No. 25A952

IN THE
Supreme Court of the United States

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

Applicants,

v.

DAHLIA DOE, ET AL.,

Respondents.

On Application for a Stay of the Order Issued by the United States District Court for the Southern District of New York

BRIEF OF AMICI CURIAE FORMER FEDERAL AND STATE JUDGES IN SUPPORT OF RESPONDENTS

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INTERESTS OF AMICI CURIAE[1]

Amici are more than 175 former judges, including federal and state judges appointed by presidents and governors of both major political parties. Amici served on trial courts and appellate courts throughout the country. As former judges, amici have a deep and abiding appreciation for the judiciary, the lower courts, and the unique and essential role that courts at all levels play in protecting constitutional and statutory rights, maintaining public confidence in government, and protecting the rule of law.

A list of the individual amici and the courts on which they most recently served can be found in the Appendix to this brief.

This case raises important questions about the termination of temporary protected status for the country of Syria—questions that the district court and court of appeals are addressing in the ordinary course. The Government has asked this Court to intercede in that process by staying the district court order currently on appeal and granting certiorari before judgment. Both of these requests rest in significant part on a fundamental misreading of two prior orders from this Court, which stayed, on an emergency basis and without substantive explanation, orders from a different court in a different case challenging a different termination. Amici submit this brief in their personal capacities to urge the Court to reject the Government's overreading of these prior stay orders, which is not supported by the orders themselves or by this Court's interim docket jurisprudence.

[1] No counsel for a party authored this brief in whole or in part, and no person other than amici or their counsel made a monetary contribution to its preparation or submission.

INTRODUCTION AND SUMMARY OF ARGUMENT

This case arises from the Secretary of the Department of Homeland Security's decision to terminate Syria's designation for temporary protected status (TPS). *See* 8 U.S.C. § 1254a. Exercising authority under Section 705 of the Administrative Procedure Act, 5 U.S.C. § 705, the district court ordered a postponement of the termination date of Syria's TPS designation pending further judicial review of the decision's legality and denied the Government's request for a 14-day stay while the Government decided whether to appeal. Following that order, the Government moved for a stay pending appeal. The Second Circuit denied the motion.

Before this Court, the Government seeks a stay of the district court's order and asks the Court to grant certiorari before judgment. The Government argues this extraordinary relief is needed because the decision below "flouts this Court's two prior stays of materially similar orders in materially similar postures." Gov't Appl. 4. These charges echo beyond the four corners of this application, to the broader context in which the President, Attorney General, and other Executive branch officials have assailed judges in TPS and other cases for ostensibly ignoring the law—attacks that undermine the public's confidence in the courts and judges across the land.

The Government is wrong that the lower court decisions here, and elsewhere, show "persistent disregard" (Gov't Appl. 5) for this Court's orders. The two orders the Government identifies merely stayed lower court decisions in a different TPS case without explanation. Whatever the force of the orders this Court issues in cases on the emergency docket that explain the basis for the Court's decision, its *un*explained emergency decisions are not binding, or even especially informative, when lower

courts exercise their judicial power in a different case involving different facts and circumstances. Absent reasoned direction from this Court, lower courts must determine the applicable law in the cases before them and apply that law to the different facts in those cases. That is how the lower courts proceeded in this instance.

In all events, the lower court's denial of the Government's request for a stay pending appeal was unquestionably a reasonable application of this Court's substantive law precedents and emergency stay precedents. The Court should deny the Government's application.

ARGUMENT

Article III vests the "judicial Power of the United States" in "one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish." U.S. Const., Art. III, § 1. The Framers intended the federal judiciary to "secure a steady, upright, and impartial administration of the laws." The Federalist No. 78, p. 465 (C. Rossiter ed. 1961). They "sought to ensure that each judicial decision would be rendered, not with an eye toward currying favor with Congress or the Executive," but with the "'[c]lear heads . . . and honest hearts' deemed 'essential to good judges.'" *Stern v. Marshall*, 564 U.S. 462, 484 (2011) (quoting 1 Works of James Wilson 363 (J. Andrews ed. 1896)). As Justice Story wrote, "it is not to be forgotten, that ours is a government of laws, and not of men; and that the judicial department has imposed upon it by the constitution, the solemn duty to interpret the laws, in the last resort; and however disagreeable that duty may be, in cases where its own judgment shall differ from that of other high functionaries, it is not at liberty to surrender, or to waive it." *United States v. Dickson*, 40 U.S. 141, 162 (1841).

