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

LETTER AMICUS BRIEF OF AMERICAN RIGHTS ALLIANCE IN REPLY TO COURT'S INQUIRY IN SUPPORT OF APPLICATION FOR STAY

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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. Chief Operating Officer Treniss Evans facilitates ARA's efforts to preserve 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.

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.

I. MOTION FOR LEAVE TO FILE SECOND *AMICUS BRIEF*

Unsure of how the Court's *Amicus* rules might apply here, *Amicus* out of an abundance of caution recognizes that the Court may need to grant leave to file and to file one day late.

No *Amicus Curiae* brief is offered "as of right" but in the hope (which is the governing standard) that a full range of viewpoints and insights may be of assistance to this Honorable Court and its industrious Law Clerks sorting and analyzing a case – typically involving many constituent issues.

In recent years, the Supreme Court has altered its rules governing *Amicus Curiae* briefs. The rule now is that if an *Amicus* files a brief at the petition for writ of certiorari, another brief ought not be filed also at the merits stage. Naturally, this Court could grant leave if an exception were deemed proper.

The Court is still at the extraordinary writs stage, at a very early phase of the litigation. The Court is still being asked to grant *certiorari*.

On the other side, so-called "Sanctuary States" or "Sanctuary Cities" speculate and fear that the Executive Branch might over-reach sometime in the future. However, this Application is at the start of the litigation, not at the end of the case. If the Respondents' fears were to materialize, the lower courts would still be hearing the questions in this case. Respondents not only could return to court, but would also already be in court as this case progressed.

Furthermore, it is unusual for the Supreme Court to specifically ask for additional briefing on an issue. The Court specifically invited *Amicus* briefs on that issue or any other.

Therefore, the *Amicus* American Rights Alliance can only proffer this brief and let the Supreme Court decide if, following the governing standard, the Court might find it to be helpful in its analysis and consideration of the case.

ARGUMENT

II. The Doctrine Of Statutory Interpretation Of Avoiding "Absurd Results"

A time-honored tool of statutory interpretation is often overlooked or ignored. The "absurd result" caution is really a component of ascertaining the intent of Congress. During the process of seeking to determine what was Congress' intent – what the written words in the statute meant to the lawmakers who enacted them – one part of that is what Congress probably did not mean. That is one considers both positive indicators of what the statute likely mean to its authors and negative indicators of the statute probably does not mean in the eye of its authors.

> … we have long held that, in construing a statute, we are not bound to follow the literal language of the statute -- "however clear the words may appear on superficial examination'" -- ***when doing so leads to "absurd," or even "unreasonable,"*** results. *United States v. American Trucking Assns., Inc.*, 310 U. S. 534, 310 U. S. 543-544 (1940) (citation omitted); see also *Offshore Logistics, Inc. v. Tallentire*, 477 U. S. 207 (1986); *O'Connor v. United States*, 479 U. S. 27 (1986); *California Federal Savings & Loan Assn. v. Guerra*, 479 U. S. 272, 479 U. S. 284 (1987); *United States v. Wells Fargo Bank*, 485 U. S. 351 (1988).

United States v. Providence Journal Co., 485 U.S. 693, 708, 710 (1988) (Stevens, J., dissenting) *(emphasis added).*

In 1850 Chief Justice Taney described the process: "**In expounding a statute, we must not be guided by a single sentence or member of a sentence, but look to the provisions of the whole law, and to its object and policy."** *United States v. Boisdoré's Heirs*, 49 U.S. (8 How.) 113, 122 (1850) *(emphasis added). Accord, United States v. Wilson*, 112 S. Ct. 1351, 1354 (1992); *Holmes v. Securities Investor Protection Corp.*, 112 S. Ct. 1311, 1316- 17 (1992); *Green v. Bock Laundry Mach. Co.*, 490 U.S. 504, 510-11 (1989); *Brotherhood of Locomotive Engineers v. Atchison, T. & S.F.R.R.*, 516 U.S. 152, 157 (1996).

> "Statutory construction ... is a holistic endeavor. A provision that may seem ambiguous in isolation is often clarified by the remainder of the statutory scheme—

> because the same terminology is used elsewhere in a context that makes its meaning clear, or because only one of the permissible meanings produces a substantive effect that is compatible with the rest of the law."

