No. 25A326

In the Supreme Court of the United States

KRISTI NOEM, SECRETARY OF HOMELAND SECURITY, ET AL., APPLICANTS

v.

NATIONAL TPS ALLIANCE, ET AL.

REPLY IN SUPPORT OF APPLICATION
TO STAY THE JUDGMENT ISSUED
BY THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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A straightforward rule resolves this application: This Court has already determined that interim relief in this matter is appropriate while the appellate review process runs its course. Lower courts cannot second guess this Court and deem the government unlikely to succeed on either the merits or equities when evaluating later stay requests, at least absent material intervening developments. The contrary approach, followed by the courts below, risks transforming this Court's interim stay orders into nonbinding suggestions, spurs unnecessary fights over what the status quo should be at each ensuing stage, and fosters needlessly repetitive litigation.

Here, this Court at an earlier stage of this case stayed an order blocking Secretary Noem from terminating Temporary Protected Status (TPS) for some 300,000 Venezuelan nationals. 145 S. Ct. 2728. In reaching that "preliminary view, consistent with the standards for interim relief," the Court by definition concluded that the government was likely to prevail on the merits. *Department of State* v. *AVAC*, No. 25A269 at 1 (Sept. 26, 2025) (per curiam). Specifically, the Court necessarily concluded

that the government was likely to prevail on the two legal arguments necessary for the government to obtain a full stay. First was the cross-cutting argument that Section 1254a(b)(5)(A)'s judicial review "bar clearly foreclosed the district court from reviewing whether the Secretary acted arbitrarily and capriciously" in reaching a TPS determination. 24A1059 Gov't Reply 3. Second, even were respondents' challenge to Secretary Noem's inherent authority to reconsider and vacate Secretary Mayorkas's announced TPS extension reviewable, "Secretary Noem had inherent authority to reconsider that action before it took effect." *Id.* at 6. Further, in granting that stay, the Court necessarily held that the balance of the equities favored the government after weighing the government's interest in enforcing a critically important immigration policy against harms to respondents. Otherwise, no stay could have issued.

Thereafter, the lower courts mooted the government's appeal of the stayed order, entered a new order granting final judgment to respondents, and refused the government's request for a stay pending appeal of that decision. Respondents do not acknowledge, let alone defend, the lower courts' primary rationale for ignoring this Court's stay order—that its failure to "provide any specific analysis on the merits," App. 18a, or as to "the equities in this posture," App. 6a, supposedly rendered this Court's order irrelevant to ensuing requests for interim relief. Instead, respondents press flimsy distinctions that fail to distinguish this stay application from its predecessor. Indeed, even as respondents fault the government's "rehashed jurisdictional arguments," Opp. 1, the bulk of their response paraphrases their previous one.

Even were this Court to review the merits and equities afresh, the outcome should be clear; respondents' arguments have not improved with repetition. As to the merits, Secretary Noem did what Secretaries across administrations have long done: She terminated a TPS designation that, in her judgment, the statutory condi-

tions no longer warranted. 8 U.S.C. 1254a(b)(1)(C) and (3)(B). The statute at a minimum precludes courts from reviewing respondents' attacks on that determination as arbitrary and capricious; it provides that "[t]here is no judicial review of any determination of the [Secretary] with respect to the designation, or termination or extension of a designation, of a foreign state." 8 U.S.C. 1254a(b)(5)(A). Nor did the Secretary's predecessor prevent her from making that determination by announcing, in his final week in office, that he would extend Venezuela's 2023 TPS designation. The Secretary had inherent authority to vacate that noticed extension, which, by its terms, had not yet taken effect. She properly exercised her judgment in determining that an extension would violate the statutory requirements, including that the designation align with "the national interest." 8 U.S.C. 1254a(b)(1)(C).