As this Court is doubtlessly aware, the past year has seen an extraordinary assault on this constitutional ideal. The President has called a federal judge a "radical left lunatic" and an "agitator."[2] The Attorney General has accused "activist judges" of "unprecedented judicial activism" and "coordinated judicial opposition."[3] Some of the harshest criticism has been in the immigration context, where DHS officials have referred to "out of control judges . . . race-baiting to distract from the facts"[4] and warned of "lawless activism" and "an activist judge legislating from the bench."[5] To be sure, those who hold office under Article III are not immune from criticism. *See Abrego Garcia v. Noem*, No. 25-1404, 2025 WL 1135112, at *2 (4th Cir. Apr. 17, 2025) ("Criticism keeps [judges] on our toes and helps us do a better job."); Jacqueline Charles, Miami Herald, *Federal judge maintains block on ending Haitian TPS,*

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[2] Debra Weiss, ABA Journal, *Meet the federal judge labeled 'radical left lunatic' by Trump, derided by DOJ for 'micromanaged' request* (Mar. 20, 2025), https://www.abajournal.com/news/article/meet-the-federal-judge-labeled-a-radical-left-lunatic-by-trump-and-derided-by-doj-for-micromanaged-request. All websites in this brief were last visited March 5, 2026.

[3] *Statement of Pamela Bondi, Attorney General, Before the U.S. House of Rep. Comm. on the Judiciary* at 3 (Feb. 11, 2026), https://www.congress.gov/119/meeting/house/118951/witnesses/HHRG-119-JU00-Wstate-BondiP-20260211.pdf.

[4] *DHS Statement on Activist Judge Delaying TPS Termination for Honduras, Nepal, and Nicaragua* (Aug. 1, 2025), https://www.dhs.gov/news/2025/08/01/dhs-statement-activist-judge-delaying-tps-termination-honduras-nepal-and-nicaragua.

[5] Jacqueline Charles & Garrett Shanley, Miami Herald, *Homeland Security blasts judge's decision to pause termination of Haitian TPS* (Feb. 3, 2026), https://www.miamiherald.com/news/local/immigration/article314558453.html. After this Court stayed an order relating to the TPS designation for Venezuela, DHS called the ruling a "devastating 8-1 vindication of the Trump Administration and stinging indictment of judicial activism." *See NTPSA*, No. 3:25-cv-01766-EMC (N.D. Cal.), Dkt. 213-2 at 2 (archived webpage). DHS continues to admonish judges for supposedly disregarding this Court's decisions on the U.S. Citizenship & Immigration Services website. *E.g.*, USCIS, *Temporary Protected Status Designated Country: Burma (Myanmar)*, https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-burma-myanmar. In at least one case, it has called out the judge by name. *See* USCIS, *Temporary Protected Status Designated Country: Venezuela*, https://perma.cc/7MR6-EVMN (captured Apr. 7, 2025).

*responds to death threat*s (Feb. 12, 2026), https://www.miamiherald.com/news/nation-world/world/americas/haiti/article314676245.html ("To those who disagree with me, I say 'Thank you.' Judges should be questioned[.]"). Yet criticism can cross the line to intimidation and delegitimization of the courts. It is imperative that this Court safeguard the judiciary's independence and the rule of law in the face of these attacks.

Before this Court, the Government does not call the decisions of the lower courts "lawless activism" or "coordinated judicial opposition." However, its application echoes these themes. According to the Government, the appellate court in this case "flout[ed] this Court's two prior stays of materially similar orders in materially similar postures" and the lower courts have shown "persistent disregard" for orders from this Court. Gov't Appl. 4–5. The Government adds that "[d]istrict courts across the country" have "disregarded the import of this Court's stay decisions" by postponing the effective date of TPS terminations. *Id*. at 33–34.

These charges would be concerning if they were true—but they are not. The decisions that the Government claims the lower courts have "disregarded" were two unexplained orders issued in a different case challenging a different TPS termination. *See Noem v. Nat'l TPS Alliance*, 146 S. Ct. 23 (2025) ("*NTPSA II*"); *Noem v. Nat'l TPS Alliance*, 145 S. Ct. 2728 (2025) ("*NTPSA I*"). Lower courts, acknowledging these unexplained orders, have proceeded in other cases to discern the applicable law in accordance with this Court's precedents and apply that settled law to the different

facts and circumstances before them. That is, the courts have proceeded to honor—not "flout"—this Court and the judicial role.

I. Unexplained interim orders do not bind courts in different cases.

The Government places almost dispositive weight on this Court's recent observation in an emergency docket ruling that its interim orders may "inform how a court should exercise its equitable discretion in like cases." *Trump v. Boyle*, 145 S. Ct. 2653, 2654 (2025). But an interim order can only meaningfully inform the exercise of judicial discretion in future "like" cases if the interim order gives reasons for the decision this Court reached. That was arguably the case in *Boyle*, for example, where this Court relied on an earlier order that reasoned that "the Government faces greater risk of harm from an order allowing a removed officer to continue exercising the executive power than a wrongfully removed officer faces from being unable to perform her statutory duty." *Id.* (quoting *Trump v. Wilcox*, 145 S. Ct. 1415, 1415 (2025)).

But the Court has not given any such direction in this case. The two stay orders relied on by the Government here offered no reasoning as to how the lower federal courts should apply or balance the stay factors that could be applied in other "like" cases, much less in dissimilar cases. The absence of articulated reasoning in this Court's prior orders undermines the Government's request for stay here.

