



September 21, 2026

VIA CM/ECF

Lyle W. Cayce
Clerk of the Court
United States Court of Appeals for the Fifth Circuit
F. Edward Hebert Building
600 S. Maestri Place
New Orleans, LA 70130-3408

**Re: *Sosnava Rodriguez v. Ortega*, No. 26-50183
Villegas Angel v. Mullin, No. 26-50219
Gomez Alvarado v. Vergara, No. 26-50221
Rule 28(j) Letter**

Dear Mr. Cayce:

Petitioners-Appellees notify the Court of *Padilla v. U.S. Immigr. & Customs Enf.*, No. 24-2801, Dkt.42.1 (9th Cir. Sept. 21, 2026), where the Ninth Circuit rejected the “vast expansion” of the “entry fiction” advocated by Respondents-Appellants here. Slip op. at 45.

As the full panel explained, noncitizens in this country, “legally or not, generally are within the protections of the Fifth Amendment’s Due Process Clause,” because “physical entry,” not “legal admission,” governs “the scope of a noncitizen’s due process rights.” *Id.* at 27, 29, 36. The court held that *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103 (2020), “did not trample decades of precedent establishing” this principle, rejecting Respondents-Appellants’ assertion, SB.56, that noncitizens who entered the country unlawfully “have no procedural due process rights beyond those conferred by statute,” slip op. 25. Instead, *Thuraissigiam* recognized that the entry fiction applies “only to individuals on the threshold of initial entry, not individuals well within the country’s borders and present for days, weeks, months, or years.” *Id.* at 27.

The majority also held that the entry fiction only limits noncitizens’ procedural due process rights regarding *admission*—not *detention*. Slip. op. 38–45. “Unlike plenary power over admission, the principle that the government cannot

arbitrarily detain people, including noncitizens, has been a central tenet of British and American legal traditions since the thirteenth century.” *Id.* at 38–39. Indeed, “protection against restrictions on ‘liberty’ has been central to our national identity,” and “freedom from detention was understood as the foundation of all other rights.” *Id.* at 29–41. “As Blackstone proclaimed, detention ungoverned by adequate procedures is ‘a dangerous engine of arbitrary government.’” *Id.* at 44 (citation omitted). From common law through the Founding, these principles applied equally to noncitizens, who “could and did” challenge civil detention. *Id.* at 41–44. Thus, plenary authority over admission cannot limit noncitizens’ right to challenge detention. *Id.* at 45.

As in *Padilla*, the Court should conclude that “[n]oncitizens who arrive illegally and are found away from the border well after arrival are protected from arbitrary detention in violation of the Due Process Clause.” Slip. op. 45.

Respectfully submitted,

/s/ Stephanie E. Norton
Stephanie E. Norton

Counsel for Petitioners-Appellees

cc: Counsel of Record, via CM/ECF

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing letter complies with the type-volume limitations of Fed. R. App. P. 28(j) because the body contains 350 words. This letter also complies with the typeface and type style requirements of Fed. R. App. P. 32(a)(5)(A) because this letter was prepared in a proportionally spaced typeface using Word 14-point Times New Roman.

/s/ Stephanie E. Norton

Stephanie E. Norton

Counsel for Petitioners-Appellees

CERTIFICATE OF SERVICE

I hereby certify that on September 21, 2026, I filed the foregoing document using the Court's CM/ECF system, which caused all counsel of record to be served with a copy of the filing.

/s/ Stephanie E. Norton

Stephanie E. Norton

Counsel for Petitioners-Appellees