No. _____

IN THE

Supreme Court of the United States

SILVIA EULALIA GONZALEZ-MIRA, ET AL.,
PETITIONERS,

v.

ERIC H. HOLDER, JR.,
RESPONDENT.

EMERGENCY APPLICATION TO STAY REMOVAL PENDING APPEAL

Richard P. Bress
Lori Alvino McGill
Counsel of Record
LATHAM & WATKINS, LLP
555 Eleventh Street, N.W., Suite 1000
Washington, DC 20004-1304
(202) 637-2200

Counsel for Applicants

July 14, 2009

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

OTHER AUTHORITIES

No. _____

IN THE

Supreme Court of the United States

SILVIA EULALIA GONZALEZ-MIRA, ET AL.,
PETITIONERS,

V.

ERIC H. HOLDER, JR.,
RESPONDENT.

EMERGENCY APPLICATION TO STAY REMOVAL PENDING APPEAL

To the Honorable Samuel A. Alito, Jr., Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eighth Circuit:

Petitioners Silvia Eulalia Gonzalez-Mira, Pablo Alejandro Mira, and Rene Mauricio Mira ("Petitioners"), siblings, fled their home in El Salvador in fear of their lives after Mara Salvatrucha ("MS-13")—a vicious international street gang—threatened to murder Pablo and Rene on account of their refusal to join the gang and promised to rape and/or murder Silvia because of her brothers' refusals. When they arrived in the United States, Petitioners applied for asylum. Both the Immigration Judge ("IJ") who heard their application for asylum and the Board of Immigration Appeals recognized that the kids would be in grave danger if returned to El Salvador, but nevertheless denied their request for asylum after concluding that Petitioners had

not established that they belonged to a sufficiently "visible" particular social group. Petitioners timely filed a Petition for Review in the Eighth Circuit.

On July 6, 2009, without any warning, Immigration and Customs Enforcement ("ICE") took Silvia and Rene into custody to complete the removal process. Upon learning of this, Pablo surrendered himself to ICE, and ICE initiated the final steps of the removal process with respect to him as well. On July 8, 2009, Petitioners sought an administrative stay of the Board's removal order pending appeal, *see* Ex. A (attached), which ICE denied on July 9, 2009, *see* Ex. B (attached). Petitioners then sought a stay of removal from the Eighth Circuit on July 10, 2009. *See* Ex. C (attached). The Eighth Circuit denied Petitioners' motion without explanation on July 14, 2009. *See* Ex. D (attached).

Petitioners now respectfully request that your Honor stay the Board's removal order pending the Eighth Circuit's consideration of their Petition for Review. Petitioners have a strong likelihood of success on the merits of their Petition, and a stay is in the public interest. The Government does not dispute that Petitioners would be in grave danger if returned to El Salvador. Petitioners are not a flight risk. They have lived for the past five years with their mother, who is in this country legally. Indeed, when Pablo learned that ICE had arrested Silvia and Rene and were looking for him, he promptly presented himself to immigration authorities. The Government clearly recognizes this as well, as ICE released Petitioners on their own recognizance to their mother over five years ago. During this time, Petitioners have scrupulously fulfilled all of their duties, notifying ICE of all changes of address and attending all hearings.

There is simply no interest served by deporting these kids—thereby placing them in grave danger—before their appeal has been heard.

BACKGROUND

Before coming to the United States, Petitioners lived with their grandmother in the Las Flores neighborhood of Santa Maria, El Salvador ever since their parents came to work in the United States. (AR224, 271,273.)[1] Like many poor areas of El Salvador, MS-13 dominated their neighborhood. (AR231-32.) When Pablo and Rene were only 14 years old, MS-13 demanded that they join the gang or face grave consequences. The boys adhered to their deeply-held religious and family values and refused to join.

MS-13 also accosted Silvia, and told her that if Pablo and Rene did not join she would find their bodies in a dumpster, (AR236-37), and promised to rape or to murder her as well. (AR273-74.)

The threats quickly escalated and, after MS-13 brutally murdered another boy in their town for refusing to join the gang, Silvia, Pablo, and Rene fled El Salvador. (AR239-40, 277.)