The Government's position is that the lower federal courts in TPS cases have flouted this Court's prior unexplained emergency orders. But as Justice Gorsuch has said, the Court's emergency or interim orders bind lower courts *because* a decision's "'reasoning—its *ratio decidendi*'—carries precedential weight in 'future cases'" regardless "of a decision's procedural posture." *Nat'l Institutes of Health v. Am. Pub.*

Health Ass'n, 145 S. Ct. 2658, 2663–64 (2025) (Gorsuch, J., concurring in part) (quoting *Ramos v. Louisiana*, 590 U.S. 83, 104 (2020) (opinion of Gorsuch, J.)). A decision without articulated reasoning, of course, cannot possibly carry the same reasoned weight for the simple reason that there is no reasoning from this Court to weigh in the consideration of a different case. The Second Circuit reached the same conclusion here. *See* Gov't Appl. 39a.

Put another way, an order resting on unarticulated reasons may resolve a dispute between the parties to that case, but it cannot and does not constitute precedential law for other courts deciding other and different cases. *Cf. Ramos*, 590 U.S. at 104–05 ("unexplicated" decisions may "settl[e] the issues for the parties," but are "not to be read as a renunciation by this Court of doctrines previously announced in our opinions."). This aspect of "unexplicated" orders is a feature of the Court's emergency docket, not a bug. *See Labrador v. Poe*, 144 S. Ct. 921, 934 (2024) (Kavanaugh, J., concurring) (observing that "issuing opinions for the Court with respect to emergency applications may sometimes be appropriate, but we should exercise appropriate caution before doing so"). A "cardinal principle of judicial restraint" is that "if it is not necessary to decide more, it is necessary not to decide more." *PDK Labs., Inc. v. Drug Enforcement Admin.*, 362 F.3d 786, 799 (D.C. Cir. 2004) (Roberts, J., concurring in part and concurring in judgment). When interim decisions must be made on an emergency basis, with truncated briefing, no oral argument, and limited time for deliberation, there are often good reasons for this

Court to say less rather than more. Indeed, there are often good reasons to say *nothing* more.

Similar circumstances arise in the lower courts in the context of horizontal, rather than vertical, precedent. For example, the federal courts of appeals have developed various procedures for unpublished opinions. "An unpublished disposition is, more or less, a letter from the court to parties familiar with the facts, announcing the result and the essential rationale of the court's decision." *Hart v. Massanari*, 266 F.3d 1155, 1178 (9th Cir. 2001). The result binds the parties but has no broader precedential force. Deciding cases in this fashion frees courts to "spend the requisite time drafting precedential opinions in the remaining cases" that will bind future courts and litigants. *Id*.

Another example is the law of the case doctrine. That doctrine provides that district courts and appellate courts are generally bound by prior appellate decisions in the same proceeding. "Where a previous panel has given no explanation for its decision," however, a court is not bound "by any 'law of the case' unless a determination" concerning a particular issue "is necessarily inconsistent with every possible correct basis for the earlier rulings." *Oladeinde v. City of Birmingham*, 230 F.3d 1275, 1289–90 (11th Cir. 2000); *see also, e.g.*, *Leo v. Garmin Int'l, Inc.*, 464 F. App'x 740, 742 (10th Cir. 2012) (declining to apply law of the case to a "summary order" that "did not establish any rule of law"). These rules further the administration of justice by promoting regularity while preventing unexplained orders from predetermining the merits of the dispute at a later date.

The important point for these purposes is that, like nonprecedential opinions or unexplained rulings by an earlier panel, unexplained interim orders from this Court do not make law for lower courts in a different case. Thus, when this Court does not explain the basis for an interim decision, lower courts do not "flout" this Court by reaching a different result regarding interim relief in a later proceeding.

II. The Government overstates the significance of the *NTPSA* stay orders.

The Government argues that even if unexplained decisions in a stay posture are nonbinding, "at a minimum" the stay orders reflect an assessment by this Court that "the merits and the equitable factors there favored the government"—and, thus, that this is "an even easier case" for a stay. Gov't Appl. 14, 31-32. But even if the *NTPSA* orders could be understood to implicitly "reflect" anything about the merits and the equitable factors in that case, the Government is wrong in its assertion that the Second Circuit "disregarded" those orders "on spurious grounds." *Id*. at 14. How is it possible that implicit hints divined from emergency orders that included no reasoning or explanation could make this case "even easier"? It is not easier in any sense. After all, "[t]he essence of unexplained orders is that they say nothing." *Ylst v. Nunnemaker*, 501 U.S. 797, 804 (1991).

The very decisions the Government identifies as reflecting a divide over how to approach stays concerning TPS terminations highlight the exceeding difficulty of drawing broad conclusions from expedited interim orders. In *CASA, Inc. v. Noem*, for instance, the district court found the record was not sufficiently developed to establish a likelihood of success on the merits, denying both parties' cross-motions for summary judgment and the plaintiff's request for a stay of certain TPS terminations.

