No. 19-2289

IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

Carlos Alvarez-Espino,

Petitioner,

v.

William P. Barr, Attorney General of the United States,

Respondent.

UNOPPOSED MOTION FOR LEAVE TO APPEAR AS AMICI CURIAE IN SUPPORT OF REHEARING

The Proposed Amici respectfully seek leave to appear as Amici Curiae in support of rehearing in the above-captioned case. *See* FED. R. APP. P. 29(b). Amici state the following in support of this request.

1. Amici are six nonprofit agencies focused on domestic violence matters. They are: the Asian Pacific Institute on Gender-Based Violence; ASISTA Immigration Assistance; the National Coalition Against Domestic Violence; the National Immigrant Justice Center; the National Network to End Domestic Violence; and Tahirih Justice Center. They are among the most respected voices on this issue nationwide. Individual statements of

interest for each organization are included as an addendum to the attached proposed brief.

2. Based on their extensive work in this area and experience in representing noncitizen victims of domestic violence and other offenses, Amici have a perspective that would assist the Court in its consideration of issues presented in the present rehearing petition. Amici have no monetary interest in the above-captioned cause.

Proposed Arguments

3. Amici wish to address the Panel's finding on a matter of first impression in the Courts of Appeals: whether a noncitizen seeking U visa status is categorically not prejudiced by being deported before the application can be adjudicated.

4. First, Amici submit that the Panel's opinion went beyond the Agency's decision in the prejudice analysis. The Board of Immigration Appeals (Board) found no prejudice from leaving the order of removal in place, but seemed to assume that the Petitioner would be allowed by the Department of Homeland Security (DHS) to remain in the United States pending a decision on his U visa application. The Panel, by contrast, seemed to assume that the removal order would be effectuated. This distinction is subtle, but has significant implications: most of the effects of

a removal order occur only once a removal order is effectuated. The disconnect between the Panel's analysis and the Agency's opaque finding below prevented the prejudice issue from being aired clearly. The Panel may wish to invite further briefing on this issue, and/or to remand to the Agency to clarify its position.

5. Second, Amici explain the myriad ways in which physical removal from the United States would affect a noncitizen survivor of crime or domestic violence. First, removal would trigger additional inadmissibility grounds beyond that which Petitioner currently faces. Those additional grounds would necessitate additional waiver requests that might be denied, and cost more money and more time. Second, physical removal would effectively prevent the crime survivor from accessing part of the regulatory scheme: namely, a period of deferred action while the applicant is on the U visa "waitlist." This interim relief is available to U visa applicants within the United States, but not to noncitizens who are abroad.

6. Third, Amici explain that Congress had a very specific intent in enacting the U visa: to prevent removal of crime victims. Indeed, Congress enacted this goal into the statute itself. It did so motivated by the knowledge that abusers have frequently used the removal process to intimidate survivors

of domestic violence and related crimes into remaining silent rather than reporting crimes to the police. A prejudice analysis that permits removal of U visa applicants without regard to the merits of their claims would be inconsistent with the goals of the statute.

7. Finally, Amici submit that the Panel's prejudice analysis will have significant effect on U visa cases and other similar cases. The logic of the Panel's analysis would apply to many if not all U visa applicants, without regard to the merits of their claims under the statute.

8. These issues are implicit in the case, but have not been addressed by the parties at any length. *Cf. Ryan v. Commodity Futures Trading Com'n*, 125 F.3d 1062, 1063 (7th Cir. 1997). This is likely due to ambiguity in the Board's decision, and the subtle distinctions between the prejudice analysis adopted by the Panel and the analysis of the Board below.

9. Amicus has communicated with counsel for the Plaintiff-Appellant and counsel for the Government. Counsel for Plaintiff-Appellant consents to and has no objection to the filing of this amicus brief. Counsel for the Government stated that he is unopposed to the motion at this time.

WHEREFORE, Proposed Amici respectfully ask the Court's leave to appear as Amicus Curiae in the above-captioned matter.

Respectfully Submitted,

Date: May 5, 2020

/s Charles Roth

Jess Hunter-Bowman
National Immigrant Justice Center
110 E. Washington St.
Goshen, IN 46528
(773) 672-6611 (T)
(312) 660-1505 (F)
jbowman@heartlandalliance.org

Charles Roth
National Immigrant Justice Center
224 S. Michigan Ave.
Suite 600
Chicago, IL 60604
(312) 660-1613 (T)
(312) 660-1505 (F)

Attorneys for Amici Curiae

CERTIFICATE OF SERVICE

I, Charles Roth, counsel for Amici Curiae, certify that I electronically filed the foregoing document (and all attachments) with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the appellate CM/ECF system on May 5, 2020.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/S/ Charles Roth
Charles Roth

No. 19-2289

IN THE UNITED STATES COURT OF APPEALS

FOR THE SEVENTH CIRCUIT

Carlos Alvarez-Espino,

Petitioner,

v.

William P. Barr, Attorney General of the United States,

Respondent.

