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FRAP RULE 26.1 AND FRAP 29(a)(4)(E)) DISCLOSURE STATEMENT

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[1] No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than Amicus Curiae, its members, or its counsel made a monetary contribution to its preparation or submission.

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STATEMENT OF INTEREST OF AMICUS CURIAE

Proposed *Amicus Curiae,* the American Rights Alliance (ARA) is an IRS Code 501(c)(3) nonprofit, tax deductible organization. ARA is a coalition of legal professionals, advocates, and strategists committed to defending the First Amendment, protecting election integrity, and ensuring transparency in democratic processes. ARA works to expose fraud, misconduct, and censorship while empowering individuals to speak freely and without fear. We stand as a shield for those whose voices are marginalized and as a force

holding systems accountable to safeguard the core principles of a free and just society.

The ARA, founded by attorney Evan Turk and represented herein by attorney Peter Ticktin, comprises distinguished legal advocates dedicated to preserving constitutional governance and protecting the separation of powers. Treniss Evans, a United States Citizen and a member of the American Rights Alliance, supports ARA's efforts to reinforce executive authority and end judicial interference in national security matters. It is described at www.AmericanRightsAlliance.org and accessible at 303 Evernia Street, Suite 300, West Palm Beach, Florida 33401.

I. ISSUES AND SUMMARY OF THE ARGUMENT

Amicus Curiae makes only two arguments fleshed out in the following ways:

ISSUE # 1. This Court must vacate the District Court's injunction because of the well-established rule that if there are multiple legal grounds for an action, questions about one assertion does not invalidate the others. Invocation of the Alien Enemies Act codified at 50 U.S.C. §§ 21 – 24 may have reasons within the range of a President's core constitutional powers but it is simply not necessary to legally support the deportation of violent trans-national criminal gang members. Where a President has multiple legal powers available to deport an illegal alien unlawfully in the United States, whether

the District Court likes or dislikes or accepts the President's invocation of the AEA is simply not relevant.

ISSUE # 2. The District Court has inappropriately intervened in deportation procedures, on the sparsest of factual records, a President's authority to deport members of a transnational terrorist group engaged in crime, violence, theft, etc., simply because the District Court disagreed with the policy objectives of the President and his interpretation of the Alien Enemies Act of 1798, codified at 50 U.S.C. §§ 21 – 24, even though the President *independently holds such authority on independent legal grounds to do the same exact thing*.

ISSUE # 3. A President possesses inherent, constitutional, and statutory authority independent of and separate from the

Alien Enemies Act to deport non-citizens. This authority derives directly from Article II of the U.S. Constitution, affirmed historically by Supreme Court precedent (see *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537 (1950)) recognizing the President's broad powers in immigration and national security matters. Statutory immigration authority under various provisions of Title 8 U.S.C. further supports these executive powers.

ISSUE # 4. The designation of Terrorist Organizations is a clear Executive Power not subject to District Court challenges

ISSUE # 5. Members of transnational terrorist organizations such as MS-13 or *Tren de Aragua* were excludable at the time of their entry under existing, extensive laws addressing terrorism and national security threats. Specific

statutory authority already provided by 8 U.S.C. §§ 1182(a)(3)(B), 1189, and related statutes categorically rendered terrorists excludable. Their *deportability* depends on being *excludable* at the time of their entry into the United States ***as a matter of law*** regardless of when the President declared MS-13 and/or Tren de Aragua to be terrorist organizations.

ISSUE # 6. Chapter 8 U.S.C. § 1251 clearly authorizes the deportation of aliens who were excludable at the time of entry or adjustment of status.

ISSUE # 7. Pursuant to 8 U.S.C. § 1251, any alien who enters the United States "without inspection" at an official port of entry, or who evades lawful entry procedures and points of entry, is unequivocally deportable for that reason alone. (A citizen of some other country

might have legal claims for entry, but the law requires them to go back and try again, following the law.)

