyses on the so-called rule of non-inquiry, and on their view that, traditionally, persons facing extradition have not been able to use habeas to inquire into the conditions of the receiving country. App., *infra*, 27a ("We find no such violation arises because fugitives like Kapoor facing extradition have not traditionally been able to maintain a habeas claim based on their anticipated treatment in a receiving country under the rule of non-inquiry."); *Omar*, 646 F.3d at 19 ("[T]hose facing extradition

traditionally have not been able to maintain habeas claims to block transfer based on conditions in the receiving country" under the "rule of non-inquiry.").

But Judge Griffith characterized that view of the writ as "too cramped." *Omar*, 646 F.3d at 27 (Griffith, J., concurring in the judgment). Under Judge Griffith's interpretation, the Suspension Clause entitles a habeas petitioner to review of "the merits of his [CAT] claim" under FARRA because the scope of the writ at common law embraced statutory claims. *Id.* at 27-29. Judge Griffith explained that "the writ of habeas corpus extended to all detention * * * against the law of the land." *Id.* at 27. The "historical record" showed that "[e]ighteen-century English habeas courts would order the release of prisoners whose detention violated a statute." *Ibid.* (citing historical cases involving debtors and seamen). And he viewed FARRA as just such a statute. *Id.* at 26.

The Ninth Circuit's decision in *Trinidad y Garcia* likewise generated differing views over the scope of the Suspension Clause. For instance, Judge Tallman—joined by Judges Ikuta, Clifton, and M. Smith—stated that it is "plain that Trinidad would historically have been entitled to habeas review of his claim to the extent he argues that the Convention or the FARR Act bind the authority of the Executive to extradite him." *Id.* at 971 (Tallman, J., dissenting).[4] Judge Thomas—joined by Judges Wardlaw and Berzon—stated that, "even if we adopted the government's position that Congress foreclosed

[4] Judge Tallman ultimately dissented from the court's judgment because he believed that the Secretary of State had met its obligations under FARRA. *Id.* at 981-984 (Tallman, J., dissenting

Trinidad y Garcia's statutory habeas remedies, his resort to federal habeas corpus relief to challenge the legality of his detention would be preserved under the Constitution." *Id.* at 960 (Thomas, J., concurring). And Judge Berzon, joined by Judge Fletcher, separately emphasized that the protections of habeas corpus have been the "strongest," in this context—namely, when reviewing the legality of Executive detention. *Id.* at 986 (Berzon, J., concurring in part and dissenting in part) (quoting *St. Cyr*, 533 U.S. at 301).

This petition thus presents a clear circuit split on the question whether Congress has stripped the federal courts of habeas jurisdiction over CAT claims by extraditees. And judges have likewise expressed conflicting views regarding whether the Suspension Clause entitles a habeas petitioner to judicial review of such claims.

II. The Decision Below Is Wrong

The court of appeals erred in holding that Congress stripped the federal courts of habeas jurisdiction over CAT claims by persons facing extradition. And to the extent that Congress has purported to do so, it has violated the privilege of the writ of habeas corpus protected by the Suspension Clause.

1. As the en banc Ninth Circuit concluded, "[n]either the REAL ID Act (8 U.S.C. § 1252(a)(4)) nor FARRA (8 U.S.C. § 1231 note) repeals all federal habeas jurisdiction" over CAT claims by extraditees. *Trinidad y Garcia*, 683 F.3d at 956.

Start with FARRA, and the provision on which the Fourth Circuit relied in *Mironescu*. That provision,

Section 2242(d) of FARRA, states only that "nothing in this section [*i.e.*, 2242 of FARRA] shall be construed as providing any court jurisdiction to consider or review claims raised under the Convention or this section, or any other determination made with respect to the application of the policy set forth in subsection (a), except as part of the review of a final order of removal pursuant to section 242 of the Immigration and Nationality Act." 8 U.S.C. § 1231 note. By its plain terms, nothing in that paragraph even purports to *remove* any jurisdiction from any court. Rather, Section 2242(d) sets forth a rule of construction that Section 2242 should not be construed as an *affirmative grant* of habeas jurisdiction over claims brought under CAT or FARRA. But of course, habeas jurisdiction *already existed* over those claims under the general federal habeas statute, 28 U.S.C. § 2241. The Fourth Circuit's reading of Section 2242(d) of FARRA in *Mironescu* is patently incorrect.

