No. 25-966

In the Supreme Court of the United States

DEPARTMENT OF LABOR, ET AL.,
PETITIONERS

v.

SUN VALLEY ORCHARDS, LLC,
RESPONDENT

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

BRIEF FOR ALTRIA GROUP, INC. AS *AMICUS CURIAE* IN SUPPORT OF RESPONDENT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases **Page(s)**

CONSTITUTIONAL PROVISIONS

STATUTES

INTEREST OF *AMICUS CURIAE*[1]

Amicus Curiae Altria Group, Inc.'s family of companies[2] develops, supports, and distributes regulated consumer products, including e-vapor devices, in the United States.

Amicus has a substantial interest in the proper application of Article III and the public-rights exception. *Amicus* operates in highly regulated markets, invests substantial resources in developing and distributing lawful products, and depends on predictable constitutional limits governing when private rights may be adjudicated outside Article III courts. As a result, *amicus* is sometimes subjected to regulatory proceedings that impermissibly seek to adjudicate private rights in violation of Article III. It therefore has a distinct and concrete interest in this Court's clarification of the limited circumstances in which Congress may allow for adjudication in a non-Article III tribunal.

SUMMARY OF ARGUMENT

Article III presumptively requires cases and controversies to be decided by federal courts, not by executive-branch officials. There is a narrow exception for so-called public-rights cases. Petitioners urge this Court to expand that exception, arguing that because this case is

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[1] No counsel for a party authored this brief in whole or in part, and no person or entity other than *amicus* and its counsel made a monetary contribution to its preparation or submission. S. Ct. Rule 37.6.

[2] Altria's family of companies includes its wholly owned subsidiaries Philip Morris USA Inc., U.S. Smokeless Tobacco Co., John Middleton, Inc., Helix Innovations LLC, and NJOY, LLC.

"related" to immigration—an area where public rights are sometimes implicated—Congress may assign the dispute to an agency. That broad approach is unjustified and inconsistent with both the Constitution and this Court's precedent. Congress's plenary power over immigration authorizes immigration legislation; it does not authorize Congress to circumvent Article III in all proceedings touching on immigration-related issues. Once Congress legislates within its sphere of authority, that legislation must still comply with independent constitutional limits. If petitioners' theory were accepted, Congress could require all sorts of ordinary disputes that are regularly heard by courts and juries to be adjudicated by agencies on the ground that it is legislating on a subject that is adjacent to a field of broad federal power. The Court should reject that shortcut, as it has repeatedly done.

ARGUMENT

Properly construed, the public-rights doctrine is a narrow exception to the general rule that private parties' interests must be adjudicated by an Article III court rather than some other branch of the federal government. Although the Court's decisions in this area "have not always spoken in precise terms," the Court "has typically evaluated the legal basis for the assertion of the doctrine with care." *SEC* v. *Jarkesy*, 603 U.S. 109, 130–31 (2024). Accordingly, "traditionally recognized public rights have at least one feature in common: a serious and unbroken historical pedigree." *Id.* at 153 (Gorsuch, J., concurring); see also *Stern* v. *Marshall*, 564 U.S. 462, 504–05 (2011) (Scalia, J., concurring) ("[A]n Article III judge is required in *all* federal adjudications, unless there is a firmly established historical practice to the contrary.").

The standard for establishing a historical practice of "exclusive" executive or legislative power is a demanding one. *Jarkesy*, 603 U.S. at 130. In *Murray's Lessee* v. *Hoboken Land & Improvement Co.*, 59 U.S. (18 How.) 272 (1856), for example, the Court upheld a non-Article III adjudication that seized property in satisfaction of a balance owed to the government by a customs officer. *Id.* at 275. Before doing so, though, this Court reviewed historical English practice, starting with the Magna Carta and tracing it up through the Founding. See *id.* at 277–78 ("[W]e must look to those settled usages and modes of proceeding existing in the common and statute law of England . . . ."). Likewise, in *Oceanic Steam Navigation Co.* v. *Stranahan*, 214 U.S. 320 (1909), this Court allowed non-Article III assessments of penalties for bringing unhealthy immigrants into the United States, but only because "the legislation of Congress from the beginning" had provided for such determinations. *Id.* at 339.

