Record No. 25A443

BEFORE THE

United States Supreme Court

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL., APPLICANTS
v.
STATE OF ILLINOIS AND CITY OF CHICAGO

On Appeal from the United States Court of Appeals for the Seventh Circuit, Record 25-2798

BRIEF OF AMERICAN RIGHTS ALLIANCE AS AMICUS CURIAE IN SUPPORT OF APPLICATION FOR STAY

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FRAP RULE 26.1 AND FRAP 29(a)(4)(E)) DISCLOSURE STATEMENT

Pursuant to Federal Rules of Appellate Procedure ("FRAP") Rule 29(a)(4)(E), proposed *Amicus* is a non-profit public interest organization which does not own nor is it owned by any other entity. It is governed by its Board of Directors. None of the Court's Justices or staff could have any economic relationship with this non-profit entity, directly or through investment funds.[1]

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[1] No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than Amicus Curiae, its members, or its counsel made a monetary contribution to its preparation or submission.

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STATEMENT OF INTEREST OF AMICUS CURIAE

Proposed *Amicus Curiae,* the American Rights Alliance (ARA) is an IRS Code 501(c)(3) nonprofit, tax deductible organization. ARA is a coalition of legal professionals, advocates, and strategists committed to defending the First Amendment, protecting election integrity, and ensuring transparency in democratic processes. ARA works to expose fraud, misconduct, and censorship while empowering individuals to speak freely and without fear. We stand as a shield for those whose voices are marginalized and as a force

holding systems accountable to safeguard the core principles of a free and just society.

The ARA, founded by attorney Evan Turk and represented herein by attorney Peter Ticktin, comprises distinguished legal advocates dedicated to preserving constitutional governance and protecting the separation of powers. Treniss Evans assists ARA's efforts to protect executive authority and end judicial interference. Amicus is described at www.AmericanRightsAlliance.org and accessible at 303 Evernia Street, Suite 300, West Palm Beach, Florida 33401.

I. ISSUES AND SUMMARY OF THE ARGUMENT

Amicus Curiae wishes to add a few hopefully illuminating points that may provoke a more full review of this issue. *Amicus Curiae* makes four (4) arguments to add to the Court's review:

ISSUE # 1. The constitutional standard applicable was set decades ago including by President Eisenhower's federalizing the National Guard in Little Rock, Arkansas, at public schools, to enforce a decision of this U.S. Supreme Court that segregation of public schools on the basis of race is unconstitutional. Democrat Party State and local officials refused to allow Black students to enter segregated public schools. The Arkansas National Guard

was deployed by Governor Faubus to block Black students from attending white-designated schools. The President then federalized the Arkansas National Guard and sent the 101st Airborne Division to escort those students past resisting State and local officials and a mob of citizens who were in rebellion against this U.S. Supreme Court. See, generally, *Faubus v. United States*, 254 F.2d 797 (8th Cir. 1958); *Cooper v. Aaron* 1958, 358 U.S. 1, 78 S.Ct. 1401, 3 L.Ed.2d 5, 3 L.Ed.2d 19 (1958).

The use of the National Guard did not turn on the issues asserted by the Respondents such as foreign invasion nor the complete inability of the State and local government to keep civil order, but on the *unwillingness* of officials to comply with or tolerate the enforcement of Federal law. There was no indication that Arkansas

lacked the ability to keep order and enforce the law in any other area of Arkansas life, but only in its refusal to desegregate. There were generally (loud but) non-violent protests at the public schools yet also extreme threats of intimidation against Black students intending to enter the public schools. Arkansas' National Guard were federalized and the 101st Airborne Division sent as a show of force to force Arkansas officials to 'stand down' from defying this Supreme Court.

ISSUE # 2. What is the "it" in question? District Courts are confusing generalized, domestic law enforcement with the very limited role the National Guard has been asked to assist with.

ISSUE # 3. "Law enforcement" addressed in the *Posse Comitatus* Act, 18 U.S.C. § 1385, and related law, should be

interpreted or correctly re-interpreted to only mean generalized law enforcement. William Rehnquist then heading the DOJ Office of Legal Counsel concluded in 1971 that protecting Federal property, Federal personnel, and Federal functions were never intended to be covered by these statutory restrictions. This Court should now adopt former U.S. Supreme Court Justice William Rehnquist's analysis even if overturning, modifying, altering, or clarifying other precedent.

ISSUE # 4. Today, city and State Governments are openly declaring that they will refuse to allow the enforcement of immigration law within their jurisdiction. The Governor of Illinois Pritzker has publicly announced that he is seeking to arrest Immigration and Customs Enforcement (ICE) agents of the U.S.