Turn next to the REAL ID Act, 8 U.S.C. § 1252(a)(4), on which the Second and D.C. Circuits relied. Both circuits wrenched the provision out of its context—context that makes clear that the provision only removes federal habeas jurisdiction over challenges to *final orders of removal*.

The entire section is aimed squarely at addressing the scope and reviewability of judicial orders of removal. Paragraph (a)(1), addressing "general orders of removal," provides that "[j]udicial review of a *final order of removal* * * * is governed only by chapter 158 of Title 28." 8 U.S.C. § 1252(a)(1) (emphasis added). Paragraph (a)(2) deals with "matters not subject to judicial review," and has multiple provisions that remove habeas corpus

proceedings as a means for review of "removal" orders. See *id.* § 1252(a)(2)(A)-(D). Paragraph (a)(3) prohibits appeals of decisions of removal of an alien based on an adverse medical certification. And paragraph (a)(5) is a catchall provision, reaffirming that "a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of an *order of removal*." See *id.* § 1252(a)(5) (emphasis added).

As Judge Tallman explained in his separate opinion in *Trinidad y Garcia*, moreover, there "are a number of indicators that Congress intended § 1252(a)(4) to be applicable only in the immigration context." *Trinidad y Garcia*, 683 F.3d at 972 (Tallman, J., dissenting). For example, the House Committee Report explicitly stated that Congress did not intend to "preclude habeas review over challenges to detention that are independent of challenges to removal orders." H.R. Rep. No. 72, 109th Cong., 1st Sess. 175 (2005). Instead, the bill was intended to "eliminate habeas review *only over challenges to removal orders*." *Ibid.* (emphasis added). The statutory notes to Section 1252 likewise confirm that "[t]he amendments made by subsection (a) * * * shall apply to * * * final administrative order[s] of removal, deportation, or exclusion," REAL ID Act § 106(b), 119 Stat. 311 (codified as note to 8 U.S.C. § 1252).

Finally, the section title itself ("Judicial review of orders of removal") and the subchapter title ("Immigration") "only further reaffirm the cabining of this section's effect." *Trinidad y Garcia*, 683 F.3d at 972 (Tallman, J., dissenting); see also *Almendarez-Torres* v. *United States*, 523 U.S. 224, 234 (1998) ("[T]he title of a statute and the heading of a section

are tools available for the resolution of a doubt about the meaning of a statute.") (internal quotation marks and citation omitted). As the district court in *Taylor* put it, "it is highly improbable that Congress intended the REAL ID Act—the point of which was to consolidate review of immigration claims into a direct review process—to revoke the courts' jurisdiction in non-immigration cases where direct review is unavailable." 516 F. Supp. 3d at 109.

In the face that statutory language and context, the Second Circuit focused on the fact that Section 1252(a)(4) states that, "notwithstanding section 2241 of Title 28, or any other habeas corpus provision, a petition for review of a final order of removal shall be the sole and exclusive means for judicial review of any cause or claim under CAT." App., *infra*, 22a. (alterations adopted). Based on that text, the court said that "[b]y its explicit reference to both 28 U.S.C. § 2241 and 'any other habeas corpus provision,' Section 1252(a)(4) plainly bars habeas review of CAT claims." *Ibid.*

The Second Circuit's textual analysis turns on the use of the phrase "any cause or claim," as used in Section 1252(a)(4). Does that phrase refer to "any cause or claim" under CAT asserted by anyone, anywhere, at any time? Or, does it refer to "any cause or claim under CAT" asserted by an alien in the context of immigration proceedings? It's the latter. The words "cause" and "claim" are used repeatedly throughout Section 1252 and, in each instance, they clearly refer to causes or claims asserted by aliens in immigration proceedings facing orders of removal. See, *e.g.*, 8 U.S.C. § 1252(a)(2)(A)(i) ("cause or claim arising from or relating to the implementation or

operation of an order of removal"); *id.* § 1252(b)(5)(A) ("[i]f the petitioner claims to be a national of the United States"); *id.* § 1252(g) ("[N]o court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.").

Put back into its proper context, Section 1252(a)(4) is, by its own terms, confined to limiting judicial review of CAT claims adjudicated as part of removal orders, and therefore "has no effect on federal courts' habeas jurisdiction over claims made in the extradition context." *Trinidad y Garcia*, 683 F.3d at 958 (Thomas, J., concurring). That interpretation is correct even without any reference to this Court's guidance from *St. Cyr* to give jurisdiction-preserving interpretations of statutes where "fairly possible." But *St. Cyr*'s demand for absolute clarity and jurisdictional-preserving interpretations only reinforces the correctness of the conclusion that Section 1252(a)(4) has left intact habeas jurisdiction over CAT claims by extraditees.

Indeed, the decision below flunks both prongs of *St. Cyr*—both the "clear statement" prong, as well as the "fairly possible alternative interpretation" prong. The court below concluded that Congress had provided a clear indication of its intent to strip habeas jurisdiction over CAT claims. App., *infra*, 22a. That's true, but only as to habeas review of CAT claims in removal orders; there is no "clear statement" as to those claims in extradition proceedings. And even if there were such a clear indication, confining the statute to removal proceedings is certainly (as a

majority of Ninth Circuit judges held) a "fairly possible" interpretation—and so courts "are obligated to construe the statute" as such. *St. Cyr*, 533 U.S. at 299-300.

2. In addition to misreading Section 1252(a)(4), the Second Circuit also held that, under its (mistaken) interpretation, the provision does not violate the privilege of the writ protected by the Suspension Clause. App., *infra*, 35a. That is also wrong.

The court of appeals held that the "historical tradition of refusing to consider habeas petitions challenging the conditions of the country requesting extradition [*i.e.*, the rule of non-inquiry] means Kapoor does not present a claim implicating the type of habeas review protected by the Suspension Clause." App., *infra*, 33a. But that view of the Suspension Clause's historical scope is far "too cramped." *Omar*, 646 F.3d at 27 (Griffith, J., concurring in the judgment).

As this Court explained in *St. Cyr*, the writ of habeas corpus "[a]t its historical core" served "as a means of reviewing the legality of Executive detention." 533 U.S. at 301. Early cases involving the writ were "not limited to challenges to the jurisdiction of the custodian, but encompassed detentions based on errors of law, including the erroneous application or *interpretation of statutes*." *Id.* at 302 (emphasis added). Indeed, at common law, "the writ of habeas corpus extended to all detention '*contra legem terrae*,' *i.e.*, against the law of the land," *Omar*, 646 F.3d at 27 (Griffith, J., concurring in the judgment) (quoting 1 Edward Coke, *The Second Part of the Institutes of the Laws of England* 54 (Williams S. Hein Co. 1986) (1642))—meaning that it was "efficacious . . . in all

manner of illegal confinement," *ibid.* (quoting 3 William Blackstone, *Commentaries* 131 (1768)). "Eighteenth-century English habeas courts would order the release of prisoners whose detention violated a statute." *Ibid.* (collecting cases).

And habeas has a long and venerable history in the extradition context. In its per curiam order in *Trump* v. *J.G.G.*, 145 S. Ct. 1003 (2025), this Court explained that detainees' claims challenging their confinement and removal under the Alien Enemies Act "fall within the 'core' of the writ of habeas corpus and thus must be brought in habeas." *Id.* at 1005. Justice Kavanaugh wrote separately to "add * * * that the use of habeas for transfer claims is not novel," but appears "[i]n the extradition context" where it has "long been the appropriate vehicle." *Id.* at 1007 (Kavanaugh, J., concurring). As Justice Kavanaugh explained, "going back to the English Habeas Corpus Act of 1679, if not earlier, habeas corpus has been the proper vehicle for detainees to bring claims seeking to bar their transfers." *Ibid.* "[I]n extradition cases the courts have consistently afforded habeas inquiry to examine the lawfulness of magistrates' decisions permitting the executive to detain aliens for removal to another country at the request of its government." Gerald L. Neuman, *Habeas Corpus, Executive Detention, and the Removal of Aliens*, 98 Colum. L. Rev. 961, 994-1003 (1998) (chronicling pre-Founding Era common law and nineteenth-century examples). Petitioner's claim, which challenges her extradition as violating both a statute and a treaty, fits comfortably within that historical tradition.

The Second Circuit erred in holding otherwise. Relying on the so-called rule of non-inquiry, the

Second Circuit concluded that petitioner's CAT claim raises "the precise type of question barred by the rule of non-inquiry and that courts have therefore declined to address in the extradition context." App., *infra*, 32a-33a. But that is an inflated view of the rule of non-inquiry, which arose long after the Suspension Clause enshrined the preexisting writ of habeas corpus. It originated "by implication" from the fact that, in a few cases near the turn of the twentieth century, "the [legal] *procedures* which will occur in the demanding country subsequent to extradition were not listed by the Supreme Court as a matter of a federal court's consideration." Jacques Semmelman, *Federal Courts, the Constitution, and the Rule of Non-Inquiry in International Extradition Proceedings*, 76 Cornell L. Rev. 1198, 1211-1213 (1991) (cleaned up) (reviewing *Benson* v. *McMahon*, 127 U.S. 457 (1888); *Neely* v. *Henkel*, 180 U.S. 109 (1901); and *Glucksman* v. *Henkel*, 221 U.S. 508 (1911)). Thus, the rule of non-inquiry merely limited any inquiry into a foreign sovereign's legal procedures—and did not purport to limit any examination whatsoever, including an inquiry into whether a person would be subject to extrajudicial torture.