Petitioners seek to water down this rigorous standard by arguing that a proceeding may qualify for the public-rights exception simply because it touches on a subject matter that is within Congress's legislative purview or that has been implicated in prior public-rights cases. That broad conception of the public-rights doctrine is inconsistent with precedent and, if accepted, "would swallow the rule." *Jarkesy*, 603 U.S. at 131. As the court below correctly observed, Congress's authority to "prohibit immigration by certain classes of persons and enforce those prohibitions with administrative penalties" does not transform employment-law adjudications "about worker hours, housing, cooking, and transportation" into public-rights cases. Pet. App. 15a–17a.

I. Congress's Authority to Regulate Immigration Does Not by Itself Establish that a Public Right Is Implicated in Every Immigration-Related Proceeding.

Petitioners contend that because Congress possesses plenary authority over immigration and may set terms and conditions on "importing foreign labor," every adjudication tangentially "related" to immigration automatically falls within the public-rights exception to Article III. See Pet. Br. 4, 27–37. That is wrong. Whether Congress legislates pursuant to an enumerated power goes to whether Congress has the power to act at all—not to the independent question of whether Congress has complied with *other* constitutional restrictions.

The Court has long held that the relevant constitutional analysis proceeds in two distinct steps. First, Congress must identify an enumerated power authorizing it to legislate. See, e.g., *NFIB* v. *Sebelius*, 567 U.S. 519, 535 (2012) ("If no enumerated power authorizes Congress to pass a certain law, that law may not be enacted, even if it would not violate any of the express prohibitions in the Bill of Rights or elsewhere in the Constitution."). Second, where Congress acts within the scope of such a power, the resulting legislation must satisfy every other applicable constitutional constraint. *Ibid.* ("[A]ffirmative prohibitions come into play . . . only where the Government possesses authority to act in the first place."). Thus, even if Congress possesses the authority to act, it may not exercise that authority in a way that violates independent constitutional provisions. See *McCulloch* v. *Maryland*, 17 U.S. (4 Wheat.) 316, 421 (1819) (Congress's means chosen under the Necessary and Proper Clause must be "not prohibited" by other constitutional provisions); *Liparota* v. *United States*, 471 U.S. 419, 424 n.6 (1985) (Congress must act "within any applicable constitutional constraints" even when defining criminal offenses); *Patchak* v. *Zinke*, 583 U.S. 244, 252 (2018) (plurality opinion) (Congress has "plenary" control over federal-court jurisdiction only "[s]o long as Congress does not violate other constitutional provisions").

The Court has enforced this distinction rigorously. In *Buckley* v. *Valeo*, 424 U.S. 1 (1976), the Court held that Congress could not invoke its substantive authority to regulate elections as a way to circumvent the Appointments Clause. The claim that Congress could provide a particular manner of appointment by invoking the Necessary and Proper Clause, the Court explained, "stands on no better footing than the claim that it may provide for such manner of appointment because of its substantive authority to regulate federal elections." *Id.* at 135. Congress "could not," the Court continued, "pass a bill of attainder or ex post facto law contrary to the prohibitions contained in § 9 of Art. I" merely "because [Congress] concluded that such a measure was 'necessary and proper' to the discharge of its substantive legislative authority." *Ibid.* Congress "has plenary authority in all areas in which it has substantive legislative jurisdiction," but "the exercise of that authority [must] not offend some other constitutional restriction." *Id.* at 132 (citing *McCulloch*, 17 U.S. (4 Wheat.) 316).

The framework is the same for legislation concerning immigration. In *INS* v. *Chadha*, for example, the Court recognized that the Immigration and Nationality Act was enacted pursuant to Congress's "plenary authority" "over aliens" under the Naturalization Clause and the Necessary and Proper Clause. 462 U.S. 919, 940–41 (1983). Yet Congress's substantive authority did not exempt immigration legislation from the separate constitutional requirements of bicameralism and presentment. *Id.* at 956–59.

Petitioners' contrary position would collapse the two-step inquiry into one. If the mere exercise of plenary immigration power sufficed to place all immigration-adjacent adjudications within the public-rights exception, then the public-rights analysis would turn simply on whether Congress has legislated pursuant to a broad substantive power—a proposition this Court has never accepted. Every federal statute is purportedly enacted under some grant of enumerated authority. *Buckley*, 424 U.S. at 132. The Commerce Clause, the Bankruptcy Clause, the Patent Clause, and the Taxing Power are each "plenary" in their own spheres. But this Court has never held that a statute's relationship to a broad enumerated power is, standing alone, sufficient to invoke the public-rights exception.

