No. 21-40618

In the United States Court of Appeals

for the Fifth Circuit

The STATE OF TEXAS and the STATE OF LOUISIANA,
Plaintiff-Appellees,

v.

The UNITED STATES OF AMERICA, et al.,
Defendant-Appellants.

On Appeal from the United States District Court
for the Southern District of Texas, Victoria Division
Civil Action No. 6:21-cv-00016

AMICUS CURIAE BRIEF OF THE STATES OF ARIZONA, ALABAMA, ARKANSAS, FLORIDA, GEORGIA, INDIANA, KANSAS, MISSISSIPPI, MISSOURI, MONTANA, NEBRASKA, OHIO, SOUTH CAROLINA, SOUTH DAKOTA, UTAH, AND WEST VIRGINIA IN OPPOSITION TO DEFENDANT-APPELLANTS' EMERGENCY MOTION FOR STAY PENDING APPEAL

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Dated: August 30, 2021

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INTERESTS OF AMICI

The Amici States and their citizens continue to suffer significant costs from illegal immigration—including billions of dollars in new expenses relating to law enforcement, education, and healthcare as a direct result of Defendants' failures to enforce immigration law. Those harms are exacerbated by the Biden Administration's increasingly brazen disrespect for the legal requirements in general, and those relating to immigration in particular.

As sovereigns within our federal system of dual sovereigns, the States also have an interest in ensuring that the federal government respects the rule of law. Defendants' challenged policies here, however, reflect a corrosive disrespect for that bedrock principle.

ARGUMENT

I. The Situation At The Border Worsens Every Day That The Interim Guidance Continues In Force

The Interim Guidance's severe restrictions on removals is leading to an increase in attempted border crossings because it eliminates one of the major disincentives to being caught. This has, in turn, increased the Amici States' enforcement expenses related to the flow and traffic of individuals.

DHS itself has recently admitted in a sworn declaration that it is "encountering record numbers of noncitizens ... at the border," which "ha[s] strained DHS operations and caused border facilities to be filled beyond their

normal operating capacity." Exhibit 1, Declaration of David Shahoulian (DHS Assistant Secretary for Border and Immigration Policy) at 1-2, *Huisha-Huisha v. Mayorkas*, No. 21-cv-100 (D.D.C. August 2, 2021).

DHS's own statistics reveal the unprecedented surge of unlawful migration and the collapse of DHS's control of the border. July 2021 had the highest number of encounters in *decades*. *Id*. at 7 ("[T]he highest monthly encounter number since Fiscal Year 2000.") The most recent data for July's show the trend since 2018 (copied below). Notably, the number of encounters in July 2021 was more than *five times* the July 2020 and July 2018 numbers, and roughly *2.5 times* July 2019.