792 F. Supp. 3d 576, 610–12 (D. Md. 2025). On appeal, the plaintiff again requested a stay, and the Fourth Circuit agreed that "[a]t this procedural posture" there was "insufficient evidence" for that remedy. No. 25-1792, 2025 WL 2028397, at *1 (4th Cir. July 21, 2025). Neither the district court nor the appellate court in *CASA* cited the stay order in *NTPSA I* in connection with the stay analysis, as it was not clear whether the order in *NTPSA I* turned on an insufficient factual record versus some other factor (or factors). And the Fourth Circuit's conclusion says nothing about the proper exercise of discretion on another record. If anything, it says to the next judge that he or she might well issue a stay of those TPS terminations or others on a different or more developed factual record.

Alternatively, the Government argues that the reasoning behind the *NTPSA I* and *II* orders can be divined from the parties' briefing. Gov't Appl. 15 (citing 24A1059 Gov't Appl. 19 and 25A326 Gov't Appl. 17–18). A stay order from the Ninth Circuit in a recent TPS case addressing designations for Nepal, Honduras, and Nicaragua ventures a similar point. *See Nat'l TPS Alliance v. Noem*, No. 26-199 (9th Cir.), Dkt. 11 at 5 (Feb. 9, 2026) ("the stay applications involved similar assertions of harm by both parties"). The problem for the Government is that it is the reasoning and judgment of the courts of law, not the arguments and advocacy of the parties, that establishes the rule of law for future cases. Even if assertions of harm are "similar," a court cannot be sure those similarities are dispositive without an explanation of what drove the outcome in the first case and why.[6]

[6] *E.g.*, *United States v. Eagle Chasing*, 965 F.3d 647, 651 (8th Cir. 2020) ("[A]s an inferior federal court 'we are not at liberty to browse through the[] tea leaves and vaticinate what

The "prudent course" when courts are uncertain about whether a pronouncement from a higher court states a binding rule of law is neither to "force[] the issue" by disregarding settled precedents nor bury it "by proceeding in a summary fashion." *Eberhart v. United States*, 546 U.S. 12, 19–20 (2005). Instead, a court should "adhere[]" to its best understanding of precedent while "plainly expressing" any doubts to "facilitate[]" this Court's review. *Id.* That approach makes especially good sense when a party requests a stay, whose propriety is "dependent upon the circumstances of the particular case." *Virginian Ry. Co. v. United States*, 272 U.S. 658, 672–73 (1926). Where a lower court must act upon an emergency stay application with no clear guidance from a higher court, there is no shortcut other than discerning the applicable law and applying it to the facts and circumstances of the case. That is what the courts did here.

III. The decision to deny a stay was a reasonable application of this Court's precedents.

Because this Court did not offer reasoned direction in *NTPSA I* or *NTPSA II*, it is unnecessary to decide what weight an interim order issued with reasoning should play in awarding a stay pending appeal in a different case. At the very least, the decision to deny a stay here was a reasonable application of the law and this Court's precedents, if not also the correct decision.

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future holdings the Supreme Court may (or may not) make.'"); *United States v. Guerrero*, 768 F.3d 351, 361 (5th Cir. 2014) ("In determining the effect of Supreme Court developments on our precedents, we do not read tea leaves to predict possible future Supreme Court rulings.").

In making the stay determination below, the Second Circuit acknowledged the *NTPSA* stay orders and concluded they were not dispositive because they "involved a TPS designation of a different country, with different factual circumstances, and different grounds for resolution by the district court." Gov't Appl. 39a. The court proceeded to apply the settled stay factors from *Nken v. Holder*, 556 U.S. 418 (2009), to the facts of this case, which were different from *NTPSA*. Gov't Appl. 39a–40a.

Under *Nken*, the first stay factor is whether the stay applicant has made a strong showing that he is likely to succeed on the merits. 556 U.S. at 426. The Second Circuit concluded that *McNary v. Haitian Refugee Center, Inc.*, 498 U.S. 479 (1991), and *Kucana v. Holder*, 558 U.S. 233 (2010), likely foreclosed an expansive application of the TPS statute's judicial review bar; that a postponement under APA § 705 did not operate as an injunction; and that on the current record the Government was unlikely to show the requisite inter-agency consultation and thus prevail on the merits. Gov't Appl. 39a–40a.

The Government argues otherwise, but principally because it reads this Court's stay orders in *NTPSA* as having "determined" that a provision of the TPS statute, 8 U.S.C. § 1254a(b)(5)(A), barred judicial review. Gov't Appl. 15. As discussed above, there is no way to confidently discern the extent to which this Court's stay orders in *NTPSA* turned on an assessment of the merits (and if so which ones) versus other factors. Indeed, the Ninth Circuit stay order that the Government holds up as a model did not treat this Court's *NTPSA* stay orders as determinative on this question. *NTPSA*, No. 26-199 (9th Cir.), Dkt. 11 at 3–4.