Department of Homeland Security now and in the next Presidential Administration. Because Pritzker appears to be preparing a run for President, this appears to be an electioneering campaign promise of what he will do.

II. STATEMENT OF THE CASE

The Application for a Stay is before the Court through the Circuit Justice. Violent mobs are attacking Federal law enforcement agents, Federal property and the conduct of Federal agents because they intend to prevent the U.S. Government from carrying out its duties and authority as this Court decreed in *United States v. Arizona,* 567 U.S. 387 (2012).

Worse, however, State and local officials are openly boasting that they will prevent the U.S. Government from enforcing Federal law, threaten Federal agents with arrest, and in fact actively interfere with Federal officials.

Sympathetically, much of the violence,

riots, and open opposition to Federal law flows from a failure to understand the law. This Court's clarification not only as to a holding but also why the holding is called for has great potential in these matters to de-escalate these controversies.

The United States of America had a national government under the Articles of Confederation, which were rejected for several defects including a President being too weak to move promptly and decisively to address national threats. "10 reasons why America's first constitution failed," National Constitution Center, November 17, 2022, https://constitutioncenter.org/blog/10-reasons-

why-americas-first-constitution-failed

III. ARGUMENT

A. STANDARD OF REVIEW

In general, this Court reviews questions of law *de novo*. *United States v. Verrusio*, 762 F.3d 1, 13 (D.C. Cir. 2014).

In addressing the District Court's ruling, this Court reviews findings of fact for clear error. *United States v. Dixon*, 901 F.3d 1322, 1338 (11th Cir. 2018).

As currently formulated and presented, this case involves almost entirely questions of law. The facts are very important but are simply being ignored. It is not that the facts are contested but that clear facts have gone

missing from the Respondent's legal analysis.

Nevertheless, if the Court interprets this as a mixed question of fact and law….

> The standard of review for a mixed question depends on "whether answering it entails primarily legal or factual work." *U.S. Bank Nat'l Ass'n ex rel. CWCapital Asset Mgmt. LLC v. Vill. at Lakeridge,* LLC , —— U.S. ——, 138 S. Ct. 960, 967, 200 L.Ed.2d 218 (2018). We review a mixed question *de novo* when it requires us to "expound on the law, particularly by amplifying or elaborating on a broad legal standard." Id. We review a mixed question for clear error when it requires us to "marshal and weigh evidence, make credibility judgments, and otherwise address ... 'multifarious, fleeting, special, narrow facts that utterly resist generalization.' " Id. (quoting Pierce v. Underwood , 487 U.S. 552, 561–62, 108 S.Ct. 2541, 101 L.Ed.2d 490 (1988)).

Reynolds v. ServisFirst Bank (In re Stanford), 17 F.4th 116 (11th Cir. 2021)

B. <u>GOVERNING LAW FOR A STAY</u>

The formula for a stay requires:

(1) A significant prejudice or burden to the requester if not granted.

(2) A comparatively insignificant prejudice or burden upon the party or parties affected by the requested injunction if it is granted.

(3) On balance, the stay is in the public interest.

(4) The moving party has a

substantial likelihood of prevailing on the merits.

See, e.g., Winter v. Natural Resources Defense Council, Inc, 555 U.S. 7 (2008).

Here,

(1) Federal officials are almost certain to be injured or someone killed if riots continue or property will be damaged. And Federal immigration law may go unenforced as well.

(2) While Respondents are curious about the U.S. Government's authority, the only consequence foreseeable is that their cities will be safer.

Extreme scenarios they worry about will remain under the Federal court's jurisdiction and restraint as the cases progress.

(3) The cities will be safer. This Court retains jurisdiction against extreme scenarios imagined by Respondents.

(4) Federal agents are being attacked roughly as the Court reads this and Federal property damaged.

C. USE OF NATIONAL GUARD TO DESEGRATE SCHOOLS IN LITTLE ROCK, ARKANSAS (*Amicus* Issue # 1)

The Arkansas National Guard was deployed by Governor Faubus to block Black students from attending white-designated schools in Little Rock, Arkansas. The President then authorized the military and federalized the National Guard from other States to escort those students past resisting State and local officials and a mob of citizens who were in rebellion against this U.S. Supreme Court. See, generally, *Faubus v. United States*, 254 F.2d 797 (8th Cir. 1958); *Cooper v. Aaron* 1958, 358 U.S. 1, 78 S.Ct. 1401, 3 L.Ed.2d 5, 3 L.Ed.2d 19 (1958).

