No. 25-____

In the Supreme Court of the United States

FRITZ EMMANUEL LESLEY MIOT, ET AL.,
Petitioners,

v.

DONALD J. TRUMP, ET AL.,
Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the D.C. Circuit

MOTION TO EXPEDITE CONSIDERATION OF THE CONDITIONAL PETITION FOR WRIT OF CERTIORARI BEFORE JUDGMENT

Pursuant to Supreme Court Rule 21, petitioners respectfully request expedited consideration of their conditional petition for writ of certiorari before judgment to the United States Court of Appeals for the D.C. Circuit, filed concurrently with this motion, as well as expedited consideration of this motion. This petition should be considered alongside the government's petition for a writ of certiorari before judgment in *Doe v. Noem*, No. 25A952, because the petitions present overlapping questions—namely, whether 8 U.S.C. § 1254a(b)(5)(A) bars judicial review of claims brought under the Administrative Procedure Act and, if not, whether the petitioners' APA claims are likely to succeed on the merits. But this case is a better vehicle for considering those (and other related) questions.

Petitioners believe the government's request for a stay and certiorari before judgment should be denied in *Doe* to allow these important questions to be decided in the normal course after the courts of appeals have addressed them. If, however, this Court grants certiorari in *Doe*, it also should grant certiorari in this case, which is a better vehicle to consider the questions presented and which includes issues not considered by the lower courts in *Doe*. Here, unlike in *Doe*, the district court issued a lengthy written decision and the administrative record has been produced. Moreover, the parties raised—and the decisions below considered—constitutional and statutory arguments and claims not litigated in *Doe*. For example, the decision below, unlike the oral ruling in *Doe*, rests in part on petitioners' equal-protection claim asserted under 5 U.S.C. § 706(2)(B). Thus, granting review in this case alongside *Doe*, if the Court considers the questions now, would allow a more comprehensive resolution to the questions presented.

Expedited consideration is appropriate to ensure that the Court may consider the petition in *Doe* alongside, and with the benefit of, this petition. Petitioners accordingly request that this Court (i) expedite its consideration of this motion; (ii) expedite its consideration of the conditional petition for certiorari before judgment in this appeal, including by ordering a response by March 16 to allow the Court to consider the petition simultaneously with the petition in *Doe* at its next scheduled conference (March 20) or any subsequently scheduled conference; and (iii) if it grants the petition in *Doe*, grant this petition and consolidate the two cases for oral argument.

STATEMENT

As explained in the contemporaneously filed conditional petition for writ of certiorari, Petitioners are Haitian nationals whose protection from removal under the Temporary Protected Statue (TPS) statute was terminated by the Secretary of the Department of Homeland Security effective February 3, 2026. *See* 90 Fed. Reg. 54,733 (Nov. 28, 2025). On February 2, 2026, the U.S. District Court for the District of Columbia issued an order and opinion postponing the effective date of the termination pursuant to 5 U.S.C. § 705. *See* App. 1a. That decision correctly held that 8 U.S.C. § 1254a(b)(5)(A), which divests courts of jurisdiction to "review . . . any determination of the [Secretary] with respect to the designation, or termination or extension of a designation, of a foreign state" for TPS, does not deprive federal courts of jurisdiction to hear petitioners' challenge to "the process by which [the Secretary] reaches that decision." App. 27a. This conclusion is supported by a consensus of courts that have reached this question, as well as this Court's decision in *McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479 (1991), which held that a similar statute barring review of an agency "determination" did not bar "general collateral challenges to unconstitutional practices and policies used by the agency in processing applications." *Id.* at 492. Compliance with the statutory *process* Congress laid out, rather than the Secretary's ultimate conclusion, remains subject to judicial review.

The government's petition in *Doe*, which addresses the Secretary's termination of Syria's TPS designation, implicates the questions presented here—namely, whether 8 U.S.C. § 1254a(b)(5)(A) bars judicial review of claims brought under the

Administrative Procedure Act and, if not, whether petitioners' APA claims are likely to succeed on the merits. But the *Doe* petition does so without the benefit of an 83-page written decision, an administrative record, and the breadth of litigated claims and arguments that this case makes available to the Court.