United Savings Ass'n v. Timbers of Inwood Forest Associates, 484 U.S. 365, 371 (1988); *United States v. Providence Journal Co.*, 485 U.S. 693, 708, 710 (1988) (Stevens, J., dissenting); *See also, Green v. Bock Laundry Machine Co.,* 490 U.S. 504, 528 (1990).

In other words, if an interpretation produces an "absurd result" that interpretation is probably not the intent of Congress. By recognizing this, the Federal courts' is not varying from Congressional intent but honoring it and giving it effect.

III. "Regular Forces" In U.S.C. 12046 Must Mean Regular Law Enforcement Which, *Inter Alia,* Avoids "Absurd Result"

Here, this Court is examining an ambiguity in the statute as to whether "regular forces" means –

a) Civilian law enforcement agencies, agents, officers, and forces, or

b) The permanent, nation-wide U.S. military as opposed to the National Guard or militia.

On October 29, 2025, the Court gave an instruction for additional briefing:

https://www.supremecourt.gov/orders/courtorders/102925zr_hgci.pdf

> (ORDER LIST: 607 U.S.)
> WEDNESDAY, OCTOBER 29, 2025
> ORDER IN PENDING CASE 25A443 TRUMP, PRESIDENT OF U.S., ET AL. V. ILLINOIS, ET AL.
>
> The application for stay presented to Justice Barrett is referred by her to the Court. The parties are directed to file supplemental letter briefs addressing the following question: **Whether the term "regular forces" refers to the regular forces of the United States military, and, if so, how that interpretation affects the operation of 10 U. S. C. §12406(3).** The briefs, not to exceed 15 pages, are to be filed by Monday, November 10, 2025. Letter reply briefs, not to exceed 10 pages, are to be filed by Monday, November 17, 2025. Any brief for an amicus curiae under

> Rule 37.4, on that or other aspects of the application, must be filed by Monday, November 10, 2025.

(Emphasis added.)

10 U.S. Code § 12406 - National Guard in Federal service: call

> Whenever—
>
> 1) the United States, or any of the Commonwealths or possessions, is invaded or is in danger of invasion by a foreign nation;
>
> 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.
>
> Orders for these purposes shall be issued through the governors of the States or, in the case of the District of Columbia, through the commanding general of the National Guard of the District of Columbia.

Therefore,

(A) Initially, the emphasis in 10 U.S.C. § 12406(3) is on the President, not on the "regular forces." The grammar and sentence structure concerns itself with whether "the President is unable with the regular forces to execute the laws of the United States;…" The sentence structure emphasis is not on whether "the regular forces" are incapable of executing the laws of the United States. The emphasis is on "*the President is unable*…."

(B) 10 U.S.C. § 12406(3) embraces the different scenarios in which the President is "unable" either

> (i) because the "regular forces" are *unwilling* to

execute the laws of the United States, refusing to do so, recalling the historical example of certain States refusing to comply with the decisions of this U.S. Supreme Courts that public, government schools must be desegrated and students be given an equal education regardless of race, including famously in Little Rock, Arkansas. The National Guard vindicated the order of this Supreme Court over the objections of the Governor of Arkansas.

(ii) the "regular forces are *incapable* of executing the laws of the United States under the circumstances.

(C) So, the President may call into Federal service members and units of the National Guard of any State when the "regular forces" are unwilling or unable to "execute those laws."

(D) To interpret "regular forces" as meaning "the regular forces of the U.S. military" would produce an absurd result, disfavored in statutory construction.

(E) This would be an absurd result, because it would imply that the "regular forces" of the U.S. military – the permanent, standing, nation-wide (if not world-wide) U.S. military had *already been tried* to restore civil disorder, but failed.

(F) But upon the failure of the standing, professional, full-time U.S. military, the Congress authorized the President to then take the "next "step of resorting to localized, State National Guard.

(G) This turns logic on its head. First the President would have to attempt to "execute the laws of the United States" within the domestic United States using the world-wide, permanent, standing, professional U.S. military designed and able to fight multiple international wars at once.

(H) But only if the permanent, standing U.S. military did not produce results for the President to "execute such laws" would the President then be authorized to call up the National Guard in isolated States. This makes no sense.

(I) Likewise, in the desegregation orders of this Court defied by the public schools of Little Rock, Arkansas, President Dwight D. Eisenhower authorized the Secretary of Defense to decide which military units to call up and deploy.

In response, the Eisenhower Administration *both* federalized the Arkansas National Guard to make it cease from blocking students of minority races from entering formerly White-only public schools on the orders of Governor Fauber *and also* deployed the 101st Airborne Division of the regular U.S. military to actually escort

those minority students through crowds and past resisting State and local Arkansas officials. *See*, Alexis Clark, "Why Eisenhower Sent Federal Troops to Little Rock After Brown v. Board [of Education]," The History Channel, April 8, 2020, updated June 9, 2025, https://www.history.com/articles/little-rock-nine-brown-v-board-eisenhower-101-airborne

(J) Nevertheless, "regular forces" must clearly mean the State, local, and Federal law enforcement work force. Then the next step of escalation would be the localized (State) National Guard.

(K) It would not be logical that the nation's world-wide national security of deployed U.S. military must be the first step. One wouldn't call up the regular U.S. military before calling up the National Guard, as less intrusive to the States and less disruptive to the national security of the United States. (This did happen at times, such as in Little Rock, but it would not be a natural reading of the statute as written.)

(L) The assertion frequently stated that the U.S. military and the National Guard are not trained for civilian law enforcement or crowd control should be noted. In both cases, this is manifestly false. However, if the opponents deportation of illegal aliens were correct, it would make even less sense for Congress to require an attempt to use of the standing U.S. military allegedly untrained in law enforcement and crowd control before resorting to the National Guard.

IV. These Cases Involve Official Refusal to Enforce the Law, Attempts to Prevent Federal Law Enforcement, and Threats of Violence Against Federal Officials

The proper course and progression of a legal case is that the matter is joined by opening pleadings, moving to discovery and the development of facts in an organized manner, and the presentation of evidence complying with the Federal Rules of Evidence in a hearing or hearings such as trial or summary judgment motion. The facts must be well-presented, analyzed, and considered.

Instead, the recent flood of unusual proceedings has been to decide cases at extremely early stages in the litigation, often without time to present well-considered pleadings and with speculation and imagination replacing admissible facts. The "stand still" functions of a preliminary injunction replace decision on the ultimate issues. Here, we have intense disagreement on what is happening and crystal ball predictions of what the Executive Branch might do someday, but is not doing now.

Again, the National Guard has not been tasked with law enforcement but only with protecting Federal law enforcement officers doing the actual law enforcement and protecting Federal property, Federal facilities, and personnel from violent attacks. (That would mean that if there are no violent attacks as the opponents of deportation would have us believe, the National Guard would have nothing to do

within the scope of the orders. But of course this is nonsense, with Federal official vehicles being rammed by the cars of protestors, arguably constituting attempted manslaughter given the speed and force of automobiles under way, throwing large rocks or bricks at law enforcement and vehicles and ICE facilities, and the like.)

However, all discussions have been limited to whether State and local officials are capable of keeping civil order. But a flood of incidents show that State and local officials *refuse* to engage in civil law enforcement for protecting Immigration Control and Enforcement agents, facilities, and duties. Even if they were capable of keeping civil order, they refuse to do so.

Chicago Mayor Brandon Johnson – a party in his official capacity in this lawsuit before the U.S. Supreme Court – admitted and confessed Chicago's efforts to obstruct, defy, and rebel against Federal law. *See,* "Chicago mayor testifies before U.N. about Trump administration" (Excerpt), from Fox Channel 32, November 7, 2025, accessible at https://www.youtube.com/watch?v=Vt_xd7zRuUw . The Mayor, again a party in this lawsuit, despite flowery, stirring language of Chicago's history, outlined to the United Nations Chicago's efforts to prevent Federal immigration law from being enforced. The goal of preventing the deportation of anyone was openly proclaimed. (Note that the excerpt is useful to focus on and highlight the key portions. But the full, original broadcast over Fox News Channel 32 has sound that tracks the video more precisely and better, although it covers many topics. https://www.fox32chicago.com/video/1737138.)

Furthermore, Mayor Johnson was appealing to the United Nations to overthrow U.S. law by imposing "international law." Thus, the statutes authorize use of the military where Chicago is unwilling to obey Federal law or keep the peace under the law.

Those opposed to the enforcement of Federal laws try valiantly to cast themselves as protestors or supporters of protest. Yet they clearly and extensively confess that they are trying to physically intervene against Federal law enforcement, disrupt and prevent the enforcement of Federal law and encourage and allow physical violence against Federal law enforcement officers.

See, Rep. Brad Knotts (R-NC), "Democrats Attacking Federal Law Enforcement Have Become the New Confederacy," Breitbart, November 8, 2025. Open defiance of immigration law coupled with direct obstruction and interference aimed at preventing the enforcement of immigration law among State and local officials is almost a daily occurrence. *See,* Claire Duffy, "'I wanted to do something to fight back': This iPhone app alerts users to nearby ICE sightings," CNN, June 30, 2025, https://www.cnn.com/2025/06/30/tech/iceblock-app-trump-immigration-crackdown ;

> Over the course of the next couple of weeks, the [Democrat minority] Oversight Committee will be launching on their website a master ICE tracker, where we're going to be essentially tracking every single instance that we can verify that the community will be able to send us information on, and it'll be all available in one central place," said Rep. Robert Garcia, D-Calif., the ranking member of the committee.

Virginia Allen, "Democrats Announce Plan to Launch 'Master ICE Tracker'," Daily Signal, October 22, 2025, https://www.dailysignal.com/2025/10/22/republicans-assail-house-panel-dems-plan-for-master-ice-tracker/

> Further complicating matters, local activists, legislators and school administrators in Illinois have been coaching migrants, including criminals charged with sex assaults, weapons violations and worse, on their rights and how to evade ICE agents. Even those detained were fairly brazen.
>
> * * *
>
> The Post witnessed Diego Antonio Montero, 24, a Venezuelan national who crossed illegally into the US in May 2023 as he was arrested and put into a caged van by ICE agents.
>
> He was calm and composed and told ICE in Spanish he was not a criminal and was confident he'd go before a judge and be set free.
>
> His record shows otherwise. Chicago police had previously arrested him for criminal trespass, battery, and aggravated assault with the use of a deadly weapon. All charges are pending before the Circuit Court of Cook County, Illinois. An arrest warrant was issued on April 22, 2024, but not honored.

Dana Kennedy, "Chicago ICE raids expose left-wing ecosystem protecting criminal illegal migrants from deportations," New York Post, https://nypost.com/2025/01/31/us-news/chicago-raids-expose-how-leftist-groups-help-crooks-evade-ice/

See, Christina Laila, "Latin Kings Leadership Authorizes 'Shoot on Sight' Order Toward Border Patrol Agents Involved in Chicago's 'Operation Midway Blitz'," November 10, 2025. And similarly --

> An illegal immigrant with a criminal history has been arrested following a weekend shooting in which U.S. Border Patrol agents were shot at in Chicago.

> The shooting happened Saturday in the city's Little Village neighborhood as federal agents were conducting immigration enforcement operations.
>
> The unidentified suspect, a Mexican citizen, was in a Jeep that drove up near the agents and fired shots before driving away, federal sources told Fox News. At the time of his arrest, he was found with a firearm, sources said.
>
> "This incident is not isolated and reflects a growing and dangerous trend of violence and obstruction," a Department of Homeland Security statement said. "Over the past two months, we've seen an increase in assaults and obstruction targeting federal law enforcement during operations. These confrontations highlight the dangers our agents face daily and the escalating aggression toward law enforcement.

Louis Casiano, "Illegal alien with past felony firearm violation in custody after weekend Border Patrol attack in Chicago," Fox News, November 10, 2025, https://www.msn.com/en-us/news/us/illegal-alien-with-past-felony-firearm-violation-in-custody-after-weekend-border-patrol-attack-in-chicago/ar-AA1QauJ2?ocid=BingNewsSerp

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. Because riots are happening every day, as the Supreme Court considers this, it would be prudent to grant certiorari at once.

November 11, 2025

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