The writ at the Founding was not cabined by any rule of non-inquiry, and does not prevent review of detention for compliance with CAT and FARRA. Indeed, the historical writ inherited from England "exist[ed] to empower the justices to examine detention in *all forms*." Paul D. Halliday, *Habeas Corpus: From England to Empire* 176 (2010) (emphasis added). With regard to reviewing the treatment of the extraditee in the receiving country, there are multiple instances of courts issuing writs to prevent removal from England of individuals

allegedly bound to slavery, including, most famously, *Somerset's Case*, where Lord Mansfield issued the writ on the ground that slavery was unknown to English common law. *Somerset* v. *Stewart* (1772) 98 Eng. Rep. 499, 510 (K.B.).

In sum, the basis for a federal court to review a CAT claim via habeas is well established. Habeas has a clear historical pedigree as the vehicle to challenge extradition. See *J.G.G.*, 145 S. Ct. at 1007 (Kavanaugh, J., concurring). The historical writ was broad enough to "examine detention in all its forms." Halliday, *Habeas Corpus*, at 176. That extends to review of detention in violation of laws of the land, including treaties and statutes such as CAT and FARRA.

III. The Issues Are Important And Warrant Review

1. The issues presented in this petition are extremely (and undeniably) important. The question whether Congress has stripped the federal courts of habeas jurisdiction over CAT claims by those facing extradition lies squarely at the intersection of individual liberties, federal judicial power, and foreign relations—and it matters greatly to a great many people. It matters to the individual, who has due process rights and substantive rights under U.S. and international law that she may want to vindicate. It matters to the judiciary, which requires certainty about the scope of its authority to adjudicate disputes over those rights. And it matters to the executive branch, which must manage the relationship with the requesting foreign country and effectuate the extradition request in accordance with law—and, in so doing, must have a clear understanding of the extent to which a court may review its actions.

The availability of habeas review is critical to the extraditee facing extradition. Despite possessing due process and substantive rights under CAT (by way of FARRA), habeas corpus provides the *only* avenue for an extraditee to raise her CAT claim in court. See 15B Charles Alan Wright et al., Federal Practice and Procedure § 3918.3 & n.20 (2d ed. 2025 update) (*Federal Practice and Procedure*) ("A petition for habeas corpus is the only means available to challenge an international extradition order."); see also *Vitkus* v. *Blinken*, 79 F.4th 352, 362 (4th Cir. 2023) ("Because a certification order is not a final appealable order under 28 U.S.C. § 1291, an extraditee (such as Vitkus) can only challenge such an order in federal court by pursuing habeas corpus relief under 28 U.S.C. § 2241.").

Habeas is the only available avenue for review because courts have held that extraditees cannot raise any CAT claim in their certification proceedings in the district court. Rather, the certification court's "inquiry is confined to the following: whether a valid treaty exists; whether the crime charged is covered by the relevant treaty; and whether the evidence marshaled in support of the complaint for extradition is sufficient under the applicable standard of proof." *Skaftouros* v. *United States*, 667 F.3d 144, 154-155 (2d Cir. 2011).

Indeed, extradition certification proceedings are so strictly circumscribed that they cannot be said to provide meaningful judicial review at all. Under the so-called rule of non-contradiction, the extraditee is prohibited from even presenting evidence that contradicts the foreign government's allegations. See, *e.g.*, *Noeller* v. *Wojdylo*, 922 F.3d 797, 807 (7th Cir.

2019) (stating that "an accused in an extradition hearing cannot offer contradictory evidence"); *Kollmar* v. *United States Pretrial Servs., N. Dist. of Cal.*, 642 F. Supp. 3d 982, 994 (N.D. Cal. 2022) (explaining that under the "rule of non-contradiction * * * evidence may not be offered by the petitioner to contradict testimony or challenge the credibility of a requesting country's evidence") (cleaned up). And courts have also held that the extradition court's certification order is not appealable. See *Vitkus*, 79 F.4th at 362; *Federal Practice and Procedure* § 3918.3 & n.20 ("Appeal cannot be taken from an extradition court's certification of extraditability.").

