



U.S. Department of Justice
Office of the Solicitor General

The Solicitor General

Washington, D.C. 20530

September 11, 2026

Honorable Scott S. Harris
Clerk
Supreme Court of the United States
Washington, D.C. 20543

Re: Kenneth Genalo, Director of the New York Field Office of U.S. Immigration and Customs Enforcement, et al. v. Carol Williams Black, et al., No. 25-886

Dear Mr. Harris:

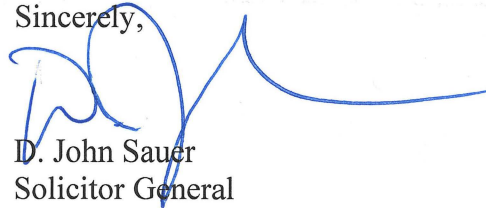
Under 8 U.S.C. 1226(c), the government is required to detain certain criminal aliens without a bond hearing while their removal proceedings are pending. Respondents Carol Williams Black and Keisy G.M. argued that Section 1226(c) is unconstitutional as applied to them and other aliens who have been detained for a “prolonged” period. Pet. App. 4a. The court of appeals agreed, holding that the Due Process Clause entitles such aliens to bond hearings with the burden placed on the government to justify their continued detention by clear and convincing evidence. *Id.* at 5a.

At the certiorari stage, the parties agreed that Black’s case had become moot after the court of appeals’ decision, see Cert. Reply Br. 7, and this Court granted the petition for a writ of certiorari as to G.M.’s case only. Three calendar days before G.M.’s merits brief was due, however, the Governor of New York granted a full and unconditional pardon with respect to G.M.’s aggravated-felony conviction. See Resp. Br. App. 3a. That conviction is the basis for the pending removal proceedings against G.M., see 8 U.S.C. 1227(a)(2)(A)(iii); 22-70 C.A. App. 169, and also the foundation of the government’s arguments for mandatory detention pending those proceedings, see 8 U.S.C. 1226(c)(1)(B). As a result of the pardon, G.M. would no longer be subject to such detention. See 8 U.S.C. 1227(a)(2)(A)(vi). The government therefore agrees with G.M. that his habeas case is now moot. See Resp. Br. 19-20.

Although the government previously indicated that it might “seek vacatur of the judgments in both respondents’ cases if G.M.’s case bec[a]me[] moot during further proceedings,” Cert. Reply Br. 10; see *United States v. Munsingwear, Inc.*, 340 U.S. 36, 39 (1950), the government has decided not to seek vacatur of the judgments below. Vacatur would not eliminate the circuit conflicts or the need for this Court’s review of the questions presented. See Pet. 15-20, 26-28. Instead, it would risk delaying other similar cases from reaching this Court. Rather than force those questions to be relitigated within the Second Circuit—which denied the government’s petition for rehearing en banc last October, after nearly a year of consideration, with a majority of the court’s

active judges agreeing with the panel members' defenses of the decision below, see Pet. App. 109a—the government has decided to stipulate to the dismissal of these cases under this Court's Rule 46.1, with the aim of identifying alternative vehicles, including from the Second Circuit, that would still allow this Court to resolve the questions presented during October Term 2026.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. John Sauer', with a long horizontal flourish extending to the right.

D. John Sauer
Solicitor General

cc: See Attached Service List

25-0886

GENALO, KENNETH, DIRECTOR OF THE NEW
YORK FIELD OFFICE OF U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT, ET AL.
CAROL WILLIAMS BLACK, ET AL.

