

23-334 DEPARTMENT OF STATE V. MUNOZ

DECISION BELOW: 50 F.4th 906

LOWER COURT CASE NUMBER: 21-55365

QUESTION PRESENTED:

Under the Immigration and Nationality Act (INA), 8 U.S.C. 1101 *et seq.*, the decision to grant or deny a visa application rests with a consular officer in the Department of State. Under 8 U.S.C. 1182(a)(3)(A)(ii), any noncitizen whom a consular officer "knows, or has reasonable ground to believe, seeks to enter the United States to engage solely, principally, or incidentally in* * * unlawful activity" is ineligible to receive a visa or be admitted to the United States. The questions presented are:

1. Whether a consular officer's refusal of a visa to a U.S. citizen's noncitizen spouse impinges upon a constitutionally protected interest of the citizen.
2. Whether, assuming that such a constitutional interest exists, notifying a visa applicant that he was deemed inadmissible under 8 U.S.C. 1182(a)(3)(A)(ii) suffices to provide any process that is due.
3. Whether, assuming that such a constitutional interest exists and that citing Section 1182(a)(3)(A)(ii) is insufficient standing alone, due process requires the government to provide a further factual basis for the visa denial "within a reasonable time," or else forfeit the ability to invoke consular nonreviewability in court.

GRANTED LIMITED TO QUESTIONS 1 AND 2 PRESENTED BY THE PETITION.

CERT. GRANTED 1/12/2024