In fact, the Court's cases have consistently declined to define public-rights categories at such a high level of generality. Most directly, the plurality in *Northern Pipeline* held that Congress could not vest non-Article III bankruptcy judges with jurisdiction to decide state-law contract claims that arose within the context of bankruptcy administration but that were brought against entities that had not consented to the bankruptcy court's adjudication. *N. Pipeline Constr. Co.* v. *Marathon Pipe Line Co.*, 458 U.S. 50 (1982) (plurality opinion). In reaching that conclusion, the plurality rejected the same argument petitioners press here:

> Appellants' contention, in essence, is that pursuant to any of its Art. I powers, Con-

> gress may create courts free of Art. III's requirements whenever it finds that course expedient. This contention has been rejected in previous cases. . . . [T]hose cases also make it clear that where Art. III does apply, all of the legislative powers specified in Art. I and elsewhere are subject to it.

Id. at 73 (plurality opinion) (citing *Atlas Roofing Co.* v. *Occupational Safety & Health Review Comm'n*, 430 U.S. 442, 450 n.7 (1977); *United States ex rel. Toth* v. *Quarles*, 350 U.S. 11 (1955)).

This Court's other public-rights cases are in accord. In *Jarkesy*, the Court did not ask whether the adjudication at issue related to securities regulation or interstate commerce writ large. Instead, the Court asked whether the *specific* suit—a government enforcement action seeking civil penalties for securities fraud—fell within a historically recognized category of adjudication that the political branches could resolve without the involvement of Article III courts. 603 U.S. at 127–41. And in *Stern*, the Court held that a bankruptcy court violated the Constitution by adjudicating a state common-law counterclaim. 564 U.S. at 493–95. Although Congress has plenary power over bankruptcy, U.S. Const. art. I, § 8, cl. 4, the Court reasoned that "Congress may not bypass Article III simply because a proceeding may have *some* bearing on a bankruptcy case," *Stern*, 564 U.S. at 499. Otherwise, the Court concluded, "Article III would be transformed from the guardian of individual liberty and separation of powers we have long recognized into mere wishful thinking." *Id.* at 495.

As these cases demonstrate, a mere label drawn from Congress's broad legislative domain—for example, "bankruptcy-related," "securities regulation," or "immigration"—cannot by itself do the work of identifying a historically grounded public right, "particularly given" that "the presumption is in favor of Art. III courts." *Id.* at 499 (quoting *Northern Pipeline*, 458 U.S. at 69 n.23).

II. Congress's Power to Commit Adjudication to Non-Article III Courts in Certain Circumstances Does Not Extend to All Adjacent Proceedings.

Although the Court has at times allowed non-Article III adjudication of certain immigration-related matters, it does not follow that Congress may commit *all* immigration-related adjudications to the Executive. The public-rights doctrine requires a more specific showing: Petitioners must identify a Founding-era, non-judicial analogue for the *particular* form of adjudication at issue. See, e.g., *Jarkesy*, 603 U.S. at 122–26. Petitioners' reliance on other immigration-related public-rights cases is insufficient to carry that heavy burden.

Petitioners' own authorities illustrate the need for specificity in the analysis. In *Oceanic Steam*, Congress authorized a penalty on a carrier for bringing into the country an immigrant with a "loathsome or . . . contagious" disease. 214 U.S. at 331–32, 338–42. The Executive's adjudication was tied directly to the act of bringing a particular immigrant into the United States and to the conditions Congress had placed on that act. *Lloyd Sabaudo Societa Anonima per Azioni* v. *Elting*, 287 U.S. 329 (1932), likewise involved penalties and fare-related remedies imposed on a carrier for transporting excludable aliens to the United States. *Id.* at 334–35. And *Ex parte Bakelite Corp.*, 279 U.S. 438 (1929), concerned the forum for specific kinds of customs disputes between private entities and the government—a context far afield from anything at issue here. *Id.* at 446–47.

None of these cases holds that all statutory obligations connected to an immigration program may be finally adjudicated by an agency. See Pet. Br. 18, 32–36. If public rights were defined that broadly, ordinary private-rights disputes could be routed around Article III simply because Congress connected them to imports, exports, customs, immigration, or another field of extensive federal regulation. That is precisely the kind of incremental encroachment on Article III that this Court's precedent rejects. See *Stern*, 564 U.S. at 503 ("We cannot compromise the integrity of the system of separated powers and the role of the Judiciary in that system, even with respect to challenges that may seem innocuous at first blush."); *Jarkesy*, 603 U.S. at 132 ("We have never embraced the proposition that 'practical' considerations alone can justify extending the scope of the public rights exception to such matters.").