Nor do immigration courts provide a viable forum for an extraditee's CAT claim. For extraditees with pending immigration proceedings, like petitioner here, the Board of Immigration Appeals freezes its review of the alien's immigration case pending resolution of the extradition proceedings. See *In re Perez-Jimenez*, 10 I. & N. Dec. 309, 312-316 (B.I.A. 1963) (denying motion to reopen immigration proceedings because of extradition proceedings); see also Restatement (Third) of Foreign Relations Law § 478, reporter's note 6 (1987). Thus, for the extraditee, it's habeas or nothing.

The issues presented in this case are likewise important to the judiciary, which is currently in desperate need of clarity about the scope of its authority to adjudicate these extradition-related disputes.

This Court has repeatedly stressed that "jurisdictional rules should be clear." *Lapides* v. *Board of Regents of Univ. Sys. of Ga.*, 535 U.S. 613,

621 (2002); see *Direct Mktg. Ass'n* v. *Brohl*, 575 U.S. 1, 11 (2015) (rejecting an interpretation of a statute that was inconsistent with this Court's "rule favoring clear boundaries in the interpretation of jurisdictional statutes"). Indeed, this Court often grants certiorari to resolve "divergent" jurisdictional holdings in order to provide the lower courts with "straightforward rules under which they can readily assure themselves of their power to hear a case." *Hertz Corp.* v. *Friend*, 559 U.S. 77, 92, 94 (2010).

The need for jurisdictional clarity is at its zenith where, as here, the judicial role necessarily lies at the intersection of individual rights, the scope of the Great Writ, and international relations.

"The Framers viewed freedom from unlawful restraint as a fundamental precept of liberty, and they understood the writ of habeas corpus as a vital instrument to secure that freedom." *Boumediene* v. *Bush*, 553 U.S. 723, 739 (2008). Across generations, this Court and individual Justices have, time and again, extolled the importance of the Great Writ—the "only writ explicitly protected by the Constitution." *Holland* v. *Florida*, 560 U.S. 631, 649 (2010) (noting "[t]he importance of the Great Writ"). The writ has been described as "the best and only sufficient defence of personal freedom." *Ex parte Yerger*, 75 U.S. (8 Wall.) 85, 95 (1868). And, as noted, there is a "longstanding rule requiring a clear statement of congressional intent to repeal habeas jurisdiction," *St. Cyr*, 533 U.S. at 298—a recognition of the Great Writ's vital importance to the preservation of individual liberty. Accordingly, the judicial role implicated by the questions raised in this petition—an individual's ability to challenge the legality of her executive

detention—strikes at the very core of the liberty secured by the Constitution.

The issues presented here are also important to the Executive Branch, which must manage the extradition request of the foreign government. A lack of clarity about the scope of judicial review complicates that job.

2. The issues presented in this petition are also recurring. Though public data on the specifics of extradition are scarce, the Department of Justice reported that it received more than 500 extradition requests in 2019 alone, only about 20 percent of which were for alleged violent crimes. See U.S. Dep't of Just., *FY 2019 Annual Performance Report / FY 2021 Annual Performance Plan*, at 58, https://perma.cc/QF4F-2HPX (explaining that approximately one-fifth of the more than 500 requests received were for fugitives wanted for violent crimes). That annual volume of extradition activity demands clarity—for the judiciary, for the executive, and for the individuals facing extradition.

3. This petition provides an optimal vehicle for the Court to resolve the questions presented.

First, although incorrect, the Second Circuit's two holdings in the decision below are clear as day. It squarely held that Section 1252(a)(4) strips federal courts of habeas jurisdiction over CAT claims by extraditees—and that, in doing so, Congress did not violate the privilege guaranteed by the Suspension Clause.

Second, there were no alternative grounds offered by either the district court or the court of appeals in denying petitioner relief. Both courts' decisions rested

solely on their jurisdiction-stripping readings of Section 1252(a)(4) and their views of the Suspension Clause.

Last, unlike perhaps others facing extradition, petitioner is not violent, not a danger to others, and not a flight risk. She has shown up to every court proceeding, abided by every movement restriction, and broken no laws. She is a 53-year-old housewife who is the primary caregiver for her ailing husband. She is the mother of two children and a cherished member of her local community, where she has put down roots. If anyone is worthy of this Court's consideration of the questions presented, it is petitioner.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

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JUNE 2025