ISSUE # 8. 8 U.S.C. § 1251 empowers a President to exclude or deport a person under (a)(1)(C)(i) "Nonimmigrant status violators: Any alien who was admitted as a nonimmigrant and who has failed to maintain the nonimmigrant status in which the alien was admitted or to which it was changed under section 1258 of this title, or to comply with the conditions of any such status, is deportable"

ISSUE # 9. 8 U.S.C. § 1182 empowers a President to exclude or deport under (f) "Suspension of entry or imposition of restrictions by President: Whenever the President finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the

interests of the United States, he may by proclamation, and for such period as he shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the entry of aliens any restrictions he may deem to be appropriate."

ISSUE # 10. Federal judges have no legal authority to enjoin presidential deportation orders solely based on their differing interpretation of the Alien Enemies Act. Such judicial action would impermissibly substitute judicial policy preference over explicit constitutional and statutory presidential authority, directly conflicting with established constitutional separation of powers doctrines.

ISSUE # 11. Federal judges lack constitutional authority to usurp or countermand the President's core executive powers as

Commander-in-Chief and chief diplomat managing foreign relations and national security. Supreme Court precedent consistently underscores the primacy of presidential authority in these domains, limiting judicial involvement (*Zivotofsky v. Kerry*, 576 U.S. 1 (2015)).

ISSUE # 12. Injunctions and related judicial orders that seek to enjoin or restrain core presidential powers are inherently void from inception. Such actions exceed federal judicial jurisdiction, intrude upon exclusively executive functions, and violate constitutional boundaries repeatedly reinforced by Supreme Court jurisprudence (*Mississippi v. Johnson*, 71 U.S. 475 (1866)).

II. STATEMENT OF THE CASE

At its core, this case is about the President's duties of national security and the clear constitutional authority vested in the President to protect American citizens from threats.

For 249 years, the Congress and the President have shown extraordinary deference to the Judiciary even when Federal courts reach beyond their limits. The Constitution explicitly rests in Congress the power to create or alter the lower Federal courts, set their jurisdiction, and set the rules by which the lower courts function. Article I, Section 8, Clause 9. Yet Congress has

comprehensively and generously delegated this Constitutional role to the U.S. Supreme Court to structure the entire Judiciary. *See, e.g.,* Rules Enabling Act, 28 U.S.C. § 2071-2077.

To be sure, the Judiciary has continued and Congress has tolerated a host of legal concepts, procedures, and mechanisms from English common law and traditions, including equitable concepts like injunctions. The problem of a court engaging in a futile exercise of deciding a case only to find that the subject matter no longer exists is well established. But since we have only silence in the Constitution, and Congressional

authority as explicit, the fever of perpetually expanding the use of injunctions like Kudzu must be examined with careful scrutiny and concern. We should recall that the United States of America had a national government under the Articles of Confederation, which were rejected for several defects including a President too weak to move promptly and decisively to address national threats. "10 reasons why America's first constitution failed," National Constitution Center, November 17, 2022, https://constitutioncenter.org/blog/10-reasons-why-americas-first-constitution-failed The necessity of a strong executive to deal with

military, foreign policy, and external threats is not a mere academic debate. We threw out our first constitution over the defect.

The growing barrage of injunctions issued by lower district courts represents a severe abuse of judicial authority, improperly encroaching upon executive powers. Non-citizens identified as security threats lack constitutional standing to challenge the executive's national security decisions, and the Supreme Court must decisively affirm this fundamental principle to halt endless ideological litigation. This Court must clearly establish that future challenges to executive authority should be exclusively pursued through extraordinary writs directly before appellate courts or the Supreme Court itself.

That is, nothing in the Constitution or jurisprudence speaks to lone District Court judges issuing injunctions. Nothing speaks to the appellate courts giving undue deference rather than supervising the extraordinary disruption immediately up front. When injunctions "jump the gun" early in a case, the appellate instinct to wait until after the end of a case is no longer workable. Nothing speaks to injunctions outside of the immediate case and the parties at bar.