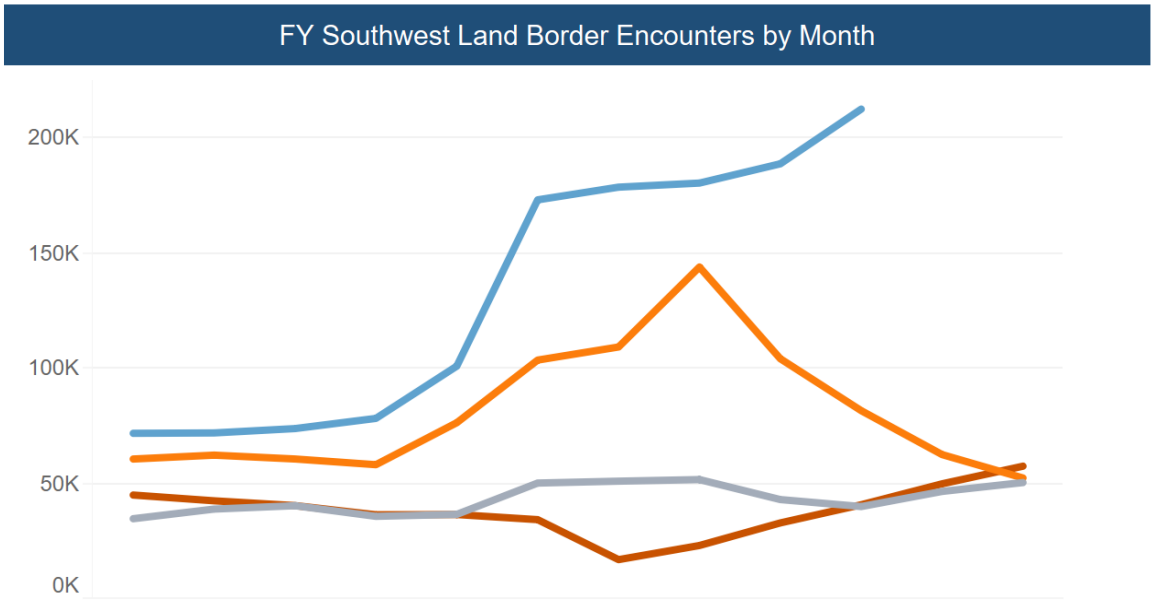
The Amici States are thus facing an unprecedented crisis, and every day that the Interim Guidance remains in force further compounds the consequences of it.

U.S. Customs and Border Protection

U.S. Customs and Border Protection (CBP) Encounters
US Border Patrol (USBP) Title 8 Apprehensions,
Office of Field Operations (OFO) Title 8 Inadmissible Volumes,
and Title 42 Expulsions by Fiscal Year (FY)

FY: All | Component: All | Demographic: All
Citizenship Grouping: All | Title of Authority: All | Reset Filters

FY 2018 2019 2020 2021 (FYTD)



	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	Total
2021 (FYTD)	71,944	72,113	73,995	78,417	101,098	173,283	178,797	180,569	188,934	212,672			1,331,822
2020	45,139	42,643	40,565	36,585	36,687	34,460	17,106	23,237	33,049	40,929	50,014	57,674	458,088
2019	60,781	62,469	60,794	58,317	76,545	103,731	109,415	144,116	104,311	81,777	62,707	52,546	977,509
2018	34,871	39,051	40,519	35,905	36,751	50,347	51,168	51,862	43,180	40,149	46,719	50,568	521,090

Source: https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters

II. The Need For The District Court's Injunction Is Underscored By The Biden Administration's Lawless Acts

The Biden Administration's brazen defiance of legal requirements underscores the need for this Court to act quickly and forcefully to break the Administration's escalating pattern of contempt for the rule of law. That disrespect is apparent both in this case, and is also particularly apparent from its recent unlawful extension of the eviction moratorium and refusal to abide by legal obligations to consider impacts on States and local governments.

A. Issuing Eviction Order While Acknowledging Its Near-Certain Illegality

On June 29, the Supreme Court issued an opinion in which five justices expressed their clear view that the Centers for Disease Control lacked statutory authority to impose a nationwide eviction moratorium, absent new legislation from Congress. *Alabama Ass'n of Realtors v. HHS*, 141 S. Ct. 2320 (2021). President Biden admitted as much, explaining that "[t]he bulk of the constitutional scholarship says that [an additional moratorium is] not likely to pass constitutional muster."[1] Similarly, White House Press Secretary Jen Psaki admitted that "CDC Director Rochelle Walensky and her team have been unable to find legal authority

[1] Joseph Biden, Remarks at the White House (August 3, 2021), https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/08/03/remarks-by-president-biden-on-fighting-the-covid-19-pandemic/.

for a new, targeted eviction moratorium."[2] The next day, Ms. Psaki again said that "the Supreme Court ... made clear ... that any further action [on an eviction moratorium] would need legislative steps forward."[3]

But despite acknowledging the near-certain illegality of extending the eviction moratorium, the Biden Administration did so anyway. And not only that, but admitted that the slowness of courts in responding to such unlawful behavior meant that such action was likely to be substantially effective despite its unlawfulness. President Biden thus confessed that "by the time it gets litigated, it will probably give some additional time ... to people who are, in fact, behind in the rent."