> [I]n 1957, President Eisenhower issued an executive order calling in the National Guard to facilitate the peaceful integration of Little Rock Central High School. 82 Such executive boldness, however, was rendered less necessary in the 1960s because the political makeup of Congress ensured that many civil rights measures could be implemented by statute, rather than by executive order.[83] Yet, had it not been for executive orders, the struggle for civil rights would have been slowed and segregation would have been even more pervasive in the middle of the twentieth century.[84]

Alissa C. Wetzel, "Beyond the Zone of Twilight: How Congress and the Court can Minimize the Dangers and Maximize the Benefits of Executive Orders," 42 Val. U. L. Rev. 385 (2007). Available at: https://scholar.valpo.edu/vulr/vol42/iss1/

The use of the military did not turn on the

issues asserted by the Respondents here such as any foreign invasion nor the complete inability of the State and local government to keep civil order, but on the *unwillingness* of officials to comply with or tolerate the enforcement of Federal law.

In 1958, the U.S. Supreme Court presented a long history, on considering a delay:

> As this case reaches us it raises questions of the highest importance to the maintenance of our federal system of government. It necessarily involves a claim by the Governor and Legislature of a State that there is no duty on state officials to obey federal court orders resting on this Court's considered interpretation of the United States Constitution. Specifically it involves actions by the Governor and Legislature of Arkansas upon the premise that

> they are not bound by our holding in *Brown v. Board of Education,* 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873. That holding was that the Fourteenth Amendment forbids States to use their governmental powers to bar children on racial grounds from attending schools where there is state participation through any arrangement, management, funds or property. We are urged to uphold a suspension of the Little Rock School Board's plan to do away with segregated public schools in Little Rock until state laws and efforts to upset and nullify our holding in *Brown v. Board of Education* have been further challenged and tested in the courts. We reject these contentions.

Cooper v. Aaron, 358 U.S. 1, 78 S.Ct. 1401, 3 L.Ed.2d 5, 3 L.Ed.2d 19 (1958)

> This is an appeal from an order of the District Court made September 20, 1957 * * * . The order enjoined the appellants, and others under their control or in

privity with them, from using the Arkansas National Guard to prevent eligible Negro children from attending the Little Rock Central High School, and otherwise obstructing or interfering with the constitutional right of such children to attend the school.

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On September 2, 1957, the appellants, Orval E. Faubus, Governor of the State of Arkansas, and Sherman T. Clinger, Adjutant General of the State, stationed units of the Arkansas National Guard, under the command of Lt. Col. Marion E. Johnson, at the Little Rock Central High School. The order of Governor Faubus to General Clinger was as follows:

> "You are directed to place off limits to white students those schools for colored students and to place off limits to colored students those schools heretofore operated and recently set

> up for white students. This order will remain in effect until the demobilization of the Guard or until further orders."...

Faubus v. United States, 254 F.2d 797 (8th Cir. 1958)

In response, after negotiations, President Eisenhower issued Executive Order 10730 on September 23, 1957:

* * *

> NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and Statutes of the United States, including Chapter 15 of Title 10, particularly sections 332, 333 and 334 thereof, and section 301[2] of Title 3 of the

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[2] Since recodified, approximately numbering 100 lesser section numbers.

United States Code, It is hereby ordered as follows:

SECTION 1. I hereby authorize and direct the Secretary of Defense to order into the active military service of the United States as he may deem appropriate to carry out the purposes of this Order, any or all of the units of the National Guard of the United States and of the Air National Guard of the United States within the State of Arkansas to serve in the active military service of the United States for an indefinite period and until relieved by appropriate orders.

SEC. 2. The Secretary of Defense is authorized and directed to take all appropriate steps to enforce any orders of the United States District Court for the Eastern District of Arkansas for the removal of obstruction of justice in the State of Arkansas with respect to matters relating to enrollment and attendance at public schools

in the Little Rock School District, Little Rock, Arkansas. In carrying out the provisions of this section, the Secretary of Defense is authorized to use the units, and members thereof, ordered into the active military service of the United States pursuant to Section 1 of this Order.

SEC. 3. In furtherance of the enforcement of the aforementioned orders of the United States District Court for the Eastern District of Arkansas, the Secretary of Defense is authorized to use such of the armed forces of the United States as he may deem necessary.

SEC. 4. The Secretary of Defense is authorized to delegate to the Secretary of the Army or the Secretary of the Air Force, or both, any of the authority conferred upon him by this Order.