Meanwhile, the government's irreparable harm continues. When the Secretary terminated the 2023 Venezuela Designation, she found that an extension of even six months—which itself would now expire in days—would be "contrary to the national interest," an obvious form of irreparable harm. *Termination of the October 3, 2023 Designation of Venezuela for Temporary Protected Status*, 90 Fed. Reg. 9040, 9041 (Feb. 5, 2025) (quoting 8 U.S.C. 1254a(b)(1)(C)). Unless this Court acts (again), a single district court will (again) prevent the Secretary's judgment from having any meaningful effect—this time after disregarding the necessary import of this Court's stay order. Even more than before, this Court's intervention is warranted.

A. No Material Developments Differentiate The Two Stay Requests

This application presents the same merits arguments on which this Court previously decided the government was likely to succeed. First, respondents' arbitrary-and-capricious challenges fail because the TPS statute precludes judicial review of such challenges. See 24A1059 Gov't Appl. 16-20; 24A1059 Gov't Reply 3-6. Second,

respondents' challenge to the Secretary's statutory authority to vacate her predecessor's extension fails because the Secretary had inherent authority to reconsider the Mayorkas extension before it took effect. See 24A1059 Gov't Appl. 20-23; 24A1059 Gov't Reply 6-8. Respondents do not meaningfully dispute that this Court necessarily resolved the prior stay application on those legal grounds, nor do they defend the court of appeals' suggestion that the Court's stay order lacks binding force because it was "unreasoned." App. 8a. Instead, respondents offer (Opp. 16-18) superficial distinctions to try to distance this stay request from that stay grant. None works.

First, respondents observe (Opp. 1, 16-17) that the district court has now set aside the agency action under Section 706 of the Administrative Procedure Act (APA), whereas it had previously postponed the action under Section 705. That is immaterial. The government, then and now, seeks a stay pending appeal of an order that prevents the Secretary's actions from taking effect. Then and now, the same factors govern those stay requests—likelihood of success on the merits, irreparable harm, and balance of the equities. See *Hollingsworth* v. *Perry*, 558 U.S. 183, 190 (2010) (per curiam). Respondents contend (Opp. 1) that the government's "arguments on the scope of relief" might differ under Sections 705 and 706, since the government previously objected that the Section 705 postponement was, at a minimum, improperly broad relief. See 24A1059 Gov't Appl. 31-34. But the Court previously stayed the district court's order in full rather than tailoring relief to the parties before it, 145 S. Ct. 2728, suggesting that the Court concluded that the government was likely to prevail on its broader merits arguments, not its argument to cabin relief. And those merits arguments remain the same, still bar attacks, no matter how styled, on the substance of the Secretary's unreviewable termination and vacatur decisions, and still support the Secretary's inherent authority to vacate her predecessor's last-mi-

nute attempt to extend the 2023 TPS Designation.

Second, respondents contend (Opp. 3) that the district court now had "the benefit of a fully-developed record" and accepted a "new procedural claim based on that evidence"—namely that the Secretary purportedly inadequately consulted with other agencies and inadequately reviewed country conditions before terminating the 2023 Designation. That too is immaterial: then and now, the government remains likely to succeed because respondents' arbitrary-and-capricious claims are not reviewable under 8 U.S.C. 1254a(b)(5)(A), so the merits of those claims are irrelevant to these applications. See 24A1059 Appl. 16-18; pp. 6-11, *infra*; compare 25A326 Opp. 4, 36 (faulting the government for relying on that bar and not disputing the merits of those claims), with 24A1059 Opp. 34 (similar). Additional discovery or theories relevant to the merits of arbitrary-and-capricious claims cannot change the fact that the statute bars the lower courts from reaching such APA claims.

Third, respondents suggest (Opp. 3) that the government has offered a "new theory" as to why the Secretary had inherent authority to vacate an announced extension that had not—and could not have—taken effect. That is wrong. The government has consistently maintained that regardless of "whether or how the Secretary can terminate extensions *that have already gone into effect*," the Secretary at least has inherent authority to "rescind an extension that has not yet taken effect." 24A1059 Gov't Reply 6-7; see 24A1059 Gov't Appl. 22. This Court apparently concluded that the government is likely to succeed on the merits of that claim. In contending otherwise, respondents largely recycle legal arguments that previously failed to persuade the Court. Compare Opp. 30-36, with 24A1059 Opp. 28-32.