To be clear: Petitioners believe that *Doe does not* present extraordinary circumstances that "justify deviation from normal appellate practice" and "require immediate determination in this Court" (S. Ct. R. 11). The Court should, in the first instance, deny the government's request for a stay and for certiorari before judgment to allow these appeals to play out in the ordinary course. But if the Court disagrees and grants the government's petition, it should likewise grant the conditional petition filed in this appeal, so that the Court can benefit from the better vehicle this case presents to evaluate the full panoply of arguments implicated by the questions presented.

ARGUMENT

Expedited consideration of this motion and the conditional petition for certiorari is warranted because, unlike *Doe*, the decision below in this appeal considered questions about the Court's jurisdictional and scope of review that the Court should address if it resolves the questions presented.

1. Both appeals ask whether 8 U.S.C. § 1254a(b)(5)(A) precludes judicial review of the TPS holders' APA claims. To resolve that question, the Court should consider whether the jurisdictional bar in in § 1254a(b)(5)(A) displaces the earlier-enacted judicial review provisions in the APA, notwithstanding that Section 1254a does not

reference that statute expressly. The *Doe* respondents did not raise this issue below; petitioners in this case did. *See* ECF 93 at 4–6; ECF 100 at 1–3; ECF 108 at 1.[1]

2. The decision below—unlike the oral ruling in *Doe*—agreed that the jurisdictional bar in § 1254a(b)(5)(A) *did not* preclude the Court' review of *constitutional* claims brought under the APA. Stay App. 32, *Doe v. Noem*, No. 25A952. To fully resolve the scope of judicial review available to TPS termination decisions, the Court should consider whether § 1254a(b)(5)(A) applies to constitutional claims brought under 5 U.S.C. § 706(2)(B), such as the equal-protection claims asserted by petitioners here. The relief granted by the district court in *Doe* does not depend upon the respondents' constitutional claims and, thus, could frustrate the Court's opportunity to consider this important issue, which is raised in myriad other TPS termination cases. The written decision adopting petitioner's constitutional arguments, coupled with the administrative record here—which includes strong evidence of racial animus toward Haitian TPS holders not applicable to other TPS litigants—makes this case a better vehicle for reviewing whether the Court can consider an equal protection claim and, if it can, whether petitioners are likely to succeed on that claim.

3. Granting the *Doe* petition without simultaneously considering the petition in this appeal would not promote "prompt resolution" of the issues presented (*United States v. Nixon*, 418 U.S. 683, 686 (1974). Considering the petitions together reduces the risk of confusion, piecemeal litigation, and inconsistent lower court rulings that

[1] All ECF references are to the docket in *Miot v. Trump*, No. 25-cv-2471 (D.D.C.).

the "immediate determination" made available by Rule 11 exists to avoid.

4. Finally, granting the petition in *Doe* without simultaneously considering and granting this petition magnifies the harms other TPS petitioners, like the Haitians here, face. Review of the abbreviated oral ruling in *Doe*—rather than the 83-page written decision here—would short-circuit a fulsome resolution of the questions presented and could further fracture the lower courts considering other TPS termination cases. The incomplete decision solicited by the *Doe* petition could also lead lower courts to reject all challenges to the termination of TPS designations without addressing the threshold questions that a grant of the *Doe* petition alone would leave unanswered. The resulting risks to these various TPS holders—who would face immediate deportation to dangerous home countries—is real and dire. For petitioners, those risks include separation from their families, loss of work authorization, and removal to one of the most violent nations in the world—all without any recourse should that removal later prove erroneous.

CONCLUSION

This Court should deny the government's request for a stay and petition for writ of certiorari before judgment in *Doe*. But if the Court decides to grant the petition in *Doe*, it should (i) expedite its consideration of this motion; (ii) expedite its consideration of the conditional petition for certiorari before judgment, including by ordering a response by March 16 to allow the Court to consider the petition along with the *Doe* petition at its next scheduled conference (March 20) or any subsequently scheduled conference; and (iii) if it grants the *Doe* petition, grant this petition,

consider this case alongside *Doe*, and set a briefing schedule to allow oral argument at the start of the next Term.

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Respectfully submitted,

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