This brazen defiance of Supreme Court precedent and the rule of law underscores the need for courts to take expeditious and decisive action in response to such actions: another of which is squarely presented here. The Supreme Court has now done so, reinstating an injunction against the moratorium extension. *See Alabama Ass'n of Realtors v. HHS*, __ U.S. __, 2021 WL 3783142 (Aug. 26, 2021). In doing so, the Supreme Court explained that the Plaintiffs were—as

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[2] Jen Psaki, Statement on Eviction Prevention (August 2, 2021), https://www.whitehouse.gov/briefing-room/statements-releases/2021/08/02/statement-by-press-secretary-jen-psaki-on-eviction-prevention-efforts/.

[3] Jen Psaki, Press Briefing (August 3, 2021), https://www.whitehouse.gov/briefing-room/press-briefings/2021/08/03/press-briefing-by-press-secretary-jen-psaki-august-3-2021/.

President Biden correctly predicted—"virtually certain to succeed on the merits." *Id.* at *1. Indeed, it was "difficult to imagine them losing." *Id.* at *3.

The district court properly acted to enjoin similarly brazen legal violations here. This Court should decline to stay this sorely and sadly necessary corrective action.

B. Defendants Failed To Consult With, And Consider Impacts To, States And Local Governments

Further underscoring Defendants' violations of legal requirements here is their failure to comply with their legal obligations in relation to state, local, tribal, and small governments in crafting the Memorandum and Interim Guidance. The Unfunded Mandates Reform Act (UMRA) requires that "[e]ach agency shall ... assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector." 2 U.S.C. §1531. But it appears that Defendants never assessed the impact on the Amicus States and their constituent local governments of the Memorandum and the Interim Guidance. Certainly, no such analysis appears on the face of Defendants' decision documents.

UMRA also requires that "[e]ach agency shall ... develop an effective process to permit elected officers of State, local, and tribal governments ... to provide *meaningful and timely input* in the development of regulatory proposals containing significant Federal intergovernmental mandates." 2 U.S.C. §1534(a) (emphasis added). But Defendants never allowed elected leaders in the Amicus

States to provide *any* such input.

More generally, Defendants never offered an opportunity for commenting generally, which might at least have offered the States to weigh in on these issues. Nor does it appear that Defendants intend to do so in the future: they have announced that they will replace the Interim Guidance "the end of September." Stay Mot. at 1. But that timetable would not permit notice-and-comment rulemaking, so it appears that Defendants intend to violate notice-and-comment rulemaking requirements *yet again*, despite the district court repeatedly holding below that such actions violated the APA. (Nor did Defendants appeal the district court's holding that the 100-Day Moratorium violated notice-and-comment requirements.)

III. The Interim Guidance Harms States Through Increased Law Enforcement Costs And Crime

Amici States are also suffering harms under the Interim Guidance similar to those suffered by Plaintiff States here. Arizona's experience provides an illustration of this, including harms recognized by the District of Arizona. *Arizona v. DHS*, No. CV-21-00186-PHX-SRB, 2021 WL 2787930, at *6–8 (D. Ariz. June 30, 2021). These harms are ongoing and compounding by the day as the backlog of unremoved individuals grows.

In particular, the Amici and Plaintiff States have suffered, and will suffer, increased costs of incarceration and other law enforcement services due to the

challenged actions. Significantly, the Interim Guidance has directly resulted in ICE lifting detainers on criminals who have completed their sentences. Instead of being removed, these individuals are instead being released on the street and into communities.