Once in the United States, Silvia, Pablo, and Rene sought asylum based on their membership in the particular social groups of (1) youths who had resisted recruitment by MS-13 on account of their religious and family values and (2) family members of youths who had been targeted as gang recruits and had refused to join. In support of their claims, Petitioners presented testimony from Professor José Cruz Alas, an expert on Salvadoran gangs from the Central American University in San Salvador, El

---

[1] All relevant portions of the record are attached hereto as Ex. E.

Salvador. Professor Cruz testified that MS-13 "control[s] every aspect of life in those zones where they" operate and the police are incapable of controlling them; that young men in areas under MS-13's control "are obligated to join" the gang so that it "can continue to have greater control;" and that throughout Salvadoran society it is well known that refusal to join places the lives of both the recruit and his family in grave danger. (AR201-04.)

Petitioners presented media accounts and reports published by the government of El Salvador, the United States, the United Nations, and private organizations, all of which corroborated Professor Cruz's testimony. (AR297-344, 362-66, 368-404.) Silvia and Pablo also testified to the abuse they suffered from MS-13 and their fear of future persecution, which they reinforced with their own affidavits and that of their grandmother. (AR270-79, 290-93.) The Government presented no evidence contradicting any of Petitioners' evidence.

The IJ found Petitioners and Professor Cruz credible (AR148), and did "not for one minute doubt that the [Petitioners] have legitimate fears of returning to their country," (AR154), but nevertheless denied their request for asylum because he did not believe that Petitioners had established their membership in a particular social group. The Board of Immigration Appeals did not question the IJ's credibility determination or factual conclusions, but, like the IJ, concluded that Pablo and Rene had not established their membership in a particular social group. The Board dismissed Silvia's social group without meaningful analysis, stating simply that it was "too amorphous." (AR008.)

ARGUMENT

A stay of a removal order is appropriate where the petitioner demonstrates: (1) "a strong showing that he is likely to succeed on the merits," (2) that he "will be irreparably injured absent a stay," (3) that the stay will not "substantially injure the other parties interested in the proceeding," and (4) that "the public interest lies" in favor of granting the stay. *Nken v. Holder*, 129 S. Ct. 1749, 1761 (2009). The "probability of success that must be demonstrated" to make this showing "is inversely proportional to the amount of irreparable injury [Petitioners] will suffer absent the stay." *Thapa v. Gonzales*, 460 F.3d 323, 335 (2d Cir. 2006) (citing *Mohammed v. Reno*, 309 F.3d 95, 101-102 (2d Cir. 2002)). Because "the Government is the opposing party" here, the last two "factors merge." *Nken*, 129 S.Ct. at 1762.

Petitioners meet this standard. The Third Circuit recently granted a stay of removal on facts strikingly similar to those presented here. *See Valdiviezo-Galdamez v. Att'y Gen.*, No. 08-4564, Order Granting Stay of Removal (3d Cir. Mar. 26, 2009) (Ex. F) (granting stay of removal); *Valdiviezo-Galdamez v. Att'y Gen.*, 502 F.3d 285, 286-88 (3d Cir. 2007).

As explained herein, Petitioners make a "strong showing" of their likelihood of success on the merits, and it is undisputed that they face grave and irreparable injury should they return to El Salvador. The Government, on the other hand, faces no substantial injury should Petitioners be allowed to remain in the United States pending this appeal, and the public interest is served by allowing Petitioners to remain here while they pursue a full and fair opportunity to challenge the Board's decision.

A. Petitioners Are Likely To Succeed On The Merits

Petitioners are likely to succeed on the merits of their petition. The Board's order denying asylum for an abuse of discretion, with all subsidiary findings of fact is reviewed "for substantial support in the record." *Ngengwe v. Mukasey*, 543 F.3d 1029, 1032 (8th Cir. 2008). However, the Board's decision can be sustained, if at all, only on the rationale upon which it actually based its decision. *Hailemichael v. Gonzales*, 454 F.3d 878, 884 (8th Cir. 2006). Where the Board's "reasoning is insufficient" to sustain its decision, "the case must be remanded for further consideration." *Id.* Likewise, if the Board fails to consider evidence that detracts from the weight of the evidence offered to support its conclusions, its decision must be vacated. *See Zheng v. Gonzales*, 415 F.3d 955, 963 (8th Cir. 2005). And an error of law is, by definition, an abuse of discretion. *United States v. Two Elk*, 536 F.3d 890, 900 (8th Cir. 2008).