The second factor is whether the applicant will be irreparably injured without a stay. *Nken*, 556 U.S. at 426. The Second Circuit reasoned that the Government had not asserted the same injuries in this case as in *NTPSA* or alleged any imminent threat to ongoing negotiations in Syria as it had done with respect to Venezuela in the *NTPSA* case. Gov't Appl. 40a. Before this Court, the Government identifies no comparable injury. Instead, the Government argues that the Secretary's "national interest" determination in terminating the TPS designation is sufficient. *Id*. at 29–30. Even though the Secretary made such a determination as part of her termination decision, the Government identifies no specific exigency or emergency underlying that general determination that warrants a stay. There is simply no irreparable injury from an inability to immediately remove a protected status for Syrians while the litigation is pending.

The third and fourth factors—which often merge—are the balance of equities and the public interest. *Nken*, 556 U.S. at 426. The Second Circuit concluded that these factors "decidedly favor[ed]" the challengers who would face immediate loss of work authorization and removal. Gov't Appl. 40a. The Government argues that such harms are "inherent" in the TPS scheme because a TPS designation is temporary. *Id*. at 31. But it does not follow that because termination of a program could work substantial hardship on individuals if done lawfully, that hardship can be discounted as "inherent" when there are credible arguments that the termination was not lawful, as is the case here.

Although amici take no position on the ultimate merits of this or other TPS disputes, it is unquestionable that the court of appeals in this case reviewed the relevant facts and law and exercised reasoned—and reasonable—discretion in denying the Government's stay request. The court did so on a tight timeline and indicated that it was prepared to move quickly to a final decision if the Government requested an expedited briefing schedule. Govt. Appl. 40a. The Government is wrong to suggest that this "flouted" this Court's two orders issued without explanation in an entirely different case.

IV. The court of appeals should address the Government's merits arguments in the first instance.

The Government's request for certiorari before judgment is based on the same mistaken premise as its stay request—namely, that "[d]istrict courts across the country have . . . disregarded the import of this Court's stay decisions." Gov't Appl. 33-34. As discussed above, that accusation is false.

Amici believe that the public interest would be served by allowing appellate procedures to run their regular course. It is precisely when "difficult issues of great public importance are involved" that courts should "adhere scrupulously to the customary limitations" on their discretion. *Illinois v. Gates*, 462 U.S. 213, 224 (1983). This approach does not just "promote respect for the procedures" by which a court's decisions are rendered. *Id*. It also enhances public confidence in the regularity of the judicial decision-making process and the correctness of judicial decisions, *id*., confidences which are of the utmost importance today.

CONCLUSION

The Court should deny the Government's application.

DATED: March 5, 2026

Respectfully submitted,

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APPENDIX

Below is a list of amici and the courts on which they most recently served:

- Judge Michael Luttig (Ret.),
  U.S. Circuit Judge, U.S. Court of Appeals for the Fourth Circuit
- Judge Nancy Gertner (Ret.),
  U.S. District Judge, District of Massachusetts
- Chief Judge John W. Bissell (Ret.),
  U.S. District Judge, District of New Jersey
- Judge Robert J. Cindrich (Ret.),
  U.S. District Judge, Western District of Pennsylvania
- Chief Judge U.W. Clemon (Ret.),
  U.S. District Judge, Northern District of Alabama
- Judge Susan E. Cox, U.S. Magistrate Judge (Ret.),
  Northern District of Illinois
- Judge Andre M. Davis (Ret.),
  U.S. Circuit Judge, U.S. Court of Appeals for the Fourth Circuit
- Judge Morton Denlow (Ret.),
  U.S. Magistrate Judge, Northern District of Illinois
- Chief Judge William F. Downes (Ret.),
  U.S. District Judge, District of Wyoming
- Judge Allyson K. Duncan (Ret.),
  U.S. Circuit Judge, U.S. Court of Appeals for the Fourth Circuit
- Judge David K. Duncan (Ret.),
  U.S. Magistrate Judge, District of Arizona
- Judge Gary A. Feess (Ret.),
  U.S. District Judge, Central District of California
- Chief Judge Sheila Finnegan (Ret.),
  U.S. Magistrate Judge, Northern District of Illinois
- Judge Jeremy Fogel (Ret.),
  U.S. District Judge, Northern District of California

- Judge James C. Francis IV (Ret.),
  U.S. Magistrate Judge, Southern District of New York

- Judge Royal Furgeson, Jr. (Ret.),
  U.S. District Judge, Western District of Texas

- Judge Steven M. Gold (Ret.),
  U.S. Magistrate Judge, Eastern District of New York

- Judge A. Benjamin Goldgar (Ret.),
  U.S. Bankruptcy Judge, Northern District of Illinois

- Judge Paul W. Grimm (Ret.),
  U.S. District Judge, District of Maryland

- Judge Andrew J. Guilford (Ret.),
  U.S. District Judge, Central District of California

- Judge Thelton Henderson (Ret.),
  U.S. District Judge, Northern District of California