DWIGHT D. EISENHOWER
THE WHITE HOUSE,

September 24, 1957[3]

Nothing in these events is consistent with the District Court's decision below or the arguments of Respondents.

The National Guard was similarly mobilized at the University of Mississippi, University of Alabama, and competing street protests at Selma, Alabama.[4] These all

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[3] https://www.archives.gov/milestone-documents/executive-order-10730

[4] *See, also,* Bill Chappell, "What happened when Lyndon Johnson federalized the National Guard," National Public Radio, https://www.npr.org/2025/06/09/nx-s1-5428352/johnson-national-guard-history-eisenhower-alabama-civil-rights-trump-newsom

involved State and local officials, *unwilling* to uphold the law, though perfectly capable of doing so. They also involved the use of the National Guard over the objections of the States' Governors. See "Federalizations of the Guard for Domestic Missions through 2025," at the website of the National Guard, at https://www.nationalguard.mil/Portals/31/Documents/FEDERALIZATION-OF-GUARD-UP-TO-2025.pdf

Also the National Guard was federalized and called up in 1967, to patrol the so-called Detroit Riots and in 1968 the multi-city Riots upon the assassination of Martin Luther King. (Executive Order 11403.) These were with

the consent of the Governors. *Id.*

In 1970, the New York Postal Strike resulted in Executive Order 11519 calling up 28,100 total Active and Reserve National Guard. In New York City, "more than 1,000 troops delivered mail in NYC's financial district; the rest sorted mail and kept strikers from interfering with delivery." *Id.*

In 1989, in the Virgin Islands, a hurricane resulted not only in devastation but "violence and looting in the wake of Hurricane Hugo. Virgin Islands reported 954 Army National Guard and 29 Air National Guard personnel mobilized for Fiscal Year 1989." *Id.*

In 1992, upon the acquittal of police

charged with beating Rodney King, riots boiled over in Los Angeles. "[A]fter two days, President Bush invoked the Insurrection Act and called the Guard into federal service: Executive Order 12804, May 1, 1992." 11,398 Guardsmen patrolled Los Angeles to keep the peace. The Governor consented. *Id.*

See, also, Michael R. Rouland and Christian E. Fearer, "Calling Forth the Military: A Brief History of the Insurrection Act," Joint Force Quarterly 99, National Defense University Press, accessible at https://ndupress.ndu.edu/Media/News/News-Article-View/Article/2421411/calling-forth-the-military-a-brief-history-of-the-insurrection-act/

D. WHAT IS "IT" WE ARE DECIDING? (Concerning *Amicus* Issue # 2)

A major problem with understanding this and related cases is confusion about what

exactly this Court is being asked to allow or to prohibit. This distinction is mentioned by the principal parties but *Amicus* feels it would benefit from emphasis.

Here, the President limited the call up of the National Guard to protection of Federal personnel, Federal buildings and property including vehicles, and intentional disruption of Federal enforcement of Federal laws. He did not call up the Guard to be a roving police force generically enforcing random State-law crimes as a whole.

More than that, however, the President has apparently not even tasked the Guard with the full range of that function. From

reports, it appears that the Guard is being asked only to protect other law enforcement officers, Federal or State, who are actually doing the law enforcement themselves. It appears that the Guard has not even been authorized to make arrests. Of course, line officers require significant support. Freeing up actual law enforcement officers to do their job is significant.

No doubt any Executive Branch Administration would prefer to go to all the trouble of litigation while asserting the maximum limits of its authority. The Respondents fear expansion, "mission creep," and over-reach. Yet this Court should

generally limit its decision to what is at issue.

If the issues stretch beyond what this Court accepts there will be opportunity and in fact continued jurisdiction to deal with that if it ever arises, while this case proceeds.

The power of arrest itself may cover various scenarios. Identifying for which of these the Guard will be empowered to make arrests might be a benefit. In the current fact pattern, (a) ICE is enforcing immigration law by court-issued deportation orders, (b) ICE is detaining illegal aliens not yet adjudicated but

believed to be subject to deportation[5], (c) any Federal officer is duty-bound to arrest those who in their presence commit Federal crimes such as 18 U.S.C. § 111 forcibly assaulting, resisting, opposing, impeding, intimidating or interfering with Federal officers "while engaged in *or on account* of the performance of official duties," *(emphasis added)* and 10 U.S.C. § 253, even if the offender is a *bona fide* U.S. citizen, (d) officers may unexpectedly encounter others for whom there is reasonable

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[5] Federal officers have access to all databases necessary to determine before venturing out of their offices who is a U.S. citizen, who is a lawful permanent resident, who has a valid visa, and criminal records. The U.S. Government is the creator of this information as well as its custodian. Presumably to comply with due process, officers will have consulted these databases before leaving their desks.

suspicion of illegal status but for whom investigative detention would be more fleeting.

