IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

ABDULLAH ABRIQ, on behalf of himself and all others similarly situated, Plaintiff, v. THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, Defendant.	Case No. 3:17-cv-00690 Hon. William L. Campbell, Jr. Magistrate Judge Barbara D. Holmes

BRIEF OF AMICUS CURIAE IMMIGRATION REFORM LAW INSTITUTE IN SUPPORT OF DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

INTEREST OF *AMICUS CURIAE*

The Immigration Reform Law Institute (IRLI) is a non-profit 501(c)(3) public interest law firm dedicated to litigating immigration-related cases on behalf of, and in the interests of, United States citizens and legal permanent residents, and also to assisting courts in understanding and accurately applying federal immigration law. IRLI has litigated or filed *amicus curiae* briefs in a wide variety of cases, including *Wash. All. of Tech. Workers v. U.S. Dep't of Homeland Sec.*, 74 F. Supp. 3d 247 (D.D.C. 2014); *Save Jobs USA v. U.S. Dep't of Homeland Sec.*, No. 16-5287 (D.C. Cir. filed Sept. 28, 2016); *Keller v. City of Fremont*, 719 F.3d 931 (8th Cir. 2013); *Texas v. United States*, 787 F.3d 733 (5th Cir. 2015) and *Hawaii v. Trump*, 585 U.S. ___ (2018). IRLI is considered an expert in immigration law by the Board of Immigration Appeals, which has solicited *amicus* briefs, drafted by IRLI staff, from the Federation for American Immigration Reform, of which IRLI is a supporting organization, for more than

twenty years. *See*, *e.g.*, *Matter of Silva-Trevino*, 26 I. & N. Dec. 826 (B.I.A. 2016); *Matter of C-T-L-*, 25 I. & N. Dec. 341 (B.I.A. 2010); and *In re Q- T- -- M- T-*, 21 I. & N. Dec. 639 (B.I.A. 1996).

STATEMENT OF FACTS

Plaintiff is a foreign national who was admitted to the United States on an F-1 student visa. Def.'s Statement of Undisputed Material Facts (SUMF) at No. 1, ECF No. at 203. On April 6, 2017, Immigration and Customs Enforcement (ICE) officers took custody Plaintiff. SUMF at No. 9. Defendant was not involved in Plaintiff's arrest. SUMF at No. 9. ICE officers took Plaintiff to the ICE office after seizing him. SUMF at No. 10. ICE issued Plaintiff two forms: (1) a Form I-200 administrative warrant, which specifically states that ICE has found probable cause to believe that Plaintiff is removable from the country, and (2) a Form I-862 Notice to Appear. SUMP at Nos. 11-12. On April 6, 2017, ICE requested that Defendant detain Plaintiff and because Plaintiff was seized for immigration purposes, Defendant was not provided a copy of the arrest warrant; however, a Form I-203 "Order to Detain" was generated. *Id.* at No. 16; Pl.'s Statement of Undisputed Material Facts at No. 43, ECF 209. Defendant began detaining Plaintiff on April 6, 2017, maintaining custody of Plaintiff until April 11, 2017, when ICE removed Plaintiff from Defendant's custody to take Plaintiff to an ICE facility. SUMF at No. 21.

ARGUMENT

Previously, this Court found that a state or local jurisdiction's compliance with an Immigration and Custom Enforcement (ICE) detainer probably violates the Fourth Amendment unless the seizure meets the Fourth Amendment's familiar requirements for making a criminal arrest, including probable cause to believe a crime has been committed. Op. 9, ECF No. 136.

Additionally, this Court rejected the assertion that Defendant may cooperate with ICE without a written agreement under 8 U.S.C. § 1357(g)(10)(B), stating that detention cannot be based on a removal order or ICE detainer. *Id.* at 8 (citing *Lopez-Aguilar v. Marion County Sherriff's Department*, 296 F. Supp. 959, 973 (S.D. Ind. 2017)). Since that decision, however, the U.S. Court of Appeals for the Fifth Circuit has found that properly dispended detainer requests do not violate the Fourth Amendment. *City of El Cenizo v. Texas*, 890 F.3d 164 (5th Cir. 2018). The plaintiffs in that case, a coalition of cities in Texas, law enforcement officers, a County Judge, and advocacy groups, have not sought review in the U.S. Supreme Court, and their time for doing so has passed.

In light of this persuasive circuit court precedent, this Court should reconsider its tentative ruling that compliance with ICE detainer requests violates the Fourth Amendment, and grant the Defendant's motion for summary judgment. That compliance with detainers is indeed lawful under the Fourth Amendment can be shown with a two-step argument: 1) the federal government may constitutionally enforce the nation's immigration laws by detaining removable aliens, and 2) it is reasonable for local officials both to cooperate with the federal government in this endeavor and to rely on the federal government's determination that there is probable cause to believe that an individual is a removable alien.

A. Federal Authorities Can Constitutionally Arrest And Detain Individuals Suspected Of Being In The United States Illegally.

The federal government has plenary power over immigration derived from its powers over naturalization and foreign affairs, and also from the inherent rights of the United States as a sovereign nation. *Arizona v. United States*, 567 U.S. 387, 394-96 (2012). Congress created a comprehensive immigration statutory scheme in the Immigration and Nationality Act (INA), which charges the Secretary of Homeland Security with the "administration and enforcement" of

immigration laws and the promulgation of regulations as necessary. 8 U.S.C. § 1103(a)(1), (a)(3). This scheme grants the Department of Homeland Security (DHS)[1] authority to arrest and detain certain aliens, both with and without warrants. 8 U.S.C. §§ 1226(a), 1231, 1357; *see also Comm. for Immigrant Rights v. Cty. of Sonoma*, 644 F. Supp. 2d 1177, 197-99 (N.D. Cal. 2009) (recognizing the authority of the agency to use detainers outside of the controlled substance violations context).

The Fourth Amendment provides that "[t]he right of the people to be secure . . . against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the . . . the persons or things to be seized." U.S. Const. amend. 4. Thus, "the touchstone of the Fourth Amendment is reasonableness . . . . Reasonableness, in turn, is measured in objective terms by examining the totality of the circumstances." *Ohio v. Robinette*, 519 U.S. 33, 39 (1996) (internal quotation and citation omitted).

For criminal arrests, the Fourth Amendment has been interpreted generally to require either a warrant issued by a neutral and detached magistrate and based on probable cause to believe a crime has been committed or, in exigent circumstances, a police officer's warrantless possession of probable cause to believe a crime has been committed. *Terry v. Ohio*, 392 U.S. 1 (1968).

Outside of the criminal-arrest context, however, the Fourth Amendment's requirement of reasonableness is applied differently. *See, e.g.*, *Blackie's House of Beef, Inc. v. Castillo*, 659 F.2d 1211 (D.C. Cir. 1981) (holding that a civil, executive warrant to search a commercial

[1] The responsibilities of the Attorney General were transferred to the Department of Homeland Security. 6 U.S.C. §§ 202, 291, 557.

business for immigration purposes met Fourth Amendment standards). Indeed, to begin with, seizures of aliens pursuant to administrative warrants issued by executive officials are presumptively reasonable under the Fourth Amendment, because such seizures have been common practice since the eighteenth century. *See Abel v. United States*, 362 U.S. 217, 232-33 (1960) ("Statutes providing for deportation have ordinarily authorized the arrest of deportable aliens by order of an executive official. The first of these was in 1798.").

More recently, the Supreme Court developed the special needs doctrine for areas where applying requirements suitable in the criminal-arrest context would be unreasonable. *See, e.g.*, *New Jersey v. T.L.O.*, 469 U.S. 325 (1985) (applying the special needs doctrine to the search of a high school student on school grounds). Under the special needs doctrine, a search or seizure can be constitutional "when special needs, beyond the normal need for law enforcement, make the [criminal] warrant and probable-cause requirement impracticable." *Vernonia Sch. Dist. 47J v. Acton*, 515 U.S. 646, 653 (1995) (holding that drug testing student athletes fell under the special needs doctrine). The Supreme Court has applied the special needs doctrine to both searches and seizures. *See, e.g.*, *id.*; *New York v. Burger*, 482 U.S. 691 (1987) (permitting administrative inspections in "closely regulated" industries); *Skinner v. Ry. Labor Execs' Ass'n*, 489 U.S. 602 (1989) (allowing the coerced drug testing of railroad employees after an accident under the special needs doctrine). Under the special needs doctrine, a seizure's compliance with the Fourth Amendment depends on "the gravity of the public concerns served by the seizure, the degree to which the seizure advances the public interest, and the severity of the interference with individual liberty." *Brown v. Texas,* 443 U.S. 47, 51 (1979). *See also, e.g., Illinois v. Lidster,* 540 U.S. 419, 426-28 (2004) (balancing these factors in finding a checkpoint stop reasonable); *Mich. Dep't of State Police v. Sitz,* 496 U.S. 444, 450-55 (1990) (same); *United States v.*

Martinez-Fuerte, 428 U.S. 543, 556-64 (1976) (same).

Though the special needs doctrine has not yet been applied to federal seizures of aliens, its highly general wording—amounting to a generalized test for the reasonableness of civil seizures—is well adapted to that purpose. When so applied, consideration of the above factors shows unmistakably that federal seizures of illegal aliens comport with the special needs doctrine, and thus (very likely, at least) with the Fourth Amendment.

To take the third factor—the severity of the interference with individual liberty—first, it is true that, when an individual is held in detention, his individual liberty is severely interfered with. But an illegal alien's right to individual liberty within the borders of this country is severely circumscribed to begin with. Such an alien has no right to be in the country at all, and thus, at most, a reduced right to move about freely within it. As a U.S. House of Representatives conference committee report in 1996 stated: "[I]mmigration law enforcement is as high a priority as other aspects of Federal law enforcement, and illegal aliens do not have the right to remain in the United States undetected and unapprehended." H.R. Rep. No. 104-725, at 383 (1996) (Conf. Rep.). *See also League of United Latin Am. Citizens v. Bredesen,* No. 3:04-0613, 2004 U.S. Dist. LEXIS 26507 (M.D. Tenn. Sept. 28, 2004) (rejecting a challenge, premised on the right to travel, to a state law barring illegal aliens from possessing drivers' licenses; "given their status, illegal aliens do not have a constitutional right to move freely about the country or the state"); *John Doe No. 1 v. Ga. Dep't of Pub. Safety,* 147 F. Supp. 2d 1369, 1374 (N.D. Ga. 2001) ("[T]he right to travel is derived from federal citizenship. Regardless of which passage in the Constitution the right to travel emanates from, the obvious correlation to national citizenship is fatal to Plaintiff's argument that a fundamental right is at stake in his entitlement to a Georgia driver's license. Plaintiff's presence in this country is unlawful. In fact, it would be a federal

crime for someone knowingly to transport Plaintiff within the United States.") (citing 8 U.S.C. § 1324(a)(1)(A)(ii)). And, *a fortiori,* even with respect to lawful permanent resident aliens, the Supreme Court has repeatedly held that Congress may make rules impacting their liberty interests that would be unacceptable if made for citizens. *Demore v. Kim,* 538 U.S. 510, 521-22, 531 (2003) (holding that the detention of a deportable lawful permanent resident prior to removal did not violate due process), *and cases cited therein.*

The other special needs factors—the gravity of the public concerns served by the seizure, and the degree to which the seizure advances the public interest—militate strongly in favor of reasonableness. For example, in 2003, the Supreme Court found that criminal aliens (a large subset of aliens subject to detainers) were a rapidly rising percentage, already comprising 25%, of the federal prisoner population, and that most criminal aliens who were released committed more crimes before their removal. *Kim,* 538 U.S. at 518-519. Releasing removable criminal aliens who have completed their sentences back onto the streets, where they are likely to commit more crimes, clearly is contrary to the public interest.

More generally, a sovereign nation has the power to regulate foreign policy, *Arizona*, 567 U.S. at 395, and that power includes the sovereign's power to protect itself by identifying those who are within its borders unlawfully and removing them. *Harisiades v. Shaughnessy*, 342 U.S 580, 587-88 (1952) ("[Expulsion] is a weapon of defense and reprisal confirmed by international law as a power inherent in every sovereign state.") It obviously is of grave public concern that this nation retain its full sovereign right to control its borders, and that right is meaningless without the constitutional power to exercise it. Currently, there are an estimated 12.5 million illegal aliens in the United States. Matthew O'Brien, Spencer Raley & Jack Martin, *The Fiscal Burden of Illegal Immigration on United States Taxpayers (2017)* 3, Fed'n for Am. Immigration

Reform (2017), https://fairus.org/sites/default/files/2017-09/Fiscal-Burden-of-Illegal-Immigration-2017.pdf. If more stringent requirements than those in current law were imposed on their detention by federal agents—such as a requirement for a judicial warrant—the ability of this country to enforce its immigration laws, as a practical matter, would be at an end.

For these reasons, the detention of illegal aliens by federal agents pursuant to current federal law does not violate the Fourth Amendment. *See, e.g.*, *Au Yi Lau v. INS*, 445 F.2d 217, 224 (D.C. Cir. 1971) (finding probable cause for the warrantless arrest of illegal aliens who had told immigration officers they had "jumped ship" and had attempted to flee when approached).

B. States Do Not Violate The Fourth Amendment By Assisting The Federal Government In Detaining Individuals Thought To Be In The United States Illegally.

In finding that detainer compliance probably violated the Fourth Amendment, this Court relied on a handful of cases in federal courts across the country. All of these cases are distinguishable, overruled, or otherwise lack persuasive value. Recently, moreover, the Fifth Circuit has held that detainer compliance is constitutional.

In that holding, the Fifth Circuit was quite correct. Federal law encourages voluntary cooperation by state and local authorities with the federal government in the detention of aliens. The standard for whether either kind of cooperation is reasonable under the Fourth Amendment is whether the state or local authorities have reasonably relied on the probable cause determination of the federal government. Because it is reasonable for state or local authorities to rely on the probable cause determinations of the federal government in detainer requests, state or local authorities do not violate the Fourth Amendment by complying with such requests.

1. Various cases this Court cited can be distinguished.

In its opinion on Defendant's motion to dismiss, this Court relied on several federal court decisions in ruling that probable cause is required for detainer compliance. Op. at 9-11 (citing

Ochoa v. Campbell, 266 F. Supp. 3d 1237 (E.D. Wash 2017), *Miranda-Olivares v. Clackamas County*, No. 3:12-cv-02317-ST, 2014 U.S. Dist. LEXIS 50340 (D. Or. April 11, 2014), and *Morales v. Chadbourne*, 793 F.3d 208 (1st Cir. 2015)). None of these cases, however, concerned the current detainer policy, under which detainer requests set forth probable cause and are accompanied by a valid administrative warrant. *See Lopez-Lopez*, 2018 U.S. Dist. LEXIS 116898, at *11 (distinguishing these cases from the case before that court, which was under the current policy). Additionally, this Court relied on *Mercado v. Dallas County*, 229 F. Supp. 3d 501 (N.D. Tex. 2017) and *Lopez-Aguilar v. Marion County Sheriff's Dep't*, 296 F. Supp. 3d 959 (S. D. Ind. 2017), to reach its further conclusion that the probable cause required under the Fourth Amendment is probable cause of criminal activity. Op. at 8, 9 n.3. Since this Court's opinion, however, the Fifth Circuit has expressly overruled *Mercado*, *City of El Cenizo*, 890 F.3d at 188, and *Lopez-Aguilar* is a consent decree, merely approving a Fourth Amendment analysis that was drafted and agreed to by the parties.

By contrast, a U. S. court of appeals has roundly held that compliance with properly executed immigration detainers that assert probable cause that an alien is removable does not violate the Fourth Amendment. *See City of El Cenizo*, 890 F.3d at 187-89. The Fifth Circuit began its analysis with the obvious point that federal immigration officials may seize aliens based on an administrative warrant that includes a probable cause determination that the individual is removable. *Id.* at 187. Therefore, if the detainer policy includes a probable cause determination, under the collective-knowledge doctrine, local law enforcement may rely on these probable cause determinations by the agency. *Id.* "Compliance with an ICE detainer thus constitutes a paradigmatic instance of the collective knowledge doctrine, where the detainer request itself provides the required 'communication between the arresting officer and an officer

who has knowledge of all the necessary facts.'" *Id.* at 187-88 (quoting *United States v. Ibarra*, 493 F.3d 526, 530 (5th Cir. 2007)).

The Fifth Circuit then addressed the misconception that a probable cause determination in immigration must concern criminal activity. "Courts have upheld many statutes that allow seizures absent probable cause that a crime has been committed," because "civil removal proceedings necessarily contemplate detention absent proof of criminality." *Id.* at 188. So, too, immigration removal proceedings "necessarily contemplate" detention of an alien absent probable cause of a crime. *Id.* (citing *Demore*, 538 U.S. at 531).

2. Under 8 U.S.C. § 1357(g)(10)(B), state and local jurisdictions may cooperate with ICE officials in detaining aliens.

Through § 1357(g)(1), Congress has provided a means by which state or local officials may assume the functions and powers of an immigration officer, and separately, in § 1357(g)(10), Congress has provided that state and local officials may cooperate with federal immigration officers without assuming immigration functions or powers.

Title 8 U.S.C. § 1357(g)(1) outlines how state and local law enforcement officers may become trained and deputized to perform immigration officer duties. Through ICE, the federal government may enter into written agreements with state and local law enforcement officers to perform immigration officer functions related to investigation, apprehension, or detention. 8 U.S.C. § 1357(g)(1)-(2). Such an agreement is commonly referred to as a 287(g) agreement.

If a state or local employee or officer merely "cooperates" with federal officials, however, no written agreement is necessary. *Id.* at § 1357(g)(10)(B). Without an agreement, state and local law enforcement officers may cooperate with ICE in the identification, apprehension, *detention*, or removal of aliens. *Id.* When a jurisdiction cooperates with ICE in any of these actions, the jurisdiction is merely complying with ICE's request for assistance.

Whether an action by state or local officials constitutes enforcement or cooperation turns on whether the conduct is undertaken unilaterally or at the request of ICE. Unilateral action by state or local officials in the area of immigration, to be done correctly, requires specialized training. *Arizona*, 567 U.S. at 409 ("There are significant complexities involved in enforcing federal immigration law, including the determination of whether a person is removable. As a result, agreements reached with the Attorney General must contain written certification that officers have received adequate training to carry out the duties of an immigration officer."). Thus, actions performed without "express direction or authorization by federal statute or federal officials" do not constitute cooperation, but rather enforcement requiring a Memorandum of Understanding. *Santos v. Frederick Cty. Bd. of Comm'rs*, 725 F.3d 451, 465 (4th Cir. 2013) (determining that the unilateral seizure of an alien prior to ICE's direction was unconstitutional).

Several Courts of Appeals are in agreement that "cooperating" under § 1357(g)(10)(B) requires a "federal request for assistance." *City of El Cenizo*, 890 F.3d at 179. The acts of identifying an illegal alien, communicating with immigration officials, and detaining the illegal alien until immigration officials could take custody are not unilateral in nature and do not require a written agreement. *United States v. Ovando-Garzo*, 752 F.3d 1161, 1164-65 (8th Cir. 2014); *United States v. Quintana*, 623 F.3d 1237, 1242 (8th Cir. 2010) (holding that a state officer could, under § 1357(g)(10)(B) detain an alien at the request of ICE and maintain custody until ICE could take the alien the following day). "Their cooperation must be pursuant to a 'request, approval, or other instruction from the Federal Government.'" *Lopez-Lopez*, 2018 U.S. Dist. LEXIS 116898 at *3. By this test, if an action is performed at the express direction of or with express authorization by ICE, it constitutes cooperation rather than enforcement.

Detaining individuals pursuant to detainers or a request for detention after ICE has taken

custody is not unilateral conduct and is properly categorized as cooperation. *Id.* at *13. In a detainer case, after an individual is arrested, the local jurisdiction communicates with immigration officials. 8 U.S.C. § 1357(g)(10)(A). ICE makes the determination of whether there is probable cause to believe the person is in the country illegally through objective means such as biometric information. If there is probable cause, ICE then initiates the detainer, a request to the local jurisdiction to cooperate in detaining the individual for an additional 48 hours. The local jurisdiction cannot act without ICE's detainer; therefore, the local jurisdiction does not make a unilateral decision about the individual's immigration status or removability.

As the Fifth Circuit held in *El Cenizo,* complying with a detention request is not unilateral action by local law enforcement because the ICE detainer limits the scope of the local officer's involvement to that which is requested by ICE. *See City of El Cenizo*, 890 F.3d at 189. ICE makes the underlying determination of removability, and the local jurisdiction merely relies on and complies with ICE when it voluntarily executes a detainer request. *Id.*

In a detention cooperation case, such as the instant case, if ICE has taken custody of an alien and then requests that a local jurisdiction temporarily provide a detention facility, ICE has performed all necessary immigration functions by being the entity that makes probable cause and removability determinations. This process, as well as the detainer process, clearly falls within the statutory language of 8 U.S.C. § 1357(g)(10)(B), and is voluntary cooperation with ICE. A written agreement is not necessary for local jurisdictions to perform these common detention functions that come at the request of ICE. Only where state and local law enforcement officers act unilaterally in performing the functions of an immigration officer are formal written agreements necessary. 8 U.S.C. § 1357(g)(1). *See also* § 1357(g)(10) ("Nothing in this subsection shall be construed to require an agreement under this subsection . . . .").

3. State and local officials are entitled to rely on probable cause determinations made by the federal government in detainer requests.

The cooperation of state or local authorities with the federal government in honoring detainers generally comports with the Fourth Amendment for at least two reasons. To begin with, any finding that the laws authorizing such cooperative assistance are unconstitutional would conflict with the Supreme Court's holding in *Arizona* that these very laws preempted, under the Constitution's Supremacy Clause, Arizona's law conferring power on its state officers to enforce immigration laws unilaterally. *See Arizona*, 567 U.S. at 410. If unconstitutional, these federal laws would lack the preemptive force the Supreme Court ascribed to them, since only those laws "made in Pursuance" of the Constitution are "the supreme Law of the Land." U.S. Const. art. VI, cl. 2.

Secondly, where, as here, federal law authorizes state cooperation in federal law enforcement, such cooperation is not contrary to the Fourth Amendment if state officials reasonably rely on information provided by the federal government. For example, under the Interstate Agreement on Detainers Act, states may take custody, at the request of the federal government, of persons the federal government believes have violated federal criminal law. *See* Interstate Agreement on Detainers Act., Pub. L. 91-538, 84 Stat. 1397 (1970); Tenn. Code. § 40-31-101.

When state officials detain such individuals pursuant to this law, they do not violate the Fourth Amendment if they reasonably rely on information provided by the federal government. Under the collective knowledge doctrine, the knowledge of an investigating officer is imputed to each officer participating in an arrest, and the arresting officer may rely on the probable cause gathered by other officers to arrest a suspect. *United States v. Hensley,* 469 U.S. 221, 231 (1985); *United States v. Ortiz,* 781 F.3d 221, 228 (5th Cir. 2015) ("[I]t is not necessary for the

arresting officer to know all of the facts amounting to probable cause, as long as there is some degree of communication between the arresting officer and an officer who has knowledge of all the necessary facts").

When state or local officials make an arrest or detain an individual for a federal offense, they are entitled to rely on information pertaining to probable cause provided by the federal government. Such reliance is especially reasonable in areas where the federal government possesses special expertise or sources of information that the state or local officials lack. For example, federal law provides that "[a]ny civil officer having authority to apprehend offenders under the laws of the United States or of a State, Commonwealth, possession, or the District of Columbia may summarily apprehend a deserter from the armed forces and deliver him into the custody of those forces." 10 U.S.C. § 808. Under this law, when the information that an individual is a deserter comes from federal military authorities, local officials are entitled to rely on it. *See, e.g., State v. Somfleth,* 492 P.2d 808, 809-11 (Or. Ct. App. 1972) (holding that when state police arrested a motorist after receiving information from military authorities that he was a deserter, the arrest was valid under the Fourth Amendment because the police were entitled to rely on that information, even though it later turned out to be inaccurate).

Federal officials have special expertise, which state and local officials lack, in determining whether an individual is in the country illegally, and local officials complying with such a request are entitled to rely on the information provided by federal authorities. *See, e.g.*, *People v. Xirum*, 993 N.Y.S.2d 627, 631 (N.Y. Sup. Ct. 2014) ("[T]he [Department of Corrections] had the right to rely upon the very federal law enforcement agency charged under the law with the identification, apprehension, and removal of illegal aliens from the United States") (internal quotation omitted).

CONCLUSION

For the foregoing reasons, this Court should grant Defendant's motion for summary judgment.

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CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2018 I electronically filed a copy of the foregoing proposed Brief *Amici Curiae* using the CM/ECF System for the United States District Court for the Middle District of Tennessee, which will send notification of that filing to all counsel of record in this litigation. The foregoing document and attachment was served via the Court's CM/EFC system on the following:

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