- Chief Judge Robert Harlan Henry (Ret.),
  U.S. Circuit Judge, U.S. Court of Appeals for the Tenth Circuit

- Judge Faith Hochberg (Ret.),
  U.S. District Judge, District of New Jersey

- Judge Richard J. Holwell (Ret.),
  U.S. District Judge, Southern District of New York

- Judge Ellen Segal Huvelle (Ret.),
  U.S. District Judge, District of Columbia

- Judge John E. Jones III (Ret.),
  U.S. District Judge, Middle District of Pennsylvania

- Judge Kent A. Jordan (Ret.),
  U.S. Circuit Judge, U.S. Court of Appeals for the Third Circuit

- Judge James Larson (Ret.),
  U.S. Magistrate Judge, Northern District of California

- Judge Barbara M. G. Lynn (Ret.),
  U.S. District Judge, Northern District of Texas

- Judge Roanne L. Mann (Ret.),
  U.S. Magistrate Judge, Eastern District of New York

- Judge John S. Martin, Jr. (Ret.),
  U.S. District Judge, Southern District of New York

- Judge A. Howard Matz (Ret.),
  U.S. District Judge, Central District of California

- Chief Judge Paul Michel (Ret.),
  U.S. Circuit Judge, U.S. Court of Appeals for the Federal Circuit

- Judge Margaret Morrow (Ret.),
  U.S. District Judge, Central District of California

- Judge Liam O'Grady (Ret.),
  U.S. District Judge, Eastern District of Virginia

- Judge Kathleen O'Malley (Ret.),
  U.S. Circuit Judge, U.S. Court of Appeals for the Federal Circuit

- Judge Brian Owsley (Ret.),
  U.S. Magistrate Judge, Southern District of Texas

- Judge Philip M. Pro (Ret.),
  U.S. District Judge, District of Nevada

- Judge Victoria A. Roberts (Ret.),
  U.S. District Judge, Eastern District of Michigan

- Judge Shira A. Scheindlin (Ret.),
  U.S. District Judge, Southern District of New York

- Judge Fern M. Smith (Ret.),
  U.S. District Judge, Northern District of California

- Chief Judge Lawrence F. Stengel (Ret.),
  U.S. District Judge, Eastern District of Pennsylvania

- Judge John D. Tinder (Ret.),
  U.S. Circuit Judge, U.S. Court of Appeals for the Seventh Circuit

- Judge Ursula Ungaro (Ret.),
  U.S. District Judge, Southern District of Florida

- Judge Thomas I. Vanaskie (Ret.),
  U.S. Circuit Judge, U.S. Court of Appeals for the Third Circuit

- Judge T. John Ward (Ret.),
  U.S. District Judge, Eastern District of Texas

- Judge Gene Wedoff (Ret.),
  U.S. Bankruptcy Judge, Northern District of Illinois

- Judge Alexander Williams, Jr. (Ret.),
  U.S. District Judge, District of Maryland

- Judge Mark Wolf (Ret.),
  U.S. District Judge, District of Massachusetts

- Judge Lee Yeakel (Ret.),
  U.S. District Judge, Western District of Texas

- Judge Verna A. Adams v,
  Marin County Superior Court, California

- Chief Justice Jeffrey Amestoy (Ret.),
  Vermont Supreme Court

- Judge Elaine Andrews (Ret.),
  Anchorage Superior Court, Alaska

- Judge Beth M. Andrus (Ret.),
  Washington State Court of Appeals

- Judge Stephanie A. Arend (Ret.),
  Pierce County Superior Court, Washington

- Judge Sharon S. Armstrong (Ret.),
  King County Superior Court, Washington

- Chief Justice Scott Bales (Ret.),
  Arizona Supreme Court

- Chief Justice Thomas A. Balmer (Ret.),
  Oregon Supreme Court

- Judge Martha Beckwith (Ret.),
  Anchorage District Court, Alaska

- Associate Justice William W. Bedsworth (Ret.),
  California Court of Appeal

- Chief Justice Michael L. Bender (Ret.),
  Colorado Supreme Court

- Justice Margot Botsford (Ret.),
  Massachusetts Supreme Judicial Court

- Justice G. Arthur Brennan (Ret.),
  York County Superior Court, Maine

- Associate Justice Bobbe J. Bridge (Ret.),
  Washington Supreme Court

- Chief Justice Eric Brown (Ret.),
  Supreme Court of Ohio

- Chief Justice Walter L. Carpeneti (Ret.),
  Alaska Supreme Court

- Judge Wynne Carvill (Ret.),
  Alameda County Superior Court, California

- Judge Patrick A. Cathcart (Ret.),
  Los Angeles Superior Court, California

- Chief Justice Sue Bell Cobb (Ret.),
  Alabama Supreme Court

- Justice Carol Ann Conboy (Ret.),
  New Hampshire Supreme Court

- Chief Justice Dori Contreras (Ret.),
  13th Court of Appeals, Texas

- Associate Justice Patricia Cotter (Ret.),
  Montana Supreme Court

- Judge Martin Cronin (Ret.),
  Essex County Superior Court, New Jersey

- Judge Ronald E. Culpepper (Ret.),
  Pierce County Superior Court, Washington

- Judge Denise Navarre Cubbon (Ret.),
  Lucas County Court of Common Pleas Juvenile Division, Ohio