KWAKU AFFAWUA AKOWUAH
SIDLEY AUSTIN LLP
1501 K STREET, NW
WASHINGTON, DC 20005
202-736-8000
KAKOWUAH@SIDLEY.COM

AHILAN T. ARULANANTHAM
UCLA SCHOOL OF LAW
385 CHARLES YOUNG DRIVE EAST
LOS ANGELES, CA 90095
310-825-1029
ARULANANTHAM@LAW.UCLA.EDU

AMY BELSHER
NEW YORK CIVIL LIBERTIES UNION
FOUNDATION
125 BROAD STREET
19TH FLOOR
NEW YORK, NY 10004
212-607-3399
ABELSHER@NYCLU.ORG

MATTHEW J. CRAIG
HECKER FINK LLP
1150 SOUTH OLIVE STREET
SUITE 10-140
LOS ANGELES, CA 90015
212-763-0883
MCRAIG@HECKERFINK.COM

MATT AUSTIN CRAPO
FEDERATION FOR AMERICAN IMMIGRATION
REFORM
25 MASSACHUSETTS AVE., NW
SUITE 330
WASHINGTON, DC 20001
202-328-7004
MCRAPO@FAIRUS.ORG

MATT AIDAN GETZ
GIBSON, DUNN & CRUTCHER LLP
333 SOUTH GRAND AVE.
LOS ANGELES, CA 90071
213-229-7754
MGETZ@GIBSONDUNN.COM

JED WOLF GLICKSTEIN
KAPLAN & GRADY LLC
2071 N. SOUTHPORT AVE.
SUITE 205
CHICAGO, IL 60614
312-852-2184
JGLICKSTEIN@KAPLANGRADY.COM

BRIANNE JENNA GOROD
CONSTITUTIONAL ACCOUNTABILITY
CENTER
1730 RHODE ISLAND AVENUE
SUITE 1200
WASHINGTON, DC 20036
202-296-6889
BRIANNE@THEUSCONSTITUTION.ORG

BARBARA JEAN HOWARD
BARBARA J. HOWARD CO., PA
120 E. FOURTH STREET
SUITE 960
CINCINNATI, OH 45202
513-421-7300
AMICUSBRIEFS@AMERICANBAR.ORG

RICHARD W. MARK
GIBSON, DUNN & CRUTCHER LLP
200 PARK AVE.
NEW YORK, NY 10166
212-351-4000
RMARK@GIBSONDUNN.COM

CHRISTOPHER E. MILLS
SPERO LAW LLC
557 EAST BAY STREET
#22251
CHARLESTON, SC 29413
843-606-0640
CMILLS@SPERO.LAW

ARJUN RAVI RAMAMURTI
JENNER & BLOCK LLP
1099 NEW YORK AVENUE, NW
SUITE 900
WASHINGTON, DC 20001
202-639-6000
ARAMAMURTI@JENNER.COM

JO-ANN TAMILA SAGAR
HOGAN LOVELLS US LLP
555 THIRTEENTH ST., N.W.
WASHINGTON, DC 20004
202-637-5600
JO-ANN.SAGAR@HOGANLOVELLS.COM

BARBARA DALE UNDERWOOD
SOLICITOR GENERAL
OFFICE OF THE ATTORNEY GENERAL
28 LIBERTY STREET
NEW YORK, NY 10005-1400
212-416-8016
BARBARA.UNDERWOOD@AG.NY.GOV

CECILLIA D. WANG
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
425 CALIFORNIA STREET
SUITE 700
SAN FRANCISCO, CA 94104
212-549-2500
CWANG@ACLU.ORG

ERIC HARRIS WESSAN
IOWA ATTORNEY GENERAL'S OFFICE
1305 E. WALNUT STREET
DES MOINES, IA 50319
515-823-9117
ERIC.WESSAN@AG.IOWA.GOV

ELYSSA WILLIAMS
THE LEGAL AID SOCIETY
49 THOMAS STREET
5TH FLOOR
NEW YORK, NY 10013
646-983-9822
EWILLIAMS@LEGA-AID.ORG

STANLEY YOUNG
COVINGTON & BURLING LLP
3000 EL CAMINO REAL
5 PALO ALTO SQUARE
10TH FLOOR
PALO ALTO, CA 94306
650-324-704
SYOUNG@COV.COM