Injunctions are being used to pre-decide the merits, not as a stand-still of the *status quo ante*. For example, on extraordinary evidence of abuse of Federal funds – which

means in violation of the Congressional authorization and appropriation laws – an injunction that $2 billion of likely illegal expenditures (measured against Congressional appropriations language) must be disbursed to admittedly less-developed countries is not preserving the status quo. Depositing the money in a trust account might. But if the Administration prevails at the end of the case, we will never see the $2 billion again. This Court made the underlying litigation below pointless. *See,* Order, on Application to Vacate the Order Issued by The United States District Court, *Department Of State, Et Al. v. Aids Vaccine*

Advocacy Coalition, Et Al., 604 U. S. ____ (2025), U.S. Supreme Court, Record No. No. 24A831 (March 5, 2025).

Instead of preserving the *status quo ante,* the spreading practice is focused on pre-deciding the ultimate case in ways that deprive the non-moving party of due process. Who is likely to prevail on the merits? That is like watching the 2 minute "trailer" advertisement for the new movie and treating that as the whole movie. Instead of honoring "party presentation" and definition of the questions to the court, the judge is litigating the case. Injunctions are carried out in the judge's imagination rather than in the

courtroom with evidence, experts, etc.

Here, considering only recent examples, Presidents William Clinton, George W. Bush, Barack Obama, Donald Trump in this first term, Joe Biden, and Donald Trump in the first month of his second term have deported aliens illegally present in the United States of America.

> "Federal agents deported just over 37,000 people in Trump's first month in office, below the Biden-era 2024 average, Reuters revealed Friday"

Sara Dorn, Molly Bohannon, Forbes, "Everything To Know About Trump's 'Mass Deportation' Plans—ICE Chief Removed Amid Push For More Arrests," Forbes, February 20, 2025, https://www.forbes.com/sites/saradorn/2025/02/20/everything-to-know-about-trumps-mass-deportation-plans-as-president-bans-

undocumented-immigrants-from-public-benefits/

But then Donald Trump issued an Executive Order "Invocation of the Alien Enemies Act Regarding the Invasion of The United States by Tren De Aragua" on Friday, March 14, 2025.[2]

Prior to this proclamation of March 14, 2025, Donald Trump in his second term had already deported an estimated 60,000 illegal aliens. Thus, what justifies the strange sequence of events from March 14, 2025,

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[2] https://www.whitehouse.gov/presidential-actions/2025/03/invocation-of-the-alien-enemies-act-regarding-the-invasion-of-the-united-states-by-tren-de-aragua/

until a Saturday hearing with none of the Defendants yet served?

Deportations carried out routinely and regularly for decades suddenly became unacceptable because President Trump designated transnational violent gangs committing murders, assaults, threats to obtain property, robbery to fund their terrorist activities, etc.

The lawsuit in the District Court was filed at about 2 AM (according to public reports) on Saturday, March 15, 2025, the day after the President's proclamation. Multiple defendant agencies had yet to be served. Somehow the lawsuit was brought to

the attention of Judge Boasberg on a Saturday. Boasberg was not the judge on call for emergency matters, we are told in the news. Yet Boasberg then ordered the parties to appear by a virtual hearing at 4:00 PM on Saturday, March 15, 2025, rescheduled to 5:00 PM. Clearly, the Clerk of Court on a Saturday would not have noted much less processed the case to issue summons in any other case. There is no "return" of service on Defendants in the file. (But the Clerk did issue electronic summons on a Saturday at lightning speed no other case would enjoy.)

During the hearing that started at 5:00 PM, Judge Boasberg verbally announced his

decision – posted as a Minute Order roughly at 7:00 PM – that a class action be certified explicitly consisting of those to whom the Executive Order applies (that is concededly terrorists), that the conceded terrorists not be deported, possibly released into U.S. society.

Judge Boasberg ordered any airplanes in the air to be returned to the U.S.A., with no information of whether airplanes would run out of fuel and crash into the ocean. In fact, since none of the five Appellees were affected, why was the question of flights in the air ever raised?

Worse, still, District Court Judge Boasberg continues to pursue this in

irregular scheduling and handling as an effort to whip the President into compliance. Instead of assuming that there is a stand-still while the case proceeds, Boasberg appears to be acting as a zealous criminal prosecutor.

III. ARGUMENT

A. STANDARD OF REVIEW

In general, this Court reviews questions of law *de novo*. *United States v. Verrusio*, 762 F.3d 1, 13 (D.C. Cir. 2014). As currently formulated and presented, this case involves almost entirely questions of law. In addressing the District Court's ruling, this Court reviews the District Court's findings of fact for clear error. *United States v. Dixon*, 901 F.3d 1322, 1338 (11th Cir. 2018).

B. GOVERNING LAW INJUNCTION

The formula for an injunction requires:

A. A significant prejudice or burden to the party or parties requesting

the injunction if it is not granted.

B. A comparatively insignificant prejudice or burden upon the party or parties affected by the requested gag order if it is granted.

C. The balance of the equities argues in favor of issuing the injunction. The injunction or gag order is in the public interest.

D. The moving party has a substantial likelihood of prevailing on the merits.

See, e.g., Winter v. Natural Resources Defense Council, *Inc*, 555 U.S. 7 (2008).

Here, the stubborn fact that deportations, especially for those guilty of

violent crimes, have been occurring for decades, undercuts the grounds for issuing an injunction on a Saturday afternoon by a lone district judge on a sparse factual record.

C. COURT CANNOT INTERVENE ON CHALLENGED GROUND WHEN AN ALTERNATIVE LEGAL BASIS EXISTS

1. The argument here addresses Issues 1, 5, 6, 7, 8, 9; *de novo* as errors of law.

2. Whenever an appellate court blocks challenges to governmental excess, the court will routinely uphold a District Court decision – particularly concerning actions of the government – for *any* reason, even if that reason has not been asserted by the original parties or by the District Court:

> One such rule of review is "right for any reason," the rule that an appellee may defend a lower court's judgment on any grounds supported by the record—even grounds that the lower court rejected or ignored. The judgment may be right, even if the reasons are wrong.

Associate Professor of Law and Director Jeffrey M. Anderson, "Right for Any Reason," Cardozo Law Review, Volume 44, Issue 3, page 1015, accessible at https://cardozolawreview.com/wp-content/uploads/2023/04/4.-ANDERSON.44.3.2.Website.pdf

Prof. Anderson argues, among other reforms, at least for the "right for any reason" interpretive rule to be changed from "mandatory" to "discretionary." *Id.*

> This is the rule known as "right for any reason": even without taking a cross-appeal, an appellee may challenge the

> reasoning of the lower court, asking the appellate court to affirm the judgment below on any ground supported by the record, whether or not the lower court accepted or even addressed that ground in its ruling.83 Under this rule, an appellee is entitled to argue a ground that it presented but the lower court ignored (because it relied on a different ground).84 And the appellee is entitled to argue a ground that it presented but the lower court rejected.85 Thus, courts sometimes say that a judgment may be affirmed if it is right for the wrong reason.86
>
> *Id. at 1028-1030.* [3]

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[3] Citing in the Law Review article's footnote 83 to:

83 *See Jennings v. Stephens*, 574 U.S. 271, 276 (2015); *Union Pac. R.R. v. Bhd. of Locomotive Eng'rs & Trainmen Gen. Comm. of Adjustment*, 558 U.S. 67, 80 (2009); *El Paso Nat. Gas Co. v. Neztsosie*, 526 U.S. 473, 479 (1999); *Schweiker v. Hogan*, 457 U.S. 569,

> Almost a century before *American Railway Express*, Chief Justice John Marshall wrote in *Williams v. Norris* that "[i]f the judgment should be correct, although the reasoning, by which the mind of the Judge was conducted to it, should be deemed unsound, that judgment would certainly be affirmed in the superior Court."88 That is an early statement of "right for any reason"—but it was only dicta, because the question before the Court was simply whether an opinion of one state supreme court justice was properly part of the record in a writ-of-error proceeding.89 (It wasn't.90) The Supreme Court actually applied "right for any reason" in *Collier*