B. The Government Is Likely To Succeed On The Merits

1. The statute bars review of arbitrary-and-capricious claims

To recap: As before, the government is likely to succeed on the merits because Section 1254a(b)(5)(A) precludes review of respondents' arbitrary-and-capricious claims. See Appl. 16-19; see also 24A1059 Gov't Appl. 16-20; 24A1059 Gov't Reply 3-6. That provision "unambiguously bars judicial review of APA claims that attempt to challenge the substantive considerations underlying" the Secretary's "determination[s] * * * with respect to [a] designation, or termination or extension of a designation," including her vacatur and termination determinations here. 24A1059 Gov't Reply 3; 8 U.S.C. 1254a(b)(5)(A). This Court necessarily agreed that the government was likely to succeed on that argument when it granted interim relief; that was the government's only argument as to those claims. And where, as here, "a no-review provision shields particular types of administrative action, a court may not inquire whether a challenged agency decision is arbitrary, capricious, or procedurally defective." *Amgen Inc.* v. *Smith*, 357 F.3d 103, 113 (D.C. Cir. 2004). Respondents now fault the government for "rehash[ing] jurisdictional arguments" in the latest lower-court proceedings, Opp. 1, then rehash their own rejoinders—underscoring that the proper result is for the Court to repeat its own prior ruling and issue another stay.

a. Respondents again attack a strawman when they contend that the government's reading of the judicial review bar is "unreasonably broad." Compare Opp. 27-28, with 24A1059 Opp. 26-27. Then as now, respondents maintain that the government's theory would preclude judicial review as to "clearly unlawful actions," Opp. 2, such as whether to "designate Mexico for fifty years," 24A1059 Opp. 2. But the government has never asked this Court to decide whether Section 1254a(b)(5)(A) precludes review of that "type of APA claim." See 24A1059 Gov't Reply 6; Appl. 18 n.11.

Instead, then and now, the government's theory is more modest: At a minimum, Section 1254a(b)(5)(A), which specifies that "[t]here is no judicial review of any determination" with respect to a "termination or extension," precludes review as to whether the Secretary's determinations were arbitrary and capricious. 8 U.S.C. 1254a(b)(5)(A). Challenges to "the substantive considerations underlying the Secretary's decisions," including how well she purportedly discharges the relevant statutory inquiries, would end-run the review bar and require courts to superintend how the Secretary makes sensitive national-security judgments and coordinates within the Executive Branch. 24A1059 Gov't Reply 3.

The Ninth Circuit previously adopted that modest theory. *Ramos* v. *Wolf*, 975 F.3d 872, 888-92 (9th Cir. 2023), reh'g en banc granted, opinion vacated, 59 F.4th 1010 (9th Cir. 2023). *Ramos* held that "the TPS statute precludes review of non-constitutional claims that fundamentally attack the Secretary's specific TPS determinations, as well as the substance of her discretionary analysis in reaching those determinations." *Id.* at 891; see also 24A1059 Gov't Appl. 19. If this Court reviews this argument, it can conclude (again) that Section 1254a(b)(5)(A) likely bars review of the "particular type of administration action here" (the Secretary's vacatur and termination determinations), and courts thus "may not inquire whether [those] challenged agency action[s] [are] arbitrary, capricious, or procedurally defective." 24A1059 Gov't Appl. 18 (quoting *Amgen*, 357 F.3d at 113); 24A1059 Gov't Reply 6.[1]

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[1] For similar reasons, respondents are wrong to suggest (Opp. 25) that this Court's prior stay order somehow *supports* the reviewability of their claims. This Court previously held that its stay would not prejudice the rights of individuals to challenge the Secretary's vacatur "insofar as it purports to invalidate EADs, Forms I-797, Notices of Action, and Forms I-94 issued with October 2, 2026 expiration dates." 145 S. Ct. at 2729. The district court then held that the Secretary lacked statutory authority to rescind any documentation that the agency issued during the re-registration period before the Secretary vacated the noticed extension. See App. 64a-65a. Respondents maintain (Opp. 25) that, under the government's theory, there