The Board denied Petitioners' applications for asylum after concluding that they had not established their membership in a particular social group for purposes of asylum. This decision is rife with unsupportable factual conclusions, mischaracterizes existing law, and misapplies even the Board's own erroneous legal standard. Any one of these errors require reversal.

1. The Board's decision must be reversed because it is based on an impermissible interpretation of the INA.

a. Whether a proposed group constitutes a "particular social group" "is a question of law reviewed de novo." *Ngengwe*, 543 F.3d at 1033. Although courts must defer to the Board's "reasonable interpretation of the phrase" "particular social group" under the precepts of *Chevron U.S.A., Inc v. NRDC*, 467 U.S. 837, 842-45 (1984), the

interpretation must be just that—reasonable. *Ngengwe*, 543 F.3d at 1033. An interpretation which is "arbitrary, capricious, or manifestly contrary to the statute" is not a reasonable interpretation, and therefore receives no deference. *Chevron*, 467 U.S. at 844. The singular definition of "particular social group" that the Board employed here is unreasonable, and its application is therefore both an error of law and an abuse of discretion. *See Two Elk*, 536 F.3d at 900.

b. For almost twenty-five years, the Board's decision in *Matter of Acosta*, 19 I. & N. Dec. 211 (B.I.A. 1985), has served as the touchstone for defining particular social groups for purposes of asylum. *Acosta* defines a "particular social group" as a group whose members share "a common, immutable characteristic" "that the members of the group either cannot change, or should not be required to change because it is fundamental to their individual identities or consciences." *Id.* at 233. As recently as 2006, the Board reaffirmed its commitment to *Acosta* in *Matter of C-A-*, 23 I. & N. Dec. 951 (B.I.A. 2006). *See Ngengwe*, 543 F.3d at 1033.

Despite that recent reaffirmation, the Board here departed abruptly from the settled standard and imposed a new "social visibility" requirement that has no basis in law. (AR005.) An agency's departure from a prior interpretation of an ambiguous statutory term that fails to provide a "reasoned analysis" explaining the departure is arbitrary, capricious, and an abuse of discretion. *Motor Vehicle Mfrs. Ass'n v. State Farm Mutual Auto. Ins.*, 463 U.S. 29, 56-57; *see also Nat'l Cable & Telecomms. Ass'n v.*

Brand X Internet Servs., 545 U.S. 967, 981 (2005).[2] The Board's novel requirement that individuals seeking asylum on account of their membership in a particular social group prove some undefined quantum of "social visibility" is just such a departure lacking reasoned analysis.

The Board claimed that its decision in a prior case, *Matter of C-A-*, "relied in part" on the Second Circuit's "social perception" approach. (AR009.) That is a disingenuous account of the Board's decision in *C-A*. In that case, the Board "reviewed the range of approaches to defining particular social group," including the "social perception" approach, and stated explicitly that it would "continue to adhere to the *Acosta* formulation." 23 I. & N. Dec. at 956. To the extent it is pertinent at all, the Board held that social perception or visibility is nothing more than "a relevant factor." *Id.* at 957.[3] The Eighth Circuit made the same point in *Malonga v. Mukasey*, 546 F.3d 546, 553 (8th Cir. 2008).[4]

---

[2] *FCC v. Fox Television Studios, Inc.*, 129 S. Ct. 1800 (2009), is not to the contrary. There, the Court held only that *State Farm* does not require an agency to "demonstrate to a court's satisfaction that the reasons for the new policy are *better* than the reasons for the old one." *Id.* at 1811. The agency still must "display awareness that it *is* changing position," and "must show that there are good reasons for the new policy." *Id.* Here, the Board did neither.

[3] Nor can the Board claim any greater support from its decision in *Matter of A-M-E- & J-G-U-*, 24 I. & N. Dec. 69 (B.I.A. 2007). Like *C-A-*, *A-M-E- & J-G-U-* holds that social visibility is merely "a factor" courts may consider. *Id.* at 74.