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585 n.24 (1982); *Blum v. Bacon*, 457 U.S. 132, 137 n.5 (1982); *Bondholders Comm., Marlborough Inv. Co. v. Comm'r*, 315 U.S. 189, 192 n.2 (1942); *Le Tulle v. Scofield*, 308 U.S. 415, 421–22 (1940); *Morley Constr. Co. v. Md. Cas. Co.*, 300 U.S. 185, 191 (1937); *Am. Ry. Express Co.*, 265 U.S. at 435.

> *v. Stanbrough,* affirming a state supreme court's judgment on an alternative ground.91

Id. at 1030.[4] [5]

3. Thus, the District Court should have denied the request for an injunction on disagreement with the Alien Enemies Act as being immaterial to the result of the President's authority to deport dangerous criminals qualifying as terrorists.

4. Many may want to vigorously debate when the Alien Enemies Act applies

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[4] Citing in FN 88 to *Williams v. Norris*, 25 U.S. (12 Wheat.) 117, 120 (1827).

[5] Citing in FN 91 to *Collier v. Stanbrough,* 47 U.S. (6 How.) 14, 20–22 (1848)

but, for these Plaintiffs, it is a tangent.

5. For example, Article IV, Section 4, of the U.S. Constitution emphasis added) requires that:

> The United States shall guarantee to every state in this union a republican form of government, ***and shall protect each of them against invasion***; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

6. Our Founders did not envision an "invasion" as hundreds of Soviet T-34 tanks in a swirling, massive tank battle. For decades, many dozens of attacks across the Southern border with Mexico have occurred.

7. On June 30, 2010, seven bullets

believed to have been fired from one or more AK-47s from across the border in Juárez hit the El Paso City Hall in Texas. *See:* "Paso City Hall, Takes Cross-Border Fire, MSM Yawns" Breitbart, https://www.breitbart.com/the-media/2010/07/01/el-paso-city-hall-takes-cross-border-fire-msm-yawns/

D. THE LOWER COURT HAS NO JURISDICTION TO USURP THE CORE POWERS OF THE PRESIDENT, CHIEF EXECUTIVE, HEAD OF THE EXECUTIVE BRANCH

8. This argument addresses Issue 2, 4, 10, 11, 12, ; *de novo* as errors of law.

9. The powers of the Federal Government, which are limited in scope and

delegated to the U.S. Government by the formerly independent nations of Colonies now known as the United States of America, are intentionally separated into three co-equal branches.

10. Federal judges lack constitutional authority to usurp or countermand the President's core executive powers as Commander-in-Chief and chief diplomat managing foreign relations and national security. *Zivotofsky v. Kerry*, 576 U.S. 1 (2015)).

11. Injunctions and orders that seek to enjoin or restrain core presidential powers exceed federal judicial jurisdiction, intrude

upon exclusively executive functions, and violate constitutional boundaries repeatedly reinforced by Supreme Court jurisprudence *Mississippi v. Johnson*, 71 U.S. 475 (1866).

12. *United States v. Verdugo-Urquidez,* 494 U.S. 259, 269 (1990) confirmed non-citizens posing national security threats lack constitutional standing, clearly stating constitutional protections "do not extend to non-resident aliens outside the territory of the United States." The limited procedural safeguards of *Demore v. Kim,* 538 U.S. 510, 123 S. Ct. 1708, 155 L. Ed. 2d 724 (2003) do not undermine executive authority under the Alien Enemies Act, as the Act specifically

empowers the President during declared emergencies involving hostile foreign elements, an element absent in *Demore v. Kim*.

