

IN THE SUPREME COURT OF THE UNITED STATES

No. 17-834

STATE OF KANSAS, PETITIONER

v.

RAMIRO GARCIA, ET AL.

ON WRIT OF CERTIORARI
TO THE SUPREME COURT OF KANSAS

MOTION OF THE UNITED STATES FOR LEAVE TO
PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE
AND FOR DIVIDED ARGUMENT

Pursuant to Rules 28.4 and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves for leave to participate in oral argument in support of petitioner and requests that the United States be allowed ten minutes of argument time. Petitioner has consented to an allocation of ten minutes of its argument time to the United States.

This case concerns whether the Immigration Reform and Control Act of 1986 (IRCA), Pub. L. No. 99-603, 100 Stat. 3359, preempts state-law prosecutions for identity theft and related offenses under generally applicable criminal laws. The United States has a substantial interest in the resolution of that question. The United States enforces IRCA and prosecutes federal crimes that would be affected by the Court's decision in this case. In

particular, affirming the Kansas Supreme Court's holding that 8 U.S.C. 1324a(b)(5) bars the use of basic identity information that appears on the Form I-9 (such as a name, birthdate, or social security number) in most criminal prosecutions -- even when that information is not derived from the Form I-9 -- would severely disrupt federal criminal law enforcement. The United States has accordingly filed an amicus brief supporting petitioner. The United States also filed an amicus brief at the petition stage of this case at the Court's invitation.

The United States frequently participates in oral argument as amicus curiae in cases involving significant preemption questions, including in the immigration field. See, e.g., Virginia Uranium, Inc. v. Warren, 139 S. Ct. 1894 (2019) (preemption generally); Chamber of Commerce of U.S. v. Whiting, 563 U.S. 582 (2011) (IRCA preemption); see also Arizona v. United States, 567 U.S. 387 (2012) (participating as a party in an IRCA preemption case). The United States' participation in oral argument could therefore materially assist the Court in its consideration of this case.

Respectfully submitted.

NOEL J. FRANCISCO
Solicitor General
Counsel of Record

AUGUST 2019