[4] The Board also asserted that United Nations High Commissioner on Refugees' ("UNHCR") guidance regarding application of the 1967 United Nations Protocol Relating to the Status of Refugees, Jan. 31, 1967, 19 U.S.T. 6223, 606 U.N.T.S. 268, ("1967 Protocol"),[4] to claims based on membership in a particular social group "endorse[s] an approach in which an important factor is whether the members of the group are perceived as a group by society." (AR0009) (citing *C-A-*, 23 I. & N. Dec. at 956). Although this repeats similar statements from *C-A-*, 23 I.& N. Dec. at 956, and

The Board's decision departs drastically and without any explanation from its own prior decisions recognizing individuals such as women who opposed female genital mutilation and homosexuals as members of particular social groups. *See Matter of Kasinga*, 21 I. & N. Dec. 357, 358 (B.I.A. 1996); *Matter of Toboso-Alfonso*, 20 I. & N. Dec. 819 (B.I.A. 1990). Proof of social visibility is entirely inconsistent with recognition of each of these groups, whose defining characteristics are inherently internal to the group members and which could not be observed by members of the relevant society unless and until the individual chose to make the characteristic known. The Board's novel social visibility requirement thus has far-reaching consequences.

The Board's "social visibility" requirement has no textual basis, and is therefore contrary to law. Its failure to provide a reasoned analysis for its departure both from *C-A-* and decisions recognizing particular social groups that lack any degree of social visibility is also arbitrary, capricious, and an abuse of discretion. *State Farm*, 463 U.S. at 56-57; *see also Brand X* , 545 U.S. at 981.

2. The Board's decision must be vacated because the Board failed to consider substantial record evidence establishing Petitioners' membership in a "particular social group," even as newly defined by the Board.

Incredibly, the Board asserted that "[t]here is little in the background evidence of record to indicate that Salvadoran youth who are recruited by gangs but refuse to join (or their family members) would be 'perceived as a group' by society, or that these

---

Matter of A-M-E- & J-G-U-, 24 I. & N. Dec. 69, 74 (B.I.A. 2007), such repetition does not make the Board's statement any less false or misleading. *See* Letter from United Nations High Commissioner for Refugees to Attorney General Eric Holder (Mar. 18, 2009) (Ex. G).

individuals suffer from a higher incidence of crime than the rest of the population." (AR010.) This statement ignores extensive, uncontradicted evidence Petitioners submitted speaking directly to the existence of their asserted social groups. This evidence demonstrated that:

- The consequences of refusing recruitment include "[t]hreats against the life of that person, threats to beat the person, [and] threats against the family of that person," (AR204);
- "There is a general knowledge of the [recruiting] methods that [gangs] use, … especially in the areas where the gangs are functioning," (AR204);
- The "general citizenry has been least affected" by the Salvadoran gang violence, (AR326);
- MS-13 killed the one other boy in Santa Maria who refused recruitment, (AR239-40);
- A boy whose body was found in a plastic bag had "refused to join [MS-13], and, for this, they killed him," (AR297-99); and
- Gang members opened fire on a group of soccer players in an effort "to kill one of the soccer players because he refused to join." (AR362.)

In the face of this evidence, the Board's "bald statement" that Petitioners "presented ... no evidence" in support of their particular claim reveals a failure on the part of the Board to consider and to account for this portion of the record, which "fairly detracts from" whatever evidence could support its decision. *Palavra v. INS*, 287 F.3d 690, 692-94 (8th Cir. 2003). The Board's decision must therefore be reversed. *Id.*; *see also Zheng v. Gonzales*, 415 F.3d at 963.

Indeed, the record evidence demonstrates Pablo and Rene's membership in a particular social group, even under the Board's new (erroneous) interpretation of that phrase.

Pablo and Rene seek asylum based on their membership in the particular social group of "Salvadoran youth who have been subjected to recruitment efforts by MS-13 and who have rejected or resisted membership in the gang based on their own personal moral and religious opposition to the gang's values and activities." (AR057.) This group is definite and is recognized generally in Salvadoran society.

Pablo and Rene base their social group on two characteristics: (1) their shared past experience of having been recruited by MS-13 and having refused its overtures, and (2) their moral and religious opposition to gangs. Petitioners' shared past experience of recruitment and refusal clearly sets Petitioners apart for special mistreatment in the future. Moreover, this shared past experience is "historical and therefore cannot be changed," and thus immutable. *Ngengwe*, 543 F.3d at 1033; *Acosta*, 19 I. & N. Dec. at 233; UNHCR Guidelines ¶ 12.

The Board regarded all past mistreatment suffered by Petitioners as nothing more than recruitment. (AR008 & n.2.) Even assuming that is so, it means—at most—that Petitioners cannot show *past persecution* on account of membership in a social group. But their past experiences *can* serve as the foundation for a fear of *future* persecution on account of that shared historical experience (having been aggressively recruited by, and refusing to join, the gang). *See Lukawago v. Ashcroft*, 329 F.3d 157, 172 (3d Cir. 2003). Nor does the common shared experience of recruitment "circularly define[]" the proposed social group "by the fact that it suffers persecution," *Rreshpja v. Gonzales*, 420 F.3d 551, 556 (6th Cir. 2005), because the feared future persecution—murder—cannot be seen as part of the ongoing effort to recruit Pablo and Rene.

The Board's analysis also ignores the additional defining element of Pablo and Rene's social group: opposition to MS-13 based on their religious and family values. These values are fundamental to Pablo and Rene's "identities and consciences," and they should not be required to change them. *Ngengwe*, 543 F.3d at 1033; *see also Fatin v. INS*, 12 F.3d 1233, 1241 (3d Cir. 1993) (noting that beliefs which are "so profound that [a petitioner] would choose to suffer the severe consequences of noncompliance" are fundamental to identity or conscience) (Alito, J.).

The record likewise demonstrates fully that Salvadoran society is well aware of the consequences that befall those who refuse to join MS-13. (AR204.) The record confirms that individuals who resist recruitment do, in fact, face retaliatory violence and a substantial threat of death at the hands of the gang, which distinguishes former recruits who have refused to join from the general public. (AR204-05, 239-40, 277, 362.) Whatever the impact of general gang criminality on Salvadorans in general, the fact that those who have refused recruitment have been set apart for particularly lethal treatment has given rise to a social awareness of the group. (*See* AR204.)

And although it is true that Pablo and Rene may not be immediately identifiable *to the general public* as members of this group, they are certainly no less "visible" to their persecutors than Cameroonian widows, *Ngengwe*, 543 F.3d at 1034, those escaping involuntary servitude by FARC guerillas, *Gomez-Zuluaga v. Att'y Gen.*, 527 F.3d 330, 345 (3d Cir. 2008), homosexuals, *Nabulwala v. Gonzales*, 481 F.3d 1115, 1118 (8th Cir. 2007); *Matter of Toboso-Alfonso*, 20 I. & N. Dec. at 819, educated, wealthy Colombian cattle farmers, *Tapiero de Orejuela v. Gonzales*, 423 F.3d 666, 671 (7th Cir. 2005),

escaped child soldiers, *Lukwago*, 329 F.3d at 183, or young women who have not undergone their tribe's practice of female genital mutilation out of opposition to the practice, *Matter of Kasinga*, 21 I. & N. Dec. at 358, are to their own persecutors.

Likewise, Pablo and Rene satisfy the Board's "particularity" requirement, which it explained as "whether the proposed description is sufficiently 'particular,' or is 'too amorphous ... to create a benchmark for determining group membership.'" (AR007 (quoting *Davila-Mejia v. Mukasey*, 531 F.3d 624, 628-29 (8th Cir. 2008)).) There is nothing vague or ambiguous about Pablo and Rene's asserted social group: Anyone who refuses recruitment on account of his or her beliefs is a member. This group requires no "sociological analysis" to determine how people view a particular trait, *Davila-Mejia*, 531 F.3d at 629, nor is it "subjective, inchoate, and variable." *Ucelo-Gomez v. Mukasey*, 509 F.3d 70, 73 (2d Cir. 2007). Whether Petitioners rejected recruitment on account of their personal beliefs is a matter of historic fact.

3. The Board's Failure To Address Silvia's Social Group Claim Requires Vacatur.

It is beyond dispute "that a nuclear family can constitute a social group." *Bernal-Rendon v. Gonzales*, 419 F.3d 877, 881 (8th Cir. 2005). Indeed, "[t]here can, in fact, be no plainer example of a social group based on common, identifiable and immutable characteristics than that of the nuclear family." *Gebremichael v. INS*, 10 F.3d 28, 36 (1st Cir. 1993). Yet the Board offered absolutely no explanation as to why Silvia's proposed social group of family members of those who have resisted recruitment by MS-13 is not a particular social group. Because the Board failed to provide any explanation as to why Silvia's family ties do not constitute a particular

social group, a remand is required. *See Malonga*, 546 F.3d at 552-53 (remanding where the record was insufficient to determine whether the Board applied the correct legal standard."); *see also Hailemichael*, 454 F.3d at 884.