DHS's actions have directly led to States incurring supervised-release costs that it otherwise would not occur. Arizona, for example, has identified convicted criminal aliens whose ICE detainers were lifted prior to their release from state prisons due to the new removal priorities in just the first two months since the institution of new removal priorities. *See* Decl. of Jennifer Abbotts, Exhibit 2, AZMT007439-7441. Arizona Department of Corrections, Rehabilitation and Reentry ("ADCRR") business records and emails received from ICE itself specify that the new removal priorities were the reason ICE lifted each detainer. *See, e.g.*, *id.* at internal Ex. E, AZMT007455-AZMT007458.[4] These individuals were placed on community supervision (similar to federal supervised release), which costs the State $4,163.60 annually per individual. *See id.* AZMT007439; Decl. of Shaka Okougbo, Exhibit 3, AZMT008128. The population involved is large: "over 6% of Arizona's prison population—2,434 noncitizen inmates—currently have ICE

[4] For example, an April 14, 2021, email titled "316717 Detainer lift" from ICE employee Christopher Murphy informs ADCRR that the detainer for inmate 316717 has been lifted, explaining "Subject does not meet the current enforcement priorities." Decl. of Jennifer Abbotts, Ex. 2, at internal Ex. C, AZMT007450.

detainers lodged against them." *Arizona v. DHS*, 2021 WL 2787930, at *7.

Defendants' actions also impose direct law enforcement costs and crime-based injuries due to criminal recidivism committed by removable criminal aliens that DHS refuses to remove. *See, e.g.*, Decl. of Brian Lockerby, Exhibit 4, AZMT007419-AZMT007422. Generally, among released prisoners, 68% are re-arrested within 3 years, 79% within 6 years, and 83% within 9 years. *See* National Institute of Justice, Measuring Recidivism (Feb. 20, 2008), https://nij.ojp.gov/topics/articles/measuring-recidivism#statistics. Given those recidivism rates, the release of convicts into the community pursuant to the Interim Guidance makes it virtually certain that the Plaintiff States will incur additional law enforcement and incarceration costs and direct crime-based losses.

Testimony of senior ICE official Albert Carter confirms that the "only factor" for the "big drop-off" both in immigration detainers being issued and in removals overall from before and after February 2021 is the new enforcement priorities. Deposition of Albert Carter at 81:10-84:5; 87:1-89:11, Exhibit 5.[5] Director Carter further testified that ICE is releasing detainers for aliens who do not fit Interim Guidance priorities, and when detainers are released, jails have to put aliens on supervisory release or just release them into the community. *Id.* at

[5] Albert Carter is a career law enforcement officer who served as the Acting ICE Phoenix Filed Office Director from December 2020 to early-May 2021. Deposition of Albert Carter, Ex. 5, at 15:20-24; 18:15-19:19.

84:6-14.

IV. "Shall" In 8 U.S.C. §§1231(a)(2) And 1226(c) Means "Must"

A core issue in this case is whether "shall" in 8 U.S.C. §§1231(a)(2) and 1226(c) imposes mandatory duties on DHS to detain and remove aliens. The plain language of the statute, canons of construction, and legislative history all make clear that "shall" in this context means "must," and that the Interim Guidance is accordingly unlawful.

A. Plain Text

The plain text of Sections 1231(a)(2) and 1226(c) establishes that DHS has a non-discretionary duty to detain criminal aliens and aliens with final removal orders. "Shall" in those sections means just that: an actual mandate and not just a readily-ignorable suggestion.

"[A]ny question of statutory interpretation … begins with the plain language of the statute. It is well established that, when the statutory language is plain, [courts] must enforce it according to its terms." *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009) (citations omitted). Thus, this Court's "inquiry begins with the statutory text, and ends there as well if the text is unambiguous." *BedRoc Ltd., LLC v. United States*, 541 U.S. 176, 183 (2004). That is just so here.

It is well-established that "'shall' generally means 'must.'" *Gutierrez de Martinez v. Lamagno*, 515 U.S. 417, 432 n.9 (1995). That accords with dictionary

definitions, both legal and non-legal. The "mandatory sense" of the word "shall" is the one "that drafters typically intend and that courts typically uphold." *Shall*, *Black's Law Dictionary* (11th ed. 2019). Similarly, American Heritage Dictionary defines "shall" as an "order, premise, requirement, or obligation." *Shall*, *American Heritage Dictionary* (5th ed.).