Notably, the panel below never explained why, notwithstanding Section 1254a(b)(5)(A)'s plain terms, it could entertain respondents' arbitrary-and-capricious challenges, including their challenge to the sufficiency of Secretary Noem's internal consultations with other departments and her review of country conditions. See App. 7a-8a (addressing reviewability only as to the "extent of statutory authority granted to the Secretary") (citation omitted); cf. App. 115a-119a (panel holding at postponement stage only that judicial review was proper as to "scope of agency authority"). Instead, the panel skipped to the merits, maintaining that the arbitrary-and-capricious claims were stronger because the record was "more fully developed" and "discovery revealed" deficiencies in the adequacy of the Secretary's decision-making process. App. 4a-5a, 10a. That does not address reviewability.

b. Respondents otherwise press arguments as to why judicial review is appropriate that this Court has presumably considered and rejected.

i. First, they label their challenges to the Secretary's determination "procedural." Opp. 16, 23-24 . But, as explained (Appl. 17-18; see also 24A1059 Gov't Appl. 18-20), the judicial-review bar cannot be evaded just by calling the Secretary's actions "procedurally defective," *Amgen*, 357 F.3d at 113, as "almost any challenge to [a determination] could be recast as a challenge to its underlying methodology," *DCH Reg'l Med. Ctr.* v. *Azar*, 925 F.3d 503, 506 (D.C. Cir. 2019). And here, respondents' arbitrary-and-capricious claims all go to the substance of the Secretary's determinations. The courts below deemed the Secretary's decisions pretextual by claiming that they lacked adequate record support, App 11a-12a; App. 68a, 71a; that she had failed to

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would be no jurisdiction to review such claims. But, as explained, the government has not asked this Court to decide whether that "type of APA claim" is reviewable. 24A1059 Gov't Reply 6; see Appl. 18 n.11. And the Court merely identified the possibility of such a challenge, without addressing whether it would succeed.

adequately consider alternatives or reliance interests, App. 68a-69a, that she had failed to adequately "explain" her decision, App. 11a (quoting App. 36a); and that she had departed from past practice, App. 10a-11a. Each is "essentially an attack on the substantive considerations underlying the Secretary's specific TPS determinations, over which the statute prohibits review." *Ramos*, 975 F.3d at 893.

The same goes for the district court's "new" theory as to why the Secretary's termination determination was flawed (Opp. 3)—that she purportedly failed to "engage in a *meaningful* consultation with government agencies" as to the country conditions in Venezuela. App. 73a (emphasis added);[2] see Appl. 18. Though framed as "procedural," this claim too requires substantive second-guessing of the Secretary's termination determination and the consultations underlying it. See App. 71a (describing this as one of plaintiffs' "arbitrary and capricious" challenges). The courts below concluded (i) that the State Department's report issued during this administration was too short, App. 12a, 73a; (ii) that other State Department reports (from the months before) were too outdated, App. 73a; and (iii) that the evidence in those latter reports did not support the Secretary's termination determination, App. 11a, App. 73a. All of those alleged flaws go to the substance of the Secretary's determinations—that she supposedly reached erroneous conclusions by failing to adequately consider other agencies' views and reports—exactly the type of attack on termination determinations that Section 1254a(b)(5)(A) forbids. 24A1059 Gov't Appl. 19-20.