- Judge Beverly W. Cutler (Ret.),
  Alaska Superior Court, 3rd Judicial District

- Judge James Dannenberg (Ret.),
  Hawaii District Court, First Circuit

- Justice Mary McGowan Davis (Ret.),
  New York State Supreme Court

- Judge Lisa Daniel Flores (Ret.),
  Maricopa County Superior Court, Arizona

- Justice Michael P. Donnelly (Ret.),
  Supreme Court of Ohio

- Justice Fernande R.V. Duffly (Ret.),
  Massachusetts Supreme Judicial Court

- Judge Sally Duncan (Ret.),
  Maricopa County Superior Court, Arizona

- Justice Robert D. Durham (Ret.),
  Oregon Supreme Court

- Acting Justice Mark Dwyer (Ret.),
  New York State Supreme Court

- Judge Anita H. Dymant (Ret.),
  Los Angeles Superior Court, California

- Judge Lynn Duryee (Ret.),
  Marin County Superior Court, California

- Judge George Eskin (Ret.),
  Santa Barbara County Superior Court, California

- Judge Francisco Firmat (Ret.),
  Orange County Superior Court, California

- Justice Helen E. Freedman (Ret.),
  New York Appellate Division of the Supreme Court

- Judge Julia Garratt (Ret.),
  King County Superior Court, Washington

- Judge Deborra Garrett (Ret.),
  Whatcom County Superior Court, Washington

- Judge David George (Ret.),
  First Judicial District of Alaska

- Judge Tim Gerking (Ret.),
  Jackson County Circuit Court, Oregon

- Justice Janine P. Geske (Ret.),
  Wisconsin Supreme Court

- Chief Justice Mark V. Green (Ret.),
  Massachusetts Appeals Court

- Judge Ernestine S. Gray (Ret.),
  Orleans Parish Juvenile Court, Louisiana

- Justice Karen F. Green (Ret.),
  Massachusetts Superior Court

- Justice Emily Jane Goodman (Ret.),
  New York State Supreme Court

- Judge Dianna Gould-Saltman (Ret.),
  Los Angeles Superior Court, California

- Judge Brook Hedge (Ret.),
  Superior Court of the District of Columbia

- Judge James Hely (Ret.),
  New Jersey Superior Court, Vicinage 12

- Judge Bethany G. Hicks (Ret.),
  Maricopa County Superior Court, Arizona

- Justice Geraldine S. Hines (Ret.),
  Massachusetts Supreme Judicial Court

- Judge Leslie A. Hayashi (Ret.),
  Hawaii District Court, First Circuit

- Judge Vicki L. Hogan (Ret.),
  Pierce County Superior Court, Washington

- Justice Robin E. Hudson (Ret.),
  North Carolina Supreme Court

- Judge J. Robin Hunt (Ret.),
  Washington Court of Appeals

- Justice Barbara Jaffe (Ret.),
  New York State Supreme Court

- Judge Marcy L. Kahn (Ret.),
  New York State Supreme Court, Appellate Division

- Judge Henry Kantor (Ret.),
  Multnomah County Circuit Court, Oregon

- Judge Ann O'Regan Keary (Ret.),
  Superior Court of the District of Columbia

- Judge Roderick Kennedy (Ret.),
  New Mexico Court of Appeals

- Judge Ronald Kessler (Ret.),
  King County Superior Court, Washington

- Judge Steven J. Kleifield (Ret.),
  Los Angeles Superior Court, California

- Judge Michael S. Kupersmith (Ret.),
  Chittenden County Superior Court, Vermont

- Judge David A. Kurtz (Ret.),
  Snohomish County Superior Court, Washington

- Judge Linda Lau (Ret.),
  Washington State Court of Appeals

- Justice Barbara A. Lenk (Ret.),
  Massachusetts Supreme Judicial Court

- Chief Judge John P. Leopold (Ret.),
  Colorado District Court, 18th Judicial District

- Judge Richard A. Levie (Ret.),
  Superior Court of the District of Columbia

- Judge John R. Lockett (Ret.)
  13th Judicial Circuit Court, Alabama

- Judge John Lohrmann (Ret.),
  Walla Walla County Superior Court, Washington

- Judge Richard Lyman (Ret.),
  Los Angeles Superior Court, California

- Justice Joan Madden (Ret.),
  New York State Supreme Court

- Judge Barbara Mack (Ret.),
  King County Superior Court, Washington

- Judge Patrick J. Mahoney (Ret.),
  San Francisco Superior Court, California

- Chief Justice Conrad L. Mallett, Jr. (Ret.),
  Michigan Supreme Court

- Justice James F. McHugh (Ret.),
  Massachusetts Appeals Court

- Judge Robert Mello (Ret.),
  Addison County Superior Court, Vermont

- Judge Christopher Melly (Ret.),
  Clallam County Superior Court, Washington

- Judge John Meyer (Ret.),
  Skagit County Superior Court, Washington

- Judge David Minge (Ret.),
  Minnesota Court of Appeals

- Judge Peter Michalski (Ret.),
  Anchorage Superior Court, Alaska

- Judge Walter M. Morris, Jr. (Ret.),
  Orleans County Superior Court, Vermont

- Justice Christopher Muse (Ret.),
  Massachusetts Superior Court

- Judge Peggy J. Nelson (Ret.),
  8th Judicial District Court of New Mexico

- Justice James C. Nelson (Ret.),
  Montana Supreme Court

- Judge Leslie C. Nichols (Ret.),
  Santa Clara County Superior Court, California

- Judge Rita M. Novak (Ret.),
  Cook County Circuit Court, Illinois

- Judge Nely Johnson (Ret.),
  Multnomah County Circuit Court, Oregon

- Chief Justice Jim Jones (Ret.),
  Idaho Supreme Court

- Chief Justice Lawton R. Nuss (Ret.),
  Kansas Supreme Court

- Justice Michael J. Obus (Ret.),
  New York County Supreme Court

- Associate Justice Robert F. Orr (Ret.),
  North Carolina Supreme Court

- Judge Gary Oxenhandler (Ret.),
  13th Circuit Court, Missouri

- Chief Justice Barbara J. Pariente (Ret.),
  Florida Supreme Court

- Judge Lynn Pickard (Ret.),
  New Mexico Court of Appeals

- Judge Maurice Portley (Ret.),
  Arizona Court of Appeals

- Judge Judith H. Ramseyer (Ret.),
  King County Superior Court, Washington

- Judge Jeffrey M. Ramsdell (Ret.),
  King County Superior Court, Washington

- Chief Justice Mark Recktenwald (Ret.),
  Hawaii Supreme Court

- Justice James Regnier (Ret.),
  Montana Supreme Court

- Justice Rosalyn Richter (Ret.),
  New York State Supreme Court, Appellate Division

- Judge Palmer Robinson (Ret.),
  King County Superior Court, Washington

- Judge Erik Rohrer (Ret.),
  Clallam County Superior Court, Washington

- Judge John Romero (Ret.),
  New Mexico 2nd Judicial District Court

- Judge David A. Rosen (Ret.),
  Los Angeles Superior Court, California

- Judge Carol Schapira (Ret.),
  King County Superior Court, Washington

- Judge Barry C. Schneider (Ret.),
  Maricopa County Superior Court, Arizona

- Judge Robert Schnider (Ret.),
  Los Angeles Superior Court, California

- Judge Nan R. Shuker (Ret.),
  Superior Court of the District of Columbia

- Administrative Judge Jacqueline Silbermann (Ret.),
  New York County Supreme Court, Civil Branch

- Associate Justice Sheila Sonenshine (Ret.),
  California Court of Appeal

- Judge Michael Spearman (Ret.),
  Washington Court of Appeals

- Judge Julie Spector (Ret.),
  King County Superior Court, Washington

- Chief Justice Laura Denvir Stith (Ret.),
  Supreme Court of Missouri

- Judge Paul Suzuki (Ret.),
  Los Angeles Superior Court, California

- Judge Jeffrey Swartz (Ret.),
  Miami-Dade County Court, Florida

- Chief Justice Marsha Ternus (Ret.),
  Iowa Supreme Court

- Judge Philip E. Toci (Ret.),
  Arizona Court of Appeals

- Judge Fred Torrisi (Ret.),
  Dillingham Superior Court, Alaska

- Judge Michael J. Trickey (Ret.),
  Washington Court of Appeals

- Judge Emily E. Vasquez (Ret.),
  Sacramento County Superior Court, California

- Judge Art Wang (Ret.),
  Washington Court of Appeals

- Chief Justice Daniel E. Wathen (Ret.),
  Maine Supreme Judicial Court

- International Judge Patricia Whalen (Ret.),
  War Crimes Chamber, Court of Bosnia and Herzegovina

- Judge Larry Weeks (Ret.),
  Juneau Superior Court, Alaska

- Judge John P. Wesley (Ret.),
  Windham County Superior Court, Vermont

- Judge Ken Williams (Ret.),
  Clallam County Superior Court, Washington

- Judge Jeffrey K. Winikow (Ret.),
  Los Angeles Superior Court, California

- Chief Justice Michael A. Wolff (Ret.),
  Supreme Court of Missouri

- Judge Merri Souther Wyatt (Ret.),
  Oregon Circuit Court, Multnomah County

- Chief Justice Michael Zimmerman (Ret.),
  Utah Supreme Court

- Chief Justice Thomas A. Zlaket (Ret.),
  Arizona Supreme Court

Each of the foregoing amici signs this brief in their personal capacity.