The Supreme Court has thus repeatedly made clear that "Congress' use of the term 'shall' indicates an intent to 'impose discretionless obligations.'" *Fed. Exp. Corp. v. Holowecki*, 552 U.S. 389, 400 (2008) (citation omitted)). Indeed, "the mandatory 'shall' ... normally creates an obligation impervious to judicial discretion." *Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998). It is equally impervious to executive discretion.

The plain text of Sections 1231(a)(2) and 1226(c) therefore creates an unequivocal obligation to detain the aliens with final orders of removal and to detain the specified types of criminal aliens. Defendants thus lack *any* discretion not to detain them—let alone so unbounded discretion as to be completely unreviewable by courts.

B. Canons of Construction

The canons of construction confirm what the text of Section 1226(c) and 1231(a)(2) already makes plain. Two are critical here: 1) the avoidance of surplusage, and 2) *expressio unius*.

1. Canon Against Surplusage

"It is a 'cardinal principle of statutory construction' that 'a statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence, or word shall be superfluous, void, or insignificant.'" *TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001) (citation omitted). Defendants' interpretation of Sections 1226(c) and 1231(a)(2) violates this cardinal principle.

Section 1226(c)(1) requires that the government "shall take into custody" any alien having certain kinds of criminal convictions or who is involved in terrorism. Section 1226(c)(2) goes on to state that the government "may release" such an alien if "necessary" to protect a witness cooperating with an investigation.

Section 1231(a)(2) requires that "during the removal period," the government "shall detain the alien." Section 1231(c)(2)(C) provides a limited exception similar to Section 1226(c)(2), allowing for the release from detention of an alien arriving at a port of entry who has been ordered removed, "if the alien is needed to testify in the prosecution of a person." 8 U.S.C. §1231(c)(2).

In prior filings, DHS has claimed that Section 1231(a)(2) grants broad discretion because it also says that "[u]nder no circumstance, during the removal period shall the Attorney General release an alien" with certain types of criminal convictions or who is involved in terrorism. *See Texas v. United States*, No. 6:21-CV-00016, 2021 WL 3683913, at *35 n.30 (S.D. Tex. Aug. 19, 2021). As the

district court explained, however, this language is best read in concert with the rest of section 1231 and requires a conclusion that detention is mandatory. *Id.* Thus, because Section 1231(c)(2)(C) contains the only enumerated exception to the command that aliens be detained during their removal period, the "[u]nder no circumstance" language in Section 1231(a)(2) is best read as a limitation on that grant of authority in Section 1231(c)(2)(C). Therefore, when Section 1231 is read as a whole, the "[u]nder no circumstance" language makes most sense when understood as a limitation of the government's authority to release testifying aliens, and not as a broad grant of discretion.

If DHS were correct that "shall detain" in Section 1231(a)(2) really means only "may detain," then there would be no need for 1231(c)(2) to allow for the release of aliens needed to testify, as DHS would already have the discretion to release such aliens. Similarly, if DHS were correct that "shall take into custody" in Section 1226(c)(1) really means "may take into custody," then there would be no reason to allow in Section 1231(c)(2)(C) for the release of aliens cooperating or testifying in an investigation. The exception for testifying aliens simply has no meaning if releases are committed to DHS's sole and unreviewable discretion.

2. *Expressio Unius*

Under the venerable *expressio unius* canon, "[t]he expression of one thing implies the exclusion of others." *Jennings v. Rodriguez*, 138 S. Ct. 830, 844

(2018). Thus, "'[w]hen a statute limits a thing to be done in a particular mode, it includes a negative of any other mode.'" *Christensen v. Harris Cty.*, 529 U.S. 576, 583 (2000) (cleaned up)).