The same concern is present here. Some immigration adjudications may be handled by executive officers. Some penalties tied directly to the act of bringing aliens into the country may fall within *Oceanic Steam* and *Lloyd Sabaudo*. And some questions concerning the grant, denial, revocation, or terms of a federal privilege may fall within the public-rights doctrine. But those propositions do not answer whether the Secretary of Labor may adjudicate monetary liability for wages, housing, meals, transportation, and related working conditions owed to H-2A workers. Petitioners' theory supplies no stopping point. Once a private dispute can be characterized as enforcing a condition of a federal program, Congress could transfer adjudication to an agency across vast swaths of regulated economic life.

Petitioners' argument, however, goes even further than that, because the H-2A enforcement scheme at issue here extends to the "terms and conditions" of *domestic* workers' employment. See, e.g., Pet. Br. I, 4, 6, 10, 14–15. The statute requires that the use of H-2A foreign labor "not adversely affect the wages and working conditions" of "similarly employed" U.S. workers. *Id.* at 8 (quoting 8 U.S.C. § 1188(a)(1)). The Department of Labor accordingly assesses back wages and civil penalties against employers for alleged violations of terms governing the pay, housing, and working conditions of American workers *who are not themselves immigrants and who have no connection to the admission or exclusion of any immigrant*. *Id.* at 11. That petitioners characterize such proceedings concerning domestic workers as "immigration-related," *id.* at 2, 16, 19, does not talismanically transform them into a proper subject of the public-rights exception. Calling such claims "related" does no more analytical work than calling a proceeding "bankruptcy-related" or adjacent to "securities regulation."

In the context of substantive due process, this Court has cautioned against defining rights at so high a level as to avoid any meaningful limitations. In that context, as here, the analysis often turns on the level of generality at which an asserted right is described, and a court therefore must identify the concrete interest actually asserted rather than select an abstraction broad enough to dictate the result. In *Reno* v. *Flores*, 507 U.S. 292 (1993), for example, the Court declined to treat the detained alien juveniles' claim as a generic "freedom from physical restraint." *Id.* at 302. Instead, the Court described the claimed right more precisely, as "the alleged right of a child with no available parent, close relative, or legal guardian, and for whom the government was responsible, to be placed with a willing private custodian rather than in a government-operated or government-selected institution." *Id.* at 302–03.

Other cases are in accord. *Collins* v. *City of Harker Heights*, 503 U.S. 115 (1992), treated the claim not as an undifferentiated right to life or safety, but as an asserted constitutional duty of a municipal employer to provide its employees a reasonably safe workplace. *Id.* at 125–26. *Washington* v. *Glucksberg*, 521 U.S. 702 (1997), rejected formulations such as a "right to die," a "liberty to choose how to die," or a right to "control one's final days," and instead asked whether the Due Process Clause protects a right to commit suicide with another's assistance. *Id.* at 721, 724. And *Dobbs* v. *Jackson Women's Health Organization*, 597 U.S. 215 (2022), likewise explained that appeals to a generalized right of autonomy or to define one's "concept of existence" "prove too much," because criteria framed at that level could support constitutional rights to conduct unrelated to abortion, such as illicit drug use or prostitution. *Id.* at 257.

The same principles apply here. Petitioners frame the matter as one involving "immigration" and "public benefits" and as the enforcement of conditions attached to the privilege of importing foreign labor. See Pet. Br. 17–19, 27–36, 42. Those labels describe broad subject-matter domains; they do not establish that this particular adjudication belongs to a historically recognized category of public rights. Properly described, the proceeding is an agency adjudication imposing civil penalties and back-wage liability on a domestic employer for alleged violations of employment-related requirements governing wages, housing, meals, transportation, wage deductions, and the working conditions of both foreign and domestic workers. See Pet. Br. 9–11, 14–15. The Article III question is whether that specific form of executive adjudication—not immigration regulation in the abstract—has a sufficiently close historical analogue. Petitioners identify no such analogue.

CONCLUSION

The judgment of the Court of Appeals should be affirmed.

Respectfully submitted.

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