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April 8, 2025

Scott S. Harris
Clerk of the Court
Supreme Court of the United States
Washington, D.C. 20543

Re: Notice of Supplemental Authority
Noem et al., v. Abrego Garcia et al., No. 24A949

Dear Mr. Harris:

Respondents respectfully submit this Notice of Supplemental Authority regarding the decision yesterday in *Trump, et al. v. J.G.G., et al.*, No. 24A931, 604 U.S. ___ (2025) (per curiam), which held that “[c]hallenges to removal under the AEA [Alien Enemy Act] ... must be brought in habeas,” and thus must be filed in the district of confinement.” Slip op. 2; *see also id.* at 1 (Kavanaugh, J., concurring) (“[A]ll nine Members of the Court agree that judicial review is available. The only question is *where* that judicial review should occur.”). The Court further held that AEA detainees are entitled to notice “within a reasonable time” and an opportunity to challenge their removal “before such removal occurs.” Slip Op. 3.

In this case, Respondent Abrego Garcia was not removed under the AEA and the Government has never argued otherwise. App. 82a n.2. The habeas ruling in *J.G.G.* is therefore inapplicable. The Government did raise a habeas-related argument in the district court, which rejected it, *id.* at 87a-90a, and the Government has not pursued it in this Court. Indeed, the Government’s application to this Court does not even mention the word “habeas,” let alone argue that Respondents were limited to habeas relief or that they filed suit in the wrong venue. Such arguments are simply not before the Court in this case. And, in any event, one of Respondents’ alternative claims for relief arises under the federal habeas corpus statute. *Id.* at 39a.

Although this case does not implicate the AEA, *J.G.G.*'s due process holding supports Abrego Garcia's position that the Government violated his due process rights by removing him to El Salvador. The Court's unanimous insistence on due process and on the availability of judicial review to secure due process underscores that Abrego Garcia—who was removed without reasonable notice or an opportunity to challenge his removal before it occurred, and in conceded violation of a court order prohibiting his removal to that country—must have a remedy for this constitutional violation. The Government now alleges that Abrego Garcia is a member of MS-13, an allegation that the Fourth Circuit deemed “unsupported—and then abandoned.” *Abrego Garcia v. Noem*, 2025 WL 1021113, at *5 (4th Cir. Apr. 7, 2025) (Thacker, J., with King, J., concurring). Indeed because Abrego Garcia was deprived of any judicial review whatsoever, he had no opportunity to even respond to prove that he is *not* a member of MS-13.

Respectfully submitted,

/s/ Andrew J. Rossman

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