No. 26-292

IN THE

Supreme Court of the United States

FIONA HAVLISH, *et al.*,

Petitioners,

v.

THE TALIBAN, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MOTION FOR LEAVE TO FILE SUPPLEMENTAL BRIEF AND SUPPLEMENTAL BRIEF

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No. 26-292

IN THE

Supreme Court of the United States

FIONA HAVLISH, *et al.*,

Petitioners,

v.

THE TALIBAN, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MOTION FOR LEAVE TO FILE SUPPLEMENTAL BRIEF IN RESPONSE TO BRIEF OF *AMICUS CURIAE*, NASEER A. FAIQ, CHARGÉ D'AFFAIRES OF THE PERMANENT MISSION OF AFGHANISTAN TO THE UNITED NATIONS

Petitioners in the above-captioned cases respectfully request leave to file the attached Supplemental Brief in response to the Brief of Naseer A. Faiq, Chargé d'Affaires of the Permanent Mission of Afghanistan to the United Nations, as Amicus Curiae in Opposition to the Petitions ("Opposition").

These cases present an unusual and extraordinary circumstance justifying leave to file this Supplemental Brief. The Taliban, who is Respondent in these cases, has not filed a brief in opposition to the petition and has

waived the right to file such a brief, and there appears to be no party who would respond to a call for response from this Court on the Taliban's behalf. At all stages in these cases, the only parties who have actively litigated against Petitioners are amici, including Mr. Faiq, who filed briefs below in the district court and in proceedings before the Second Circuit in his individual capacity in which he has sought to present the interests of Afghanistan, as if he were a Respondent.

Mr. Faiq's brief advances arguments and assertions not presented by any party and to which Petitioners otherwise have no ordinary opportunity to respond. The proposed reply is limited to those arguments. Allowing it will provide the Court the benefit of adversarial presentation without delaying consideration of the petition or imposing any burden on the Court.

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Other Authorities

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SUPPLEMENTAL BRIEF OF PETITIONERS

INTRODUCTION

Petitioners offer this Supplemental Brief to respond to an intervening matter, the Brief of Amicus Naseer A. Faiq in Opposition to Certiorari ("Opp."). Mr. Faiq's arguments do nothing to undermine the case for granting review here to resolve a circuit split that has denied victims of terror relief under the Terrorism Risk Insurance Act of 2002 ("TRIA"). The Second Circuit relied on a newly invented rule that finds no support in the statute's text and is at odds with the Ninth and Eleventh Circuits. This Court routinely grants certiorari in cases involving the interpretation of federal antiterrorism statutes even without a split, so the case for review here should be clear. Mr. Faiq argues that these cases are unique and do not present a circuit split, but he is mistaken on both counts.

ARGUMENT

I. The Petition Presents a Question of Exceptional Importance that Can and Does Recur in Terrorism Litigation

Mr. Faiq claims that "these facts are unlikely to recur." Opp. 9. But Mr. Faiq ignores the distinction between whether a case's *fact pattern* is likely to recur and whether the *legal question* presented will recur. The factual events that led to these enforcement efforts were unusual. But questions concerning the time at which an entity's status as a "terrorist party" or "agency or instrumentality" arises can and do recur in TRIA litigation, as shown by the circuit split identified in the petition.

There are many other circumstances in which a holder of blocked assets might become a "terrorist party" or an "agency or instrumentality" after its assets are blocked. To take one example, in 2011, OFAC blocked the assets of Lebanese-Colombian drug kingpin Ayman Joumaa before it became clear that Joumaa's group was laundering money for Hezbollah.[1] Similarly, in February 2004, OFAC froze the assets of the domestic branch of the Al-Haramain Islamic Foundation, but it was not until September 2004—seven months after their assets were blocked—that the government designated the branch a Specially Designated Global Terrorist.[2] In both of these cases, the Second Circuit's rule would immunize these blocked assets from being able to satisfy anti-terror judgments.

Mr. Faiq asserts that these cases are only important "for these petitioners" and not "the public" writ large. Opp. 10 (citation omitted). But the stakes here are clear. Petitioners are not simply private plaintiffs: they are the

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1. Press Release, Drug Enf't Admin., *DEA Investigation Leads to OFAC Designation of Lebanese-Based Drug Trafficking and Money Laundering Network* (Jan. 26, 2011), https://www.dea.gov/press-releases/2011/01/26/dea-investigation-leads-ofac-designation-lebanese-based-drug-trafficking (blocking Joumaa-tied assets in January 2011 to cut off his "drug trafficking and money laundering organization" with no mention of Hezbollah); Verified Compl. ¶ 40, *United States v. Lebanese Canadian Bank SAL*, No. 11-cv-9186 (S.D.N.Y. Dec. 15, 2011), 2011 WL 6225995 (tying Hezbollah-linked financial institutions in civil forfeiture and money laundering action to Joumaa's trafficking organization).

2. Press Release, U.S. Dep't of the Treasury, *U.S.-Based Branch of Al Haramain Foundation Linked to Terror: Treasury Designates U.S. Branch, Director* (Sept. 9, 2004), https://home.treasury.gov/news/press-releases/js1895.

families of those killed on September 11, insurers that paid billions of dollars in claims resulting from the worst attack in our Nation's history, and civilian contractors injured in a 2016 Taliban terrorist attack in Kabul, Afghanistan. Pet. 13. This Court has recognized that terror victims "have often faced practical and legal difficulties at the enforcement stage," *Bank Markazi v. Peterson*, 578 U.S. 212, 216–17 (2016), and that the federal government has an "exceedingly compelling interest" in "providing a forum for American victims to hold the perpetrators of such acts accountable," *Fuld v. Palestine Liberation Org.*, 606 U.S. 1, 24 (2025). *See also Holder v. Humanitarian Law Project*, 561 U.S. 1, 28 (2010) ("[C]ombating terrorism is an urgent objective of the highest order.").

TRIA was Congress's answer to those difficulties. But the panel's rule functionally nullifies Congress's promise to the victims it had in mind when it enacted TRIA. The rule is binding throughout the Second Circuit, one of the principal venues for TRIA enforcement, and will protect any terrorist entity whose assets are blocked before it engages in an act of terrorism or comes under the control of a terrorist party. Pet. 29.

Given the vital importance of the struggle against terrorism, this Court has granted review in terrorism cases even when no circuit split is present. *See, e.g.*, Petition for Writ of Certiorari at 10–11, *Holder v. Humanitarian Law Project*, No. 08-1498 (U.S. June 4, 2009) (no split); Petition for Writ of Certiorari at 12–14, *Fuld v. Palestine Liberation Org.*, No. 24-20 (U.S. July 9, 2024) (same); Petition for Writ of Certiorari at 12–13, 23, *Bank Markazi v. Peterson*, No. 14-770 (U.S. Dec. 29, 2014) (same). Even if no circuit split were present, certiorari

would be warranted. The split with the Ninth and Eleventh Circuits removes all doubt.

II. The Petition Presents a Clear Circuit Split and Raises No Significant Vehicle Problems

A. The Blocking-Date Rule Conflicts with the Approach of Every Other Circuit to Consider the Time for Assessing Status as a Terrorist Party Under TRIA

Mr. Faiq argues that there is no circuit split present. But under the Second Circuit's blocking-date rule, blocked assets of a terrorist party or its agency or instrumentality are subject to execution only if the entity in question was *already* a terrorist party at the time its assets were blocked. By contrast, under the Eleventh Circuit's approach, an entity qualifies as an agency or instrumentality if it "is or was ever" involved with the terrorist party or "owned, controlled, or directed by" it. *Stansell v. Revolutionary Armed Forces of Colombia*, 45 F.4th 1340, 1350, 1357 (11th Cir. 2022) ("*Stansell III*") (quoting *Stansell v. Revolutionary Armed Forces of Colombia*, 771 F.3d 713, 724 n.6 (11th Cir. 2014) ("*Stansell II*")). And under the Ninth Circuit's approach, the question is whether "the blocked assets in dispute *are* property" of a terrorist party or its agency or instrumentality at the time when a court orders execution or attachment. *Bennett v. Islamic Republic of Iran*, 778 F. App'x 541, 543 (9th Cir. 2019) (emphasis added). The conflict between these approaches is clear.

Mr. Faiq argues that Eleventh Circuit precedent does not "hold what the petition says," Opp. 12. But

Stansell III clearly rejected any rule that would tether determinations of status as a "terrorist party" or "agency or instrumentality" to any particular point in time, whether before or after the assets were blocked. As the court explained, while "[a] third party's assets must be blocked under the TRIA when the motion for a writ of garnishment is filed, and when the writ is issued," "that does not mean that agency/instrumentality status must be determined as of that point in time." *Stansell III*, 45 F.4th at 1350 (citing *Stansell II*, 771 F.3d at 723, 748). That is because "TRIA execution requires two *separate* determinations regarding the property being executed: (i) that the asset is blocked; and (ii) that the owner of the asset is an agency or instrumentality of the judgment debtor." *Stansell II*, 771 F.3d at 726 (emphasis added); *see also Caballero v. Fuerzas Armadas Revolucionarias de Colombia*, 945 F.3d 1270, 1275–76 (10th Cir. 2019) (same). The panel's rule conflates these two elements. App. 53a–54a.

The judgment debtors in *Stansell III* argued that agency or instrumentality status must be measured at a single moment—when the writs were sought—relying on the Second Circuit's decision in *Kirschenbaum v. 650 Fifth Avenue & Related Properties*, 830 F.3d 107, 136 (2d Cir. 2016). The Eleventh Circuit rejected the argument and expressly identified the conflict with the Second Circuit:

> Because the formulation we expressly approved in *Stansell II* encompassed past involvement or association with a terrorist party, the Second Circuit's language in *Kirschenbaum I*—if read the way the López appellants suggest—is inconsistent with our precedent.

Stansell III, 45 F.4th at 1350; *see id.* at 1350 n.4. The panel decision did not eliminate this conflict—it replaced it with a new conflict between *Stansell III*'s "is or was ever" standard and the panel's new blocking-date rule.

Mr. Faiq also argues that *Stansell III* provides only "a rule for reaching an entity that was once a terrorist party's instrumentality, not one for an entity that became affiliated only after its assets were blocked." Opp. 12. But "is or was ever" is disjunctive: it encompasses both present ("is") and past ("was") status. If an entity presently "is" affiliated with a terrorist party, its assets are subject to execution; if an entity "was ever" affiliated with a terrorist party in the past, its assets are also subject to execution. Under this approach, Da Afghanistan Bank's ("DAB's") assets would have been subject to execution, because it both "is" and "was" an agency or instrumentality of the Taliban.

Mr. Faiq attempts to dismiss *Bennett* as "an unpublished memorandum about ownership." Opp. 12. But Mr. Faiq cannot dispute that *Bennett*'s "time when execution is ordered" approach, *see* 778 F. App'x at 543, conflicts with the Second Circuit's blocking-date rule. And under this Court's Rules, "a decision in conflict with the decision of another United States court of appeals" is a basis for review regardless of whether a decision was published under circuit rules. Sup. Ct. R. 10(a). Indeed, this Court has repeatedly granted certiorari in cases featuring unpublished opinions. *See, e.g.*, *BLOM Bank SAL v. Honickman*, 605 U.S. 204 (2025).

Apart from his attempt to minimize this circuit split, Mr. Faiq asserts that these cases offer "[f]ive

candidate dates on one record": (1) "the issuance of the writ" and (2) "the filing of the turnover motions," which are supposedly offered by the Havlish petitioners; (3) the time of the "attachment proceeding" offered by the Owens petitioners below; (4) "the blocking date" chosen by the panel; and (5) the date of "the turnover order," which was adopted by the dissenters. Opp. 12. But in their petition before this Court, petitioners argued that the appropriate time for determining terrorist-party status includes "when execution is sought," meaning "at the point in time when a court must determine whether the asset is 'subject to execution.'" Pet. 22–23. This comports with the time-of-execution approach proposed by the dissenters. App. 93a, 95a–96a. And by arguing that the date of the attachment proceeding should control, the Owens petitioners effectively adopted the same approach, with the only difference being that the Owens petitioners sought prejudgment attachment rather than turnover, which is a form of execution.

Thus, Mr. Faiq's "five" dates quickly reduce to two: (1) the time-of-execution approach favored by the Ninth Circuit and the dissenters below; and (2) the blocking-date rule. All petitioners agree that TRIA authorizes "execution" and "attachment" against assets of an entity that is presently an agency or instrumentality when execution is sought.[3]

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3. Mr. Faiq's arguments against a "writ date" are irrelevant because they misinterpret petitioners' position. They also fail on the merits: the first writ issued after the Taliban controlled DAB. Opp. 4; App. 11a–12a. And although Mr. Faiq says that analyzing status as of the date when a writ is requested is "circular" because "a TRIA plaintiff 'must first establish defendant's status as an agency or instrumentality' before a writ may issue," Opp. 13 (quoting

Even if there were a difference of opinion among the petitioners, this Court would not need to resolve it to reject the blocking-date rule. Under each of the other alternatives, DAB was under the Taliban's control at the relevant time. *See* App. 11a–12a (Taliban installed DAB's leadership by August 23, 2021); App. 130a–31a, 168a–71a (writs and turnover motions, August 2021–March 2022); App. 203a (continuing control). The only date on which petitioners lose is the one the panel invented.

Mr. Faiq also suggests petitioners failed to preserve this issue because they argued that DAB qualified as an agency or instrumentality under *Kirschenbaum*'s time-of-filing rule below, which was then the governing standard in the Second Circuit. *See* Pet. 17 & n.7 (cited by Opp. 12). But petitioners also argued in their rehearing petition that the blocking-date rule had no basis in TRIA, which was more than sufficient to preserve the issue. *See, e.g.*, *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310, 323 (2010) (this Court may review any issue "addressed by the court below" (quotation marks and citation omitted)); *Yee v. City of Escondido*, 503 U.S. 519, 534 (1992) ("Once a federal claim is properly presented, a party can make any argument in support of that claim; parties are not limited to the precise arguments they made below.").[4]

Levinson v. Kuwait Fin. House (Malaysia) Berhad, 44 F.4th 91, 97 (2d Cir. 2022)), there is nothing circular about determining whether an entity was an agency or instrumentality when a party first moved for execution or attachment.

4. Mr. Faiq faults petitioners for not framing the issue as a circuit conflict in a rehearing petition *at the circuit court*. But a circuit conflict is a ground for this Court's review, *see* Sup. Ct. R. 10(a), not a claim that must be preserved. And petitioners' rehearing petition expressly relied on *Stansell III*. C.A. Dkt. 304, at 8 n.3.

Finally, while Mr. Faiq purports to find an inconsistency between petitioners' interpretation of TRIA and their argument that a writ of execution is not a prerequisite to a turnover order, Mr. Faiq misunderstands petitioners' position and New York law. Petitioners do not claim that agency-or-instrumentality status should be tethered to the date on which a writ of execution is requested or granted. Instead, petitioners maintain that TRIA allows an assessment of agency-or-instrumentality status as of the time when a remedy is awarded under the statute, regardless of whether that remedy is a writ of execution, a turnover order, or a writ of attachment.

B. The Remand Issues Identified by Mr. Faiq Pose No Barrier to Review

Mr. Faiq argues that review is not warranted because the district court ruled that deciding that DAB is an agency or instrumentality of the Taliban would interfere with the President's recognition power, and the Second Circuit could conceivably adopt that ruling on remand. But this Court routinely leaves remand "questions to the Court of Appeals to decide in the first instance." *Chatrie v. United States*, 609 U.S. 605, 640 (2026); *Brownback v. King*, 592 U.S. 209, 215 n.4 (2021). And the panel pointedly declined to adopt the district court's ruling for good reason: holding that DAB is an agency or instrumentality of the Taliban under TRIA would not interfere with the President's recognition power at all.

The President's recognition power "extends no further than his formal recognition determination." *Zivotofsky ex rel. Zivotofsky v. Kerry*, 576 U.S. 1, 30 (2015). Determining that DAB is an agency or instrumentality for purposes of

TRIA would not require recognizing the Taliban as the legitimate government of Afghanistan. Because terrorist groups do not typically exercise control in a lawful manner, courts have adopted a test for agency-or-instrumentality status that turns on facts, not legal status. Under that test, the question is whether the entity is, in actuality, controlled by terrorists, not whether the terrorists have a legal right to control the entity. *Kirschenbaum*, 830 F.3d at 134; *Stansell II*, 771 F.3d at 732. Thus, ruling that DAB is an agency or instrumentality requires only recognition of the Taliban's practical control over DAB, not a finding that could conflict with the President's recognition determinations. In ruling otherwise, the district court conflated a finding that the Taliban has *de facto* control over DAB with a finding that the Taliban legally controls DAB *as Afghanistan's recognized government*.

Mr. Faiq also suggests petitioners' claims may fail on remand because no court has definitively held that DAB is an agency or instrumentality. But the panel expressly concluded that the Taliban enjoyed a "position of de facto control over both Afghanistan and DAB." App. 12a. And although the district court also said that DAB's assets "'are the property of the state of Afghanistan,'" Opp. 18 (quoting App. 158a–59a (citing Restatement (Third) of Foreign Relations Law of the United States § 205(2) (Am. L. Inst. 1987))), the court was addressing whether DAB's assets qualify as property of Afghanistan under general principles of foreign-relations law. Courts applying TRIA "look to state law to define the rights a judgment debtor has in the property a creditor seeks to reach." *Doe v. JPMorgan Chase Bank, N.A.*, 899 F.3d 152, 156 (2d Cir. 2018); *see also Calderon-Cardona v. Bank of N.Y. Mellon*, 770 F.3d 993, 1001 (2d Cir. 2014). Under New York law, a

party holding funds in a bank account presumptively owns those assets. *See EM Ltd. v. Republic of Argentina*, 473 F.3d 463, 473–80 (2d Cir. 2007) (assets held at the Federal Reserve Bank of New York were "owned by" central bank).

Beyond that, TRIA does not require a legal ownership interest because nonstate terrorist parties operate outside the law and are generally not "entitled to" property in a formal sense. *See Kirschenbaum*, 830 F.3d at 134; *Stansell III*, 45 F.4th at 1354 ("[I]n the world of terrorism, affiliations and relationships are not likely to track the formalisms of law."). Assets "of" a terrorist agency or instrumentality thus include "possessory interest[s] in blocked assets" that fall short of formal title. *Stansell II*, 771 F.3d at 726. Regardless of whether Afghanistan has property interests in DAB's capital, DAB has possessory interests as an account holder, and those interests are subject to execution under TRIA to satisfy petitioners' judgments because those interests and the associated rights of control inure to the Taliban's benefit.[5]

5. Mr. Faiq also argues that Afghanistan might be a "required" party to the proceedings, but concedes the panel "did not address" the question. Opp. 7, 8 & n.5.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

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