Under *expressio unius*, the enumeration of only the single exception for testifying aliens in Sections 1226(c)(2) and 1231(c)(2)(C) means, quite simply, that only one such exception exists. But DHS has never claimed that the Interim Guidance (or its predecessor 100-day Moratorium) can squeeze within that exception. The *expressio unius* canon thus strongly militates against reading in a second, unwritten exception allowing for other justifications for release, let alone complete discretion to release.

Application of the e*xpressio unius* canon is particularly appropriate here, as "[a]n implied exception to an express statute is justifiable only when it comports with the basic purpose of the statute." *Syed v. M-I, LLC*, 853 F.3d 492, 501 (9th Cir. 2017). But DHS's conjured second exception does no such thing: instead it swallows the rest of the subsection and renders it a nullity. Moreover, as discussed next, it is directly contrary to the purposes of the 1996 amendments that enacted it.

C. The Legislative History Makes It Clear That the Interim Guidance is Unlawful.

1. 1996 Amendments To Statutory Text.

Congress adopted the current versions of Sections 1226 and 1231 as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996

("IIRIRA"). *Coyt v. Holder*, 593 F.3d 902, 906 (9th Cir. 2010). The changes made to the text of Sections 1226 and 1231 in IIRIRA make plain Congress's intent to constrain sharply the discretion of the Attorney General (and now DHS) in effecting removals and detaining aliens subject to removal.

The plain language of Section 1226 is already perfectly clear, but the House Conference Report leaves no doubt that Congress's intent was strictly to limit the government's discretion: "New section 236(c) provides that the Attorney General *must* detain an alien who is inadmissible under section 212(a)(2) or deportable under new section 237(a)(2).... This subsection also provides that such an alien may be released from the Attorney General's custody *only if* the Attorney General decides . . . that release is *necessary to provide protection* to a witness ... [or] a person cooperating with an investigation into major criminal activity...." H.R. Conf. Rep. 104-828, at 210-211.

Congress's amendments to Section 1231 also show its intent to limit the Executive's discretion. In enacting the current version of §1231, Congress made substantial changes. The old §1252 became §1231(a), and Table 1 shows the changes in language:

Table 1: Comparison Of Language Pre- and Post-IIRIRA	
Prior §1252	**Current §1231(a) (emphasis added)**
"[D]uring [the six-month deporation period], at the Attorney General's *discretion*, the alien *may be* detained, released on bond in an amount and containing such conditions *as the Attorney General may prescribe, or released on such other condition as the Attorney General may prescribe*." 8 U.S.C. §1252 (1996) (emphasis added).	"During the removal period, the Attorney General *shall detain* the alien." 8 U.S.C. §1231(a)(2) (emphasis added).

Congress thus removed language that explicitly granted "discretion" and that allowed for release on "condition[s] as the Attorney General may prescribe" and replaced that language with a direct, clear, laconic command: "shall detain."

Congress's intent to accelerate removals and decrease the Executive Branch's discretion to forego deportations is confirmed by other statutory changes. In particular, three predecessor sections that were consolidated into §1231 contained specific grants of discretion to the Attorney General (now DHS)—all of which Congress tellingly abolished. As the House Conference Report explains, IIRIRA "inserts a new section 241 [8 U.S.C. §1231]" that "restates and revises provisions in current sections 237, 242, and 243 [8 U.S.C. §§1227, 1252, and 1253] regarding the detention and removal of aliens." H.R. Conf. Rep. 104-828, at 215.

