

No. 25-828

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**In the Supreme Court of the United States**

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THE GEO GROUP, INC.,  
*Petitioner,*

v.

UGOCHUKWU NWAUZOR, ET AL.,  
*Respondents.*

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On Petition for a Writ of Certiorari to the  
United States Court of Appeals for the Ninth Circuit

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**INDIVIDUAL RESPONDENTS'  
SUPPLEMENTAL BRIEF**

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## SUPPLEMENTAL BRIEF

1. This Court should be entitled to rely on the federal government to “turn square corners.” *DHS v. Regents of the Univ. of Cal.*, 591 U.S. 1, 24 (2020) (citation omitted). Yet, here, the United States argues that certiorari is necessary because the Ninth Circuit’s decision could allow every state to apply its minimum-wage law to workers detained in that state. But the government does not apprise the Court that it has *already* ensured that the Ninth Circuit’s decision cannot possibly have that impact. In June 2026—three months before the United States filed its brief in this Court—U.S. Immigration and Customs Enforcement issued revised national detention standards in which the agency changed the very wage rules that the Ninth Circuit relied on here. *See* ICE, National Detention Standards, Standard 5.6, at 182-84 (2026) (Revised NDS), [perma.cc/K7HN-5DCJ](https://perma.cc/K7HN-5DCJ).

ICE’s detention standards previously provided that detained workers must be paid *at least* \$1 a day, without prohibiting contractors from paying more. 3-ER-518. And ICE’s contract with GEO mandated that the company “comply with all applicable laws and regulations,” including state labor laws. Pet. App. 137 (quoting the contract); *see id.* at 3-4. In other words, under the contract in effect at the time of the lawsuit, the government *required* GEO to comply with Washington’s minimum-wage law. That was the basis of the Ninth Circuit’s decision. *See id.* at 12, 29-30, 32-34.

ICE’s new standards, on the other hand, *forbid* its detention contractors from paying detained workers any wages “exceeding the amount Congressionally allocated to ICE for reimbursing contract facilities in support of the Voluntary Work Program.” Revised NDS 183. And, contrary to ICE’s prior contract with GEO, the standards

now mandate that detained workers “are *not* entitled to wages or benefits under applicable wage laws or labor regulations.” *Id.* (emphasis added).

Even before this change, the impact of the Ninth Circuit’s decision was “limited to a single state’s law as applied to a single facility.” Nwauzor BIO 18 (explaining that Washington’s minimum-wage law appears to be unique, something neither GEO nor the federal government disputes). Now, the decision doesn’t even do that much. Any future disputes about the application of state minimum-wage laws to detained workers will turn on ICE’s new standards, not the outdated ones in effect during the time period covered by this lawsuit.

ICE’s new detention standards thus undercut the federal government’s only asserted interest in further review. The United States contends (at 22) that, absent further review by this Court, the decision below “threatens to upend” ICE’s reliance on private detention contractors in the Ninth Circuit and could force ICE either to “amend the PBNDS ... to be circuit-specific” or to “acquiesce to the Ninth Circuit’s rule nationwide.” But ICE has already chosen a third option. ICE’s nationwide revisions to its detention standards provide a new, uniform national rule for detained workers’ wages. And although the new standards do not formally moot this case, they underscore that the only remaining practical stake here is the one-time judgment that GEO must pay for its past conduct.

2. The United States fails to turn square corners in one additional respect. It contends (at 11-12) that Washington discriminates against federal contractors by the combined effect of two state laws: one exempting publicly operated detention facilities from the state’s minimum-wage law, but not privately operated facilities,

RCW § 49.46.010(4)(k), and another prohibiting the state from contracting to use the services of “private correctional entit[ies],” RCW § 72.68.110(1). According to the United States (at 12), the state “gerrymander[ed]” its laws to ensure that *only* federal detention contractors are ever required to pay minimum wages.

Setting aside that those two provisions were enacted decades apart and thus hardly constitute a deliberate plot to target GEO (*contra* U.S. Br. 4), it is simply not true that Washington prohibits all private detention facilities. The relevant statute applies only to *criminal* detention (“the transfer or placement of offenders”), unlike the civil detention at issue here. RCW § 72.68.110(1). And even with respect to criminal detention, the statute exempts numerous types of facilities, such as “[s]tate work release centers,” which may be “operated in whole or in part by for-profit contractors.” RCW § 72.68.110(2)(a). Thus, as Washington explained in its brief in opposition (at 29), the state has “long contracted with outside facilities” for some forms of criminal detention, the state “maintains extensive contracts with private companies for civil commitment services,” and all those state contractors must comply with the state’s minimum-wage law when employing detained persons. *See* CA9 ECF 89 (letter from the state); 17-cv-5806 ECF 311 (declaration of state official).

The United States has no response, except the baffling assertion (at 12) that the statutory exceptions in Washington’s law are “not relevant here.” If the supposed discrimination consists of Washington gerrymandering its laws to ensure that state detention contractors are “a nonexistent category” (*id.*), the fact that Washington actually uses private contractors for both civil and criminal detention is obviously relevant—indeed, it is

perhaps the single most relevant fact imaginable. And if the Court were to take this case and decide it on the false premise that Washington has no private detention contractors, it's unclear what the effect of the decision would be. The premise is factually incorrect, and the workers would be able to refute it on remand or in any analogous future dispute.

3. The United States otherwise largely echoes GEO's arguments, endorsing the same alleged circuit conflict between the decision below and a Third Circuit decision that expressly denied any such conflict, and rehashing the same flawed immunity and preemption theories. The arguments are no more convincing now than they were when GEO made them months ago. *Nwauzor* BIO 12-32. The only significant development since then is the one the United States failed to bring to this Court's attention. Particularly in light of ICE's revised detention standards, no further review is warranted.

### CONCLUSION

The petition for a writ of certiorari should be denied.

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