In all events, the Secretary determined that allowing the Venezuelan nationals to remain temporarily in the United States was "contrary to the national interest," a disqualifying condition for designation under 8 U.S.C. 1254a(b)(1)(C). Respondents

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[2] Respondents argued below but do not press here that the Secretary also inadequately consulted with other agencies before vacating the extension noticed by Secretary Mayorkas. The district court did not reach that issue. App. 69a-70a.

do "not seek review of the Secretary's national interest assessment," Opp. 24, which alone was sufficient grounds for termination under 8 U.S.C. 1254a(b)(3)(B). The district court accordingly had no basis to review whether the Secretary adequately considered or consulted as to whether *additional* grounds, such as changes to the conditions in Venezuela, might also warrant termination.

ii. Respondents next repeat that the Secretary's vacatur decision was not a "determination" within the meaning of the statute, such that Section 1254a(b)(5)(A) would not apply at all. Opp. 19-21; see 24A1059 Opp. 19-21. The government refuted that theory before. See 24A1059 Gov't Reply 3-6; Appl. 17 n.10.[3] Section 1254a(b)(5)(A) broadly refers to "any determination" that the Secretary makes "with respect to" a designation, termination, or extension, including a decision to vacate an extension. See p. 6, *supra*. Respondents, meanwhile, would require district courts to parse the Secretary's "basis for the determination," 8 U.S.C. 1254a(b)(3)(B), and assess whether that basis is, in the court's view, appropriately grounded in concerns about country conditions so as to insulate it from additional scrutiny. See Opp. 20-21; App. 50a-52a. That approach would subvert the judicial-review bar, encouraging the very review of the Secretary's reasoning that Section 1254a(b)(5)(A) prohibits.

Further (and once more), respondents' argument fails on its own terms. See 24A1059 Gov't Reply 5-6. When the Secretary vacated her predecessor's extension,

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[3] Oddly, respondents also seem to suggest (Opp. 19) that the government no longer maintains that the Secretary's "termination determination" (Appl. 11, 12, 16) is a "determination * * * with respect to * * * a termination" under Section 1254a(b)(5)(A). 8 U.S.C. 1254a(b)(5)(A). That is wrong. The government's reviewability argument rests on the unchallenged position that the Secretary's termination decision (like her vacatur decision) is the type of agency action covered by Section 1254a(b)(5)(A). The core dispute is whether courts can review respondents' arbitrary-and-capricious challenges to agency actions covered by that judicial review bar. Then as now, the government's argument is the same: They cannot. See 24A1059 Gov't Appl. 18 n.12.

she necessarily made a determination that involves whether "the conditions for designation continued to be met." *Vacatur of 2025 Temporary Protected Status Decision for Venezuela*, 90 Fed. Reg. 8805, 8806 (Feb. 3, 2025). Secretary Mayorkas had determined that the statutory conditions were met. See *Extension of the 2023 Designation of Venezuela for Temporary Protected Status*, 90 Fed. Reg. 5961, 5963 (Jan. 17, 2025). Secretary Noem determined that it was appropriate to vacate that assessment, allowing her the "opportunity for informed determinations regarding the TPS designations." 90 Fed. Reg. at 8807. Just as Secretary Mayorkas's January 17, 2025 action would have been a "determination with respect to an * * * extension" under Section 1254a(b)(5), Secretary Noem's vacatur of that action was a "determination" protected by that judicial review bar, too. 8 U.S.C. 1254a(b)(5)(A).

2. The Secretary had inherent authority to vacate the not-yet-effective extension

The second merits argument remains the same, too: Contrary to respondents' contentions, the Secretary has inherent authority to vacate an extension which has not yet taken effect. See Appl. 19-22; 24A1059 Gov't Appl. 20-23 (explaining why the Secretary "acted well within her inherent authority in vacating an unwarranted extension before it took effect"); 24A1059 Gov't Reply 6-8 (explaining why "Secretary Noem had inherent authority to reconsider [Secretary Mayorkas's] action before it took effect"); see also *id.* at 6 ("T]his case does not present the question whether or not the Secretary can terminate extensions *that have already gone into effect*."); contra Opp. 35-36; 24A1059 Opp. 31-32.[4] That is not an argument for boundless vacatur

[4] Contra respondents (Opp. 30), the government also maintained below that the Secretary *at least* had inherent authority to terminate an extension that has "not yet taken effect." D. Ct. Doc. 199 at 20 (June 17, 2025); C.A. Doc. 7.1 at 12 (Sept. 12, 2025) ("The statute says nothing about whether or how a Secretary can vacate an extension (or designation) that has not yet taken effect.").

authority. And the Court, when granting the prior stay, presumably found that the government was likely to establish that the Secretary has inherent reconsideration authority. Respondents offer no basis to reconsider that purely legal conclusion.