13. *See also:*

> And to circumvent his veto power does invade the President's powers, because permitting one house to veto a proposed regulation is action which results in a situation that could only be accomplished under the Constitution by two houses passing a bill with the President's approval and subject to presidential veto and override. It is therefore clear that section 438(c) definitely invades presidential powers in authorizing a one-house veto, or as would be more appropriately stated, in authorizing FEC regulations to become effective by approval of both houses without

> reference to presidential action thereon.

Clark v. Valeo, 559 F.2d 642, 182 U.S.App.D.C. 21 (D.C. Cir. 1977)

14. In *INS v. Chadha*, 462 U.S. 919 (1983), the U.S. Supreme Court undertook an analysis of the fundamental constitutional architecture of the U.S. Constitution. It found in *Chadha* that the legislative veto of executive branch action by one or two houses of the U.S. Congress – after the fact -- violated the U.S. Constitution because it contradicted the constitutional architecture and structure of presentment of a bill passed by both houses of Congress.

15. The Constitution focuses on the

structure and distribution of responsibility among the three branches of federal government. The first three articles of the Constitution manifest the division sought by its signatories. Inherent in those provisions of power is the basic concept that each branch "exercise[s] . . . the powers appropriate to its own department," and no branch can "encroach upon the powers confided to the others." *Kilbourn v. Thompson*, 103 U.S. 168, 191, 26 L.Ed. 377 (1880).

16. An order that exceeds the jurisdiction of the court is void and can be attacked in any proceeding in any court where the validity of the judgment comes into

issue. *Rose v. Himely* (1808) 4 Cranch 241, 2 L ed 608; *Pennoyer v. Neff* (1877) 95 US 714, 24 L ed 565. *Windsor v. McVeigh* (1876) 93 US 274, 23 L ed 914.

E. DESIGNATION OF TERRORIST ORGANIZATIONS IS A CLEAR EXECUTIVE POWER NOT SUBJECT TO DISTRICT COURT CHALLENGES

Under 8 U.S.C. §1189, the executive branch—through the Secretary of State in consultation with other senior officials—holds exclusive authority to designate terrorist organizations. Such designations, particularly for those entering unlawfully, are matters strictly within the executive domain and beyond district court jurisdiction

or interference.

F. CHALLENGES TO EXECUTIVE AUTHORITY MUST BE MADE THROUGH EXTRAORDINARY WRITS, NOT DISTRICT COURT ACTIONS, TO END ABUSIVE LITIGATION

Those seeking to challenge executive authority should use extraordinary writs (such as writs of mandamus or prohibition) directed to appellate courts or the Supreme Court, rather than district court injunctions. Permitting individual district courts to entertain these challenges fosters endless, abusive litigation, jeopardizing national security and obstructing the executive's constitutional duties. This Court must rule

unequivocally that future challenges to executive national security actions be limited exclusively to extraordinary writs filed directly with the Supreme Court, eliminating district court jurisdiction in these matters.

G. ILLEGAL ALIENS ARE ALREADY DEPORTABLE WITH OR WITHOUT THE ALIEN ENEMIES ACT UNDER 8 U.S.C. § 1251

17. The argument here addresses Issues 3, 5, 6, 7, 8, *de novo* as errors of law.

18. The President under the current incumbent and many other observers and commentators will likely disagree that a President's authority is created by or limited to the statutory terms. But for our present

purposes, the Plaintiff class is deportable without resort to the Alien Enemies Act.

19. 8 U.S.C. § 1251 provides:

> **§ 1251. Deportable aliens**
>
> **(a) Classes of deportable aliens**
> Any alien (including an alien crewman) in the United States shall, upon the order of the Attorney General, be deported if the alien is within one or more of the following classes of deportable aliens:
>
> (1) Excludable at time of entry or of adjustment of status or violates status
>
> (A) Excludable aliens
> Any alien who at the time of entry or adjustment of status was within one or more of the classes of aliens excludable by the law existing at such time is deportable.

(B) Entered without inspection
Any alien who entered the United States without inspection or at any time or place other than as designated by the Attorney General or is in the United States in violation of this chapter or any other law of the United States is deportable.