Crashing vehicles into ICE or other Federal vehicles is capable of being attempted vehicular manslaughter. Amplified by the risks of driving any vehicle, hurling rocks or the like at a Federal vehicle under way has the potential to be attempted manslaughter. Arrests might be normal practice in any context.

E. PROTECTING FEDERAL PERSONNEL, PROPERTY, BUILDINGS, AND THE CONDUCT OF FEDERAL FUNCTIONS SHOULD NOT COUNT AS THE TYPE OF "LAW ENFORCEMENT" INTENDED BY THE *POSSE COMITATUS ACT*

(Concerning *Amicus* Issue # 3)

By William Rehnquist on April 29, 1971, then Assistant Attorney General, the Office of Legal Counsel of the U.S. Department of Justice provided public advice to the DOJ in "Memorandum Opinion For The Acting General Counsel Department Of The Army."[6] Rehnquist analyzed that:

> In light of the announced purpose of the "Mayday Movement" to halt the functioning of the federal government by preventing federal employees from reaching their agencies, the question has arisen as to whether there is authority to use federal troops to insure access by federal employees to their agencies. The question

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[6] https://www.justice.gov/file/147726/dl

involves the relationship between the inherent authority of the President to use troops to protect federal functions and the Posse Comitatus Act, 18 U.S.C. § 1385, which prohibits the use of troops for law enforcement purposes "except in cases and under circumstances expressly authorized by the Constitution or Act of Congress."

It is the opinion of this Office that the *Posse Comitatus* Act does not prevent the use of troops to protect the functioning of the government by assuring the availability of federal employees to carry out their assigned duties and that troops may therefore be utilized to prevent traffic obstructions designed to prevent the access of employees to their agencies.

In a series of memoranda, this Office has taken the position that the Posse Comitatus Act applies to the use of troops to perform essentially law enforcement duties

> and does not impair the President's inherent authority to use troops for the protection of federal property and federal functions.[1]

The Congressional Research Service, which we should recall is specifically a research service for Congress, explains:

> Presidents Kennedy and Johnson followed the Little Rock precedent to deal with resistance to court-ordered desegregation in a number of Southern states. In 1962, after the governor of Mississippi attempted to prevent black student James H. Meredith from registering at the University of Mississippi at Oxford, President Kennedy sought to enforce the court order with federal marshals.[314] When marshals met with resistance from state forces and later a riotous mob, President Kennedy federalized the Mississippi National Guard and ordered

active Army troops already gathered in the area to take action.[315] The President's proclamation to disperse named the governor and other state officials as forming the unlawful assemblies obstructing the enforcement of the court order, citing as authority both sections 332 and 333.[316] President Kennedy followed a similar course of action to confront state resistance to court ordered desegregation in Alabama twice in 1963.[317] President Johnson cited the same authority in 1965 to deploy troops, both regular Army and federalized National Guard, to Alabama to protect civil rights marchers as they made their way from Selma, AL, to Montgomery.[318]

Support to Law Enforcement

In 1981, Congress enacted general law enforcement exceptions[319] to the Posse Comitatus Act prohibitions in order to resolve questions raised

by the cases that grew out of the events at Wounded Knee.[320] The take-over and events which occurred during the siege led to four cases[321] involving a series of federal criminal charges including obstructing a law enforcement officer in the lawful performance of his duties during the course of a civil disturbance.[322] Military assistance provided federal authorities at Wounded Knee[323] undermined the prospects of a successful prosecution for obstructing law enforcement officers by casting doubt on whether they were performing their duties lawfully, an element necessary for conviction.

The 1981 legislation contains explicit grants of authority for military assistance to the police—federal, state, and local—particularly in the form of information and equipment, along with restrictions on the use of that authority.[324] These exceptions are found in Chapter

15 of Title 10, U.S. Code, Military Support to Civilian Law Enforcement Agencies (§§271-284).

* * *

When the Posse Comitatus Act Does Not Apply

> In addition to any express constitutional exceptions, the use of the Armed Forces to execute federal law does not violate the Posse Comitatus Act when (1) an act of Congress expressly authorizes use of part of the Army or Air Force as a posse comitatus or otherwise to execute the law; (2) the activity in question does not involve use of part of the Armed Forces covered by the proscription; or (3) the activity in question does not constitute "execution of the law."

Jennifer K. Elsea (lead author), "The Posse Comitatus Act and Related Matters: The Use of the Military to Execute Civilian Law," Congressional Research Service, November 6, 2018, accessible at:

https://www.congress.gov/crs-product/R42659#_Toc529450206

Here, Federal functions are being directly blocked by State and local officials and by violent mobs in violation of the Civil Rights Enforcement Act of 1871, Federal officials being assaulted in violation of 18 U.S.C. § 111 and Federal property attacked and damaged in violation of 18 U.S.C. § 1361.

Protection of Federal personnel, assets, and functions is a specialized function, not generalized law enforcement. This is not the "law enforcement" that the *Posse Comitatus* Act and similar statutes were intended to address, or at least this Court should correct any impression that it is.

F. STATE AND LOCAL OFFICIALS ARE OPENLY DECLARING THEIR REBELLION AGAINST FEDERAL LAW (*Amicus* Issue # 4)

The District Courts have consistently erred. The authority of the President to override the *Posse Comitatus* Act or any restrictions on the use of the U.S. Military including the National Guard can arise when

(1) State and/or local officials are ***unwilling*** to enforce the law to keep civil order,

(2) the military / National Guard is not engaging in law enforcement but protection of Federal personnel and assets and Federal functions

(3) State and/or local officials are unable to enforce the law to keep civil order.

The District Courts have erred by considering only when State and local authorities *cannot* control the situation. But that is not the law.

When State and local authorities refuse to or *will not* enforce the law, this is insurrection, whether writ large or small. And this is far more dangerous and insidious.

The Insurrection Act provides that:

> The President, by using the militia or the armed forces, or both, or by any other means, shall take such measures as he considers necessary to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy, if it—
>
> (1) ***so hinders the execution of the laws*** of that State, and ***of the United States within the State,*** that any part or class of its people is deprived

> of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, ***or refuse to protect that right,*** privilege, or immunity, or to give that protection; or
>
> (2) ***opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.***
>
> In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution.

10 U.S. Code § 253 *(emphases added).* And:

> Whenever the President considers that unlawful obstructions, combinations, or assemblages, ***or rebellion against the authority of the United States***, make it

> impracticable to enforce the laws of the United States in any State by the ordinary course of judicial proceedings, he may call into Federal service such of the militia of any State, and use such of the armed forces, as he considers necessary to enforce those laws or to suppress the rebellion.

10 U.S. Code § 252 *(emphases added).*

Notice that rebellion can be against the *authority* of the United States.

Likewise, 10 U.S. Code § 12406 – "National Guard in Federal service" provides:

> Whenever—
>
> * * *
>
> (2)there is a rebellion or danger of a rebellion ***against the authority of the Government of the United States***; or

> (3)the President is unable with the regular forces to execute the laws of the United States;
>
> the President may call into Federal service members and units of the National Guard of any State in such numbers as he considers necessary to repel the invasion, suppress the rebellion, or execute those laws. * * *

Id. (emphasis added)

Unfortunately, the risk of a second civil war is of increasing concern.[7] Opponents like Respondents are in conflict with the

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[7] Former CNN host Don Lemon is telling ethnic minorities to buy a gun specifically against ICE agents. Ben Kew, "Don Lemon Says Minorities Should Purchase Firearms to Protect Themselves From ICE Agents," The Gateway Pundit, October 17, 2025, accessible: https://www.thegatewaypundit.com/2025/10/don-lemon-says-minorities-should-purchase-firearms-ito/

immigration laws enacted by Congress. They are in open, undisguised rebellion against the Supremacy Clause of the U.S. Constitution because they do not want Federal law enforced. The context of these fighting words meant to inflame the Democrat Party base who do not understand the law makes it clear that any deportations of illegal aliens are rejected as "breaking the law." [8]

The Governor of Illinois, a Respondent here, (along with Governor Gavin Newsom

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[8] Among other things, these complaints fail to consider that when U.S. citizens throw rocks at law enforcement or cars or physically batter Federal officers, they will be arrested, U.S. citizen or not. Under the extensive jurisprudence of 18 U.S.C. 111, merely blocking the movement of Federal officers or preventing them for doing their duty are a couple of the valid causes for arrest, regardless of citizenship status.

and the Mayor of Los Angeles) is leading a nascent civil war against the authority of the United States, as that authority was decreed in *United States v. Arizona* in 2012 and under the Supremacy Clause. Pritzker is threatening and intimidating ICE agents – a direct violation of 18 U.S.C. 111 -- to stop Federal officials from enforcing Federal law.