Respondents do not meaningfully contest that the Secretary has inherent authority to vacate an agency action that was not in effect. They maintain (Opp. 30), as before (24A1059 Opp. 31), that Secretary Mayorkas's extension became "effective immediately." But, by its terms, that extension took effect "beginning on April 3, 2025" and would last for a period of "18 months," *i.e.*, to "October 2, 2026." 90 Fed. Reg. at 5961. While Secretary Mayorkas announced an extension months in advance—and had begun accepting registrations for it (Opp. 35)—the extension itself had no legal effect until April 3, 2025. In arguing otherwise (*ibid.*), respondents conflate the preparatory acts that Secretary Mayorkas took in anticipation of that extension, including accepting registrations and providing documentation that extended to October 2, 2026, with the date the extension would have legally taken effect under the statute.[5]

Contrary to respondents' contention (Opp. 30-32), Secretary Mayorkas's actions could not have taken effect sooner under the statute. The original 2023 Designation "remain[ed] in effect" until "April 2, 2025," and was therefore the operative designation when Secretary Noem acted. *Extension and Redesignation of Venezuela for Temporary Protected Status*, 88 Fed. Reg. 68,130, 68,130 (Oct. 3, 2023) (explaining that the designation was to "remain in effect for 18 months, ending on April 2, 2025").

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[5] In her vacatur, the Secretary explained that "any putative reliance interests on the extension *notice* are negligible." 90 Fed. Reg. at 8807 (emphasis added). While she originally proposed invalidating documentation that was issued under the Mayorkas notice, see *ibid*, the district court has since granted relief to holders of those documents, and the government has not sought relief as to that ruling. See Appl. 21 n.12. To the extent state and local agencies "issue[d] driver's licenses on the basis of the designation's updated expiration date," Opp. 35, the Secretary's vacatur did not purport to invalidate such state-issued documentation.

Secretary Mayorkas had no authority to supplant that designation; Section 1254a(b)(3)(C) authorizes extensions for an "additional"—rather than superseding—period of 18 months after a designation ends. 8 U.S.C. 1254a(b)(3)(C). Indeed, by respondents' logic, the Secretary's extension would have violated the statute by extending Venezuela's designation from January 17, 2025, to October 2, 2026—well beyond the maximum term of 18 months. See 8 U.S.C. 1254a(b)(3)(C).

For related reasons, respondents are still wrong (Opp. 32-35; accord 24A1059 Opp. 29-30) that the Secretary contravened the Section 1254a(b)(3)'s timing-of-review rules by terminating the 2023 Designation. That designation was set to expire on April 2, 2025. 88 Fed. Reg. at 68,130. The Secretary conducted her periodic review of that designation by February 1, 2025—"[a]t least 60 days before [the] end" of the designation, 8 U.S.C. 1254a(b)(3)(A), and made her termination determination before the designation was "'extended' by default 'for an additional period of 6 months,'" Opp. 32 (emphasis omitted) (quoting 8 U.S.C. 1254a(b)(3)(C)).[6] She published her notice of the termination on February 5, 2025, which became effective "60 days after the date the notice [was] published," *i.e.*, on April 7, 2025, 8 U.S.C. 1254a(b)(3)(B). She thus acted consistently with the statute, both when she vacated an announced extension and when she terminated the 2023 Designation. See 24A1059 Gov't Reply 5-6. Respondents identify no basis for setting aside either agency action.