(C) Violated nonimmigrant status or condition of entry
(i) Nonimmigrant status violators
Any alien who was admitted as a nonimmigrant and who has failed to maintain the nonimmigrant status in which the alien was admitted or to which it was changed under section 1258 of this title, or to comply with the conditions of any such status, is deportable.
(ii) Violators of conditions of entry * * *

* * *

(E) Smuggling
(i) In general
Any alien who (prior to the date of entry, at the time of any entry,

or within 5 years of the date of any entry) knowingly has encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law is deportable.

(ii) Special rule in the case of family reunification Clause (i) shall not apply * * * if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

(iii) Waiver authorized

* * *

(F) Failure to maintain employment

* * *

(G) Marriage fraud

* * *

(2) Criminal offenses

(A) General crimes
(i) Crimes of moral turpitude Any alien who—

is convicted of a crime involving moral turpitude committed within five years (or 10 years in the case of an alien provided lawful permanent resident status under section 1255(i) 1 of this title) after the date of entry, and (II) either is sentenced to confinement or is confined therefor in a prison or correctional institution for one year or longer,

is deportable.

20. The Plaintiff class is deportable.

H. ILLEGAL ALIENS ARE ALREADY DEPORTABLE WITH OR WITHOUT THE ALIEN ENEMIES ACT UNDER 8 U.S.C. § 1182

21. The argument here addresses Issues 3, 5, 6, 7, 8, 9, *de novo* as errors of law.

22. The Plaintiff class is deportable without resort to the Alien Enemies Act. 8 U.S.C. § 1182 provides:

> **(a) Classes of excludable aliens**
>
> Except as otherwise provided in this chapter, the following describes classes of excludable aliens who are ineligible to receive visas and who shall be excluded from admission into the United States:
>
> * * *
>
> (2) Criminal and related grounds
> (A) Conviction of certain crimes
>
> (i) In general
> Except as provided in clause (ii), any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of—
>
> (I) a crime involving moral turpitude (other than a purely

political offense) or an attempt or conspiracy to commit such a crime, or
(II) a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 802 of title 21),
* * *
(3) Security and related grounds
(A) In general

Any alien who a consular officer or the Attorney General knows, or has reasonable ground to believe, seeks to enter the United States to engage solely, principally, or incidentally in—
(i) any activity
(I) to violate any law of the United States relating to espionage or sabotage or
(II) to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information,

(ii) any other unlawful activity, or
(iii) any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means,

* * *

23. 8 U.S.C. 1182 (B) extensively details restrictions related to terrorist activities or support for terrorists.

24. 8 U.S.C. § 1182 further provides:

(3) Security and related grounds

* * *

(D) Immigrant membership in totalitarian party

* * *

* * *

(6) Illegal entrants and immigration violators

* * *

(C) Misrepresentation

* * *

25. Given the Constitutional force requiring the President to defend the States against invasion, the Alien Enemies Act should be interpreted consistently.

I. ADVISORY OPINIONS

26. The argument here addresses Issue 1, 5, 6, 7, 8, 9, ; *de novo* as errors of law.

27. To be justiciable, A dispute must call for adjudication of a present right on established facts, not a hypothetical.

> We held this case in abeyance pending the decision in *South Carolina Public Service Authority v. FERC*, 762 F.3d 41 (D.C. Cir. 2014). Now that there is a final decision in that case, we remove this case from abeyance. After reviewing the original and supplemental briefing, and with

> the benefit of oral argument, we dismiss the petition for review because Article III of the Constitution does not permit us to issue an advisory opinion.

Pub. Serv. Elec. & Gas Co. v. Fed. Energy Regulatory Comm'n, 783 F.3d 1270 (D.C. Cir. 2015).

IV. CONCLUSION

For these constitutional and practical reasons, amicus respectfully urges this Court to reaffirm executive authority, eliminate district court abuses, and restore the President's constitutional prerogative to effectively secure the nation.

March 31, 2025 /s/ *Peter Ticktin*

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