> "The tables will turn one day," Prtizker said. "These people should recognize that maybe they're not gonna get prosecuted today, although we're looking at doing that, ***but they may get prosecuted after the Trump administration because the statute of limitations would not have run out***.."
>
> Pritzker insinuates that the Illinois Attorney General and local state's attorneys might be

> investigating some of DHS' purported wrongdoing.

Paris Schultz, "'The tables will turn one day': Pritzker blasts ICE, CBP in Chicago," Fox News Local Channel 32 online, accessible at: https://www.fox32chicago.com/news/the-tables-will-turn-one-day-pritzker-blasts-ice-cbp-chicago

> "The remarks come just a few days after the governor ***floated the idea of prosecuting ICE agents*** after clashes between them and local protesters, while
>
> Trump has suggested he would seek Pritzker's imprisonment for ***standing in the way of federal immigrant enforcement***."

Dan Gooding and Amanda Castro, "JB Pritzker Compares Trump's ICE Crackdown to Nazi Germany," Newsweek, October 15, 2025, *(emphases added),* accessible at: https://www.newsweek.com/jb-pritzker-donald-trump-ice-immigration-nazi-germany-10883758

> "Pritzker and the Trump administration have been at loggerheads for months now, over the White House's efforts to crack down on illegal immigration and detain immigrants accused of committing crimes. The Democrat has been one of the leading voices against the tactics used by Trump and the Department of Homeland Security (DHS), especially as federal agents swarmed into Chicago as part of targeted enforcement efforts."

Id. (emphases added)

Likewise,

> An alarming situation unfolded in Chicago on Saturday when police officers were reportedly ordered to "stand down" and not assist a federal Immigration and Customs Enforcement (ICE) agent who was surrounded and in distress in the city's Brighton Park neighborhood.

> The shocking directive, allegedly issued by a Chicago Police Department (CPD) commander, has sparked widespread outrage among law enforcement advocates and legal experts, who say the order may violate both state and federal laws.

"Chicago Police Ordered to 'Stand Down' as ICE Agent Surrounded – Legal Experts Warn of Criminal Liability," Illinois Review, October 5, 2025, https://www.illinoisreview.com/illinoisreview/2025/10/chicago-police-ordered-to-stand-down-as-ice-agent-surrounded-legal-experts-warn-of-criminal-liability.html

News indicates that police did respond, but their Chicago leadership ordered them not to help ICE. At the same time:

> There is credible intelligence that members of Mexican drug cartels have offered a "tiered" bounty

> system for hits against Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) officers, according to the Department of Homeland Security (DHS).
>
> * * *
>
> Drug cartels have "disseminated a structured bounty program to incentivize violence against federal personnel," according to a press release from DHS.
> The federal agency alleges cartels are offering $2,000 for intelligence gathering and doxing of agents, $5,000–$10,000 for kidnapping or non-lethal assaults on standard ICE/CBP officers and up to $50,000 for the assassination of high-ranking officials.

Luke Barr, "Cartels issuing bounties up to $50,000 for hits on ICE, CBP agents: DHS," ABC News Online, October 14, 2025, https://abcnews.go.com/US/cartels-issuing-bounties-50000-hits-ice-cbp-agents/story?id=126521867

This is not only an invasion by foreign drug cartels but there is no way for Federal agents to know in a riot who is acting for a foreign power or foreign drug cartel.

In apparently a separate incident,

> The Department of Homeland Security (DHS) announced the October 14, 2025 arrest of Eduardo Aguilar, an illegal alien from Mexico residing in Dallas, Texas, after he posted on TikTok in Spanish soliciting the murder of U.S. Immigration and Customs Enforcement (ICE) agents.

Press Release, "Illegal Alien Offering $10K Bounties to Kill ICE Agents Arrested in Dallas," U.S. Department of Homeland Security, October 17, 2025, https://www.dhs.gov/news/2025/10/17/criminal-illegal-alien-who-offered-10000-bounties-murder-ice-agents-arrested-dallas

In related cases, California Governor

Gavin Newsom and Los Angeles Mayor Karen Bass have proclaimed their refusal to allow the enforcement of ***any*** Federal law in their jurisdictions.

> From Ventura to Downey, mayors from 30 Southern California cities stood together Wednesday ***to call for the end of immigration raids*** as they pleaded with the Trump administration to stop spreading fear.