B. Petitioners Face Irreparable Injury If Returned To El Salvador.

There is no question that Petitioners have a well-founded fear of serious harm—possibly death—upon return to El Salvador. Indeed, the IJ did "not for one minute doubt" the seriousness of the threats against Petitioners. (AR154-55.) The undisputed evidence establishes that gangs single-out those who refuse recruitment and their families for persecution. That is precisely what happened here. (AR204.) After they refused to join, MS-13 repeatedly threatened Pablo and Rene in increasingly ominous tones. (AR238, 277.) Likewise, MS-13 threatened to kill or rape Silvia, (AR273-74), and promised that she would find her brothers' bodies in a dumpster if they did not join. (AR236-37.) And MS-13 brutally murdered the only other boy in their neighborhood to refuse MS-13's recruitment efforts. (AR239-40, 277.) The record demonstrates that this fate is to be expected for refusing to join MS-13. (AR297-99, 362.) A substantial risk of such harm constitutes irreparable injury. *See Belbacha v. Bush*, 520 F.3d 452, 459 (D.C. Cir. 2008); *Tesfamichael v. Gonzales*, 411 F.3d 169, 178 (5th Cir. 2005).

C. A Stay Is In The Public Interest.

A stay will not harm the Government and it is in the public interest. Petitioners are not a flight risk. They have lived for the past five years with their mother, who is in this country legally. Indeed, when Pablo learned that ICE had arrested Silvia and Rene and were looking for him, he promptly presented himself to immigration

authorities. The Government clearly recognizes this as well, as ICE released Petitioners on their own recognizance to their mother over five years ago. During this time, Petitioners have scrupulously fulfilled all of their duties, notifying ICE of all changes of address and attending all hearings.

Additionally, a stay will not impose any financial burden on the Government, as Petitioners will continue to live with and be supported by their mother, as they have done since shortly after they arrived in the United States. Moreover, "the public interest in having the immigration laws applied correctly and evenhandedly, justifies the issuance of a stay of the order of removal pending resolution of the merits of the petition for review." *Tesfamichael*, 411 F.3d at 178; *see also Nken*, 129 S. Ct. at 1762.

CONCLUSION

For the reasons stated, Petitioners respectfully request that your Honor stay their removal proceedings pending the Eighth Circuit's resolution of their petition for review.

Respectfully submitted,

Richard P. Bress
Lori Alvino McGill
Counsel of Record
LATHAM & WATKINS LLP
555 Eleventh Street, N.W., Suite 1000
Washington, DC 20004-1304
(202) 637-2200

Counsel for Applicants

July 14, 2009

No. _____

IN THE

Supreme Court of the United States

SILVIA EULALIA GONZALEZ-MIRA, ET AL.,
PETITIONERS,

V.

ERIC H. HOLDER, JR.,
RESPONDENT.

EMERGENCY APPLICATION TO STAY REMOVAL PENDING APPEAL

CERTIFICATE OF SERVICE

I, Lori Alvino McGill, a member of the Bar of this Court, hereby certify that on July 14, 2009, I caused copies of this Emergency Application To Stay Removal Pending Appeal in the above-captioned case to be mailed, first-class postage prepaid, to:

Elena Kagan
Solicitor General of the United States
Room 5614
U.S. DEPARTMENT OF JUSTICE
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Sharon Michele Clay
U.S. DEPARTMENT OF JUSTICE
Civil Division, Office of Immigration Litigation
Ben Franklin Station
P.O. Box 878
Washington, DC 20044-0000

Scott Baniecke
U.S. IMMIGRATION & NATURALIZATION SERVICE
2901 Metro Drive
Bloomington, MN 55425-0000

Karen Yolanda Drummond
U.S. DEPARTMENT OF JUSTICE
Civil Division, Office of Immigration Litigation
Ben Franklin Station
P.O. Box 878
Washington, DC 20044-0000

Richard M. Evans, Assistant Director
U.S. DEPARTMENT OF JUSTICE
Civil Division, Office of Immigration Litigation
Ben Franklin Station
P.O. Box 878
Washington, DC 20044-0000

I further certify that all parties required to be served have been served.

_____

Lori Alvino McGill
LATHAM & WATKINS LLP
555 11th Street, N.W., Suite 1000
Washington, DC 20004
(202) 637-2109