For example, the old §1252 provided that during the prior six-month

removal period "the Attorney General shall have a period of six months ... to effect the alien's departure from the United States." 8 U.S.C. §1252(c)(1) (1996). But IIRIRA amended Section 1231 to remove the prior language that only called for a general outcome to take place within a long period of time (6 months) with an unequivocal command for the federal government to remove the alien within a time period less than half as long: "[T]he Attorney General *shall remove* the alien from the United States within a period of 90 days." 8 U.S.C. §1231(a)(1)(A) (emphasis added). Similarly, the prior §1227 stated that arriving aliens who are excluded "shall be immediately deported ... unless the Attorney General, in an individual case, *in his discretion*, concludes that immediate deportation is not practicable or proper." 8 U.S.C. §1227(a)(1) (1996) (emphasis added). But discretion too was expressly eliminated, and the current §1231(c) has no such "in his discretion" language.

Nor are these eradications of discretion isolated or subtle. While the word "discretion" appeared *thirteen times* in the prior versions of §§1227, 1252, and 1253, it no longer appears *even once* in the amended (and current) Section 1231. In essence, Congress through IIRIRA engaged in a search-and-destroy mission regarding the Executive Branch's discretion. That is hardly the action of a Congress that intended to confer unbounded and unreviewable discretion.

2. Legislative History And Intent

The legislative history and cases examining it confirms the intent already evident from IIRIRA's text. In IIRIRA, "Congress amended the INA aggressively to expedite removal of aliens lacking a legal basis to remain in the United States." *Kucana v. Holder*, 558 U.S. 233, 249 (2010). Congress's purpose in adopting IIRIRA was "to expedite the physical removal of those aliens not entitled to admission to the United States" and "[t]o that end, IIRIRA 'inverted' certain provisions of the INA, encouraging prompt voluntary departure and *speedy government action*." *Coyt,* 593 F.3d at 906 (emphasis added).

The House Conference Report on IIRIRA similarly made plain that the bill's purpose was "to improve deterrence of illegal immigration to the United States by ... reforming exclusion and deportation law and procedures." H.R. Rep. No. 104-828, at 1 and 199 (1996) (Conf. Rep.). President Clinton's signing statement likewise described IIRIRA as "landmark immigration reform legislation that ... strengthens the rule of law by cracking down on illegal immigration at the border, in the workplace, and in the criminal justice system." 32 Weekly Comp. Pres. Doc. 1935, 1996 U.S.C.C.A.N. 3388, 3391 (Sep. 30, 1996).

DHS's interpretation thwarts this intent: while IIRIRA was intended to *expedite* removals and deter illegal entries, DHS invokes its provisions to assert unlimited and unreviewable discretion to *thwart and slow* removals and to

encourage illegal entries. That is neither what Congress intended nor can Congress's text bear that construction.

CONCLUSION

The border is in crisis. This Administration is increasingly and alarmingly lawless. And the States continue to suffer escalating irreparable harm as the border slips further and further away from the Administration's control. This Court should deny Federal Defendants' motion for a stay pending appeal.

Respectfully submitted,

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[6] Due to a clerical error, Indiana was omitted from the prior version.

CERTIFICATE OF COMPLIANCE

This brief contains 3,672 words, excluding the parts exempted by Rule 32(f); and (2) the typeface and type style requirements of Rule 32(a)(5) and Rule 32(a)(6) because it has been prepared in a proportionally spaced typeface (14-point Times New Roman) using Microsoft Word (the program used for the word count). Because it is an amicus brief relating to a motion, there is no specifically applicable word limitation. It is, however, within the general limitation of 6,500 words for merits-stage amicus briefing under Rule 29(a)(5).

s/ Drew C. Ensign
Drew C. Ensign

Dated: August 30, 2021

CERTIFICATE OF SERVICE

I, Drew C. Ensign, hereby certify that I electronically filed the foregoing Brief of Amici Curiae States of States of Arizona, Alabama, Arkansas, Florida, Georgia, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, Ohio, South Carolina, South Dakota, Utah, and West Virginia in Opposition to the Emergency Motion for Stay Pending Appeal with the Clerk of the Court for the United States Court of Appeals for the Fifth Circuit by using the appellate CM/ECF system on August 31, 2021, which will send notice of such filing to all registered CM/ECF users.

s/ Drew C. Ensign
Drew C. Ensign