"30 mayors in Southern California call for end of ICE raids in solidarity with LA," NBC News Channel 4, June 11, 2025, *(emphasis added),* https://www.nbclosangeles.com/news/local/30-mayors-in-southern-california-called-for-end-of-ice-raids-in-solidarity-with-la/3721586/

Applying their criticisms, no immigration enforcement would be possible:

> After federal agents carried out immigration operations across the city of Los Angeles Friday, LA Mayor Karen Bass and other city leaders as well as Governor Gavin Newsom expressed their outrage at the federal government, calling the raids cruel and chaotic.

Helen Jeong, "'Cruel and chaotic.' LA Mayor Bass, Gov. Newsom slam ICE raids in downtown LA," NBC News Local Channel 4, June 6, 2025, https://www.nbclosangeles.com/news/local/cruel-and-chaotic-la-mayor-bass-gov-newsom-slam-ice-raids-in-downtown-la/3717684/

The opposition is to whether Federal law will be enforced at all:

> Newsom has persisted in calling the raids "inhumane," attributing the attacks [by rioters on Federal agents] ***to federal policies*** rather than law enforcement.

Global Desk, "Gavin Newsom's reply to ICE agents being assaulted in California goes

viral," Economic Times of India, July 11, 2025, *(explanation in brackets and emphasis added).* https://economictimes.indiatimes.com/news/international/us/gavin-newsoms-reply-to-ice-agents-being-assaulted-in-california-goes-viral-heres-what-happened/articleshow/122390740.cms

> "Come after me. Arrest me," a visibly angry Governor Gavin Newsom challenged the Trump administration late today.
>
> Newsom was responding to comments made by Trump border czar Tom Homan who, when asked if his threat to arrest anybody who got in the way of immigration officials included the California governor and/or Los Angeles Mayor Karen Bass, replied, "I'll say it about anybody. You cross that line, it's a felony to knowingly harbor and conceal an illegal alien. It's a felony to impede law enforcement doing their job."
>
> Newsom challenged Homan today in an interview with

> MSNBC, "Why doesn't he do that? He's a tough guy. He knows where to find me." The governor was upset by what he said was ICE detaining "four year old girls who are just trying to get an education. ***Lay your hands off these people who are just trying to live their lives."***
>
> Newsom then moved back to Homan and the Trump Administration. "What the hell are they doing? These guys need to grow up. ***They need to stop. And we need to push back***, so Tom: Arrest me. Let's go."

Dominic Patten and Tom Tapp, "Angry Newsom Challenges Trump Administration To "Arrest Me" As Conflict Grows In L.A.," Deadline, June 8, 2025, *(emphases added),* https://deadline.com/2025/06/newsom-troops-lapd-alert-trump-ice-raids-1236427176/

The intent of Governor Gavin Newsom is clearly to block ICE from doing its job:

> The Department of Homeland Security (DHS) vehemently condemns California Governor Gavin Newsom for signing the "No Secret Police Act," which further demonizes law enforcement * * *
>
> This stunt comes ***as our ICE officers are facing a more than 1000% increase in assaults against them, including vehicles being used as weapons towards them,*** and doxing campaigns targeting federal officers and their families. * * *

Press Release, U.S. Department of Homeland Security, "Despite 1,000% Increase in Assaults on ICE Officers, Governor Newsom Signs Unconstitutional Law to Ban Law Enforcement Officer Protections," September 22, 2025 *(emphasized added),* https://www.dhs.gov/news/2025/09/22/despite-1000-increase-assaults-ice-officers-governor-newsom-signs-unconstitutional

> At least two individuals were killed with a third injured after a gunman opened fire on an ICE transportation vehicle in Dallas early Wednesday morning. Investigators announced that rounds found near the shooter — who died of a self-inflicted gunshot wound — were inscribed with anti-ICE messaging. Notably, there was a bomb threat at the same facility last month, according to DHS Assistant Secretary for Public Affairs Tricia McLaughlin.

Briana Lyman, "After Gavin Newsom Targeted ICE On Colbert, Shooter Tries To Murder ICE Agents In Dallas," The Federalist, September 24, 2025, https://thefederalist.com/2025/09/24/after-gavin-newsom-targeted-ice-on-colbert-shooter-tries-to-murder-ice-agents-in-dallas/

IV. CONCLUSION

For these constitutional and practical reasons, amicus respectfully urges this Court to grant the

Application for Stay and for a Writ of Certiorari at the appropriate time and carefully and meticulously clarify this area of the law for the benefit of not only the parties but the general public that appears to be inflamed to a disturbing extent by misunderstandings of the U.S. Constitution, precedents, governing law, and the nature of our Tri-partite Federal government.

October 21, 2025 /s/ *Peter Ticktin*

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