C. The Other Factors Support Relief From The District Court's Order

1. **Certworthiness.** Respondents do not dispute that if the Ninth Circuit were to affirm the district court's judgment on this new appeal, certiorari would be

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[6] Respondents attack another strawman in suggesting (Opp. 32) that, under the government's view, the "Secretary need not live with the statute's default extension." In this case, the Secretary acted 60 days before the end of the 2023 Designation, and so the Court need not address whether the Secretary could have terminated the designation after that point consistent with 8 U.S.C. 1254a(b)(3)(A) and (C).

warranted. Nor could they; this Court's prior stay order confirms the certworthiness of these issues. As before, such a decision would nullify the Secretary's time-sensitive judgments in an area that the President has deemed "critically important to the national security and public safety of the United States." *Protecting the American People Against Invasion*, Exec. Order No. 14,159 of Jan. 20, 2025, § 16(b), 90 Fed. Reg. 8443, 8446 (Jan. 29, 2025). If anything, certiorari would be even more warranted now that the district court has entered final judgment on the relevant claims.

2. **Balance of equities.** Then and now, the equities tilt in the government's favor. 24A1059 Reply 15-17; contra 24A1059 Opp. 15-18. The government is irreparably injured "[a]ny time" it is "enjoined by a court from effectuating statutes enacted by representatives of [the] people." *Trump* v. *CASA, Inc.*, 606 U.S. 831, 860 (2025) (quoting *Maryland* v. *King*, 567 U.S. 1301, 1303 (2012) (Roberts, C.J., in chambers)). As before, the government faces acute harm: The Secretary determined that an extension of the 2023 Designation would hamper "national security" and "public safety," imperil foreign policy interests, and strain police stations, city shelters, and aid services in local communities that had reached a breaking point. 90 Fed. Reg. at 9044. This Court necessarily recognized those irreparable harms in granting the government's prior stay application. See *Nken* v. *Holder*, 556 U.S. 418, 534 (2009).

On the other side of the ledger, respondents claim to have adduced additional evidence and expert testimony, but cite (Opp. 37-38) the same harms to beneficiaries that they predicted in their prior opposition. See 24A1059 Opp. 15, 17-18. Respondents reiterate that some, but not all, TPS holders have "access to another status," Opp. 37 n.12, and cite potential harms like loss of work authorization, exposure to removal, and economic losses, Opp. 37. Those harms are inherent to any termination of temporary protected status. Whenever a Secretary terminates TPS, beneficiaries

will lose work authorization and protected status under the program. See 8 U.S.C. 1254a(a)(2). And those harms are in fact mitigated for individuals who registered under Secretary Mayorkas's extension before the termination was announced. The government is not seeking relief as to the district court's ruling in favor of TPS holders who received TPS-related documentation issued under the Mayorkas notice before the Secretary vacated that action. See Appl. 21 n.12. As for the risk of removal, the termination of TPS is not equivalent to a final order of removal. Appl. 25. To the extent individual TPS holders have immigration status based on alternative grounds, they will maintain lawful status. To the extent individual TPS holders lack that status, they have had or will have the ability to challenge on an individual basis whether removal is proper—or seek to stay, withhold, or otherwise obtain relief from any order of removal—consistent with ordinary Title 8 rules.

At bottom, Congress has already balanced the equities in these circumstances, and this Court already balanced them in assessing the prior application and deciding what the interim status quo should be while the appellate process unfolds. When the Secretary concludes that a TPS designation under 8 U.S.C. 1254a(b)(1)(C) is "contrary to the national interest," she *must* terminate it, 8 U.S.C. 1254a(b)(3)(B), and a court has no basis for second-guessing that determination. Just as before, this Court should stay the district court's decision and allow the statutory scheme to operate as Congress designed it. Indeed, this Court's intervention is all the more warranted given the lower courts' disregard for this Court's prior stay order when confronting a materially identical ensuing stay request. This Court should repudiate the notion that litigants must "rehash[]"—and this Court must reconsider—legal arguments in stay request after stay request (Opp. 1), even after the Court has already determined that interim relief is appropriate while the appellate process plays out.

* * * * *

For the foregoing reasons and those stated in the government's application and its prior application, this Court should stay the judgment of the U.S. District Court for the Northern District of California pending the resolution of the government's appeal to the U.S. Court of Appeals for the Ninth Circuit and any proceedings in this Court.

Respectfully submitted.

D. JOHN SAUER
Solicitor General

SEPTEMBER 2025