BRIEF AMICUS CURIAE IN SUPPORT OF PETITIONER'S PETITION FOR PANEL REHEARING OR REHEARING EN BANC

Jess Hunter-Bowman
National Immigrant Justice Center
110 E. Washington St.
Goshen, IN 46528
(773) 672-6611 (T)
(312) 660-1505 (F)
jbowman@heartlandalliance.org

Charles Roth
National Immigrant Justice Center
224 S. Michigan Ave.
Suite 600
Chicago, IL 60604
(312) 660-1613 (T)
(312) 660-1505 (F)
croth@heartlandalliance.org

CIRCUIT RULE 26.1 DISCLOSURE STATEMENT

Appellate Court No: 19-2289

Short Caption: Alvarez-Espino v. Barr

(1) The full name of every party that the attorney represents in the case (if the party is a corporation, you must provide the corporate disclosure information required by Fed. R. App. P. 26.1 by completing the item #3):

The National Immigrant Justice Center, a program of the Heartland Alliance for Human Needs and Human Rights

(2) The names of all law firms whose partners or associates have appeared for the party in the case (including proceedings in the district court or before an administrative agency) or are expected to appear for the party in this court:

National Immigration Justice Center;

(3) If the party or amicus is a corporation:

i) Identify all its parent corporations, if any; The National Immigrant Justice Center is a program of the Heartland Alliance for Human Needs and Human Rights

ii) list any publicly held company that owns 10% or more of the party's or amicus' stock: N/A

Attorney's Printed Name:	Charles Roth
Address:	National Immigrant Justice Center 224 S. Michigan Ave., Suite 600 Chicago, IL 60604
Phone Number	312-660-1613
Fax Number:	312-660-1505
E-Mail Address:	croth@heartlandalliance.org

Attorney's Signature: /s/ Charles Roth Date: May 5, 2020

Please indicate if you are *Counsel of Record* for the above listed parties pursuant to Circuit Rule 3(d). Yes **X** No _

CIRCUIT RULE 26.1 DISCLOSURE STATEMENT

Appellate Court No: 19-2289

Short Caption: Alvarez-Espino v. Barr

(1) The full name of every party that the attorney represents in the case (if the party is a corporation, you must provide the corporate disclosure information required by Fed. R. App. P. 26.1 by completing the item #3):

The National Immigrant Justice Center, a program of the Heartland Alliance for Human Needs and Human Rights

(2) The names of all law firms whose partners or associates have appeared for the party in the case (including proceedings in the district court or before an administrative agency) or are expected to appear for the party in this court:

National Immigration Justice Center;

(3) If the party or amicus is a corporation:

i) Identify all its parent corporations, if any; The National Immigrant Justice Center is a program of the Heartland Alliance for Human Needs and Human Rights

ii) list any publicly held company that owns 10% or more of the party's or amicus' stock: N/A

Attorney's Printed Name:	Jess Hunter-Bowman
Address:	National Immigrant Justice Center 110 E. Washington St. Goshen, IN 46528
Phone Number	(773) 672-6611
Fax Number:	312-660-1505
E-Mail Address:	jbowman@heartlandalliance.org

Attorney's Signature: /s/ Jess Hunter-Bowman Date: May 5, 2020

Please indicate if you are *Counsel of Record* for the above listed parties pursuant to Circuit Rule 3(d). Yes ___ No **_X**

Table of Contents

Table of Authorities

Cases

Statutes

Other Authorities

Regulations

INTRODUCTION

The Court should grant rehearing in this matter. The Court's prejudice analysis went beyond the Board's prejudice analysis. Removing a crime victim implicates far more than delay. Removal from the United States impacts immigrant victims of crime in numerous ways, both legally and practically. The purpose of the U visa, as adopted in statute, shows that Congress wanted to prevent removal of immigrant survivors of domestic violence and crimes. There may be valid reasons to deny remand in this or other cases, but any denial should be consistent with the U visa statute and Congressional intent.

STATEMENT OF INTEREST OF AMICI CURIAE[1]

Statements of interest of the six proposed Amici Curiae are attached as an addendum to this motion. Amici are leading advocates for domestic violence survivors in particular, and other victims of crime. Amici all have long worked to ensure that victims of crime have access to immigration relief and are able to pursue that relief prior to removal.

I. This Court's Holding on Prejudice Went Beyond the Board's Decision and the Respondent's Arguments.

To prevail on an ineffective assistance of counsel claim, a petitioner must show prejudice, which, "[i]n th[e] immigration context, … means that counsel's errors 'actually had the potential for affecting the outcome of the proceedings.' "

[1] No party's counsel authored this brief in whole or in part; no party's counsel contributed money intended to fund preparing or submitting this brief; no person other than Amici Curiae, their counsel, their members, and their employees, gave money intended to fund preparing or submitting the brief.

Alvarez-Espino v. Barr, 951 F.3d 868, 872 (7th Cir. 2020) (quoting *Sanchez v. Sessions*, 894 F.3d 858, 863 (7th Cir. 2018)). This Court held that the Petitioner could not demonstrate prejudice in this case because he filed an application for a U visa that "USCIS will process … whether or not Alvarez-Espino remains in the United States." *Id.* at 872-73.

Because this Court's prejudice holding goes beyond the Board of Immigration Appeals' (the Board) decision and decides a question without the benefit of the agency's opinion or the parties' full briefing of the issue, the Court should grant rehearing in this matter to reconsider the question with the benefit of full briefing and arguments from the parties or to remand to the agency.

The Board held that the Petitioner "ha[d] not shown actual prejudice in his case, as he may continue to pursue a U visa from USCIS *after the entry* of an order of removal." SA4 (emphasis added). The Board's order did not specifically address whether there would be prejudice from the *execution* of an order of removal.

Indeed, the Board's single sentence on the issue suggests that the Board assumed the Petitioner would remain in the United States. First, the Board in its decision only discusses on its face the "entry of an order of removal", not the execution of the removal order. *Id.* Second, the Board states that the Petitioner could "continue to pursue a U visa from USCIS," which is more consistent with an applicant remaining within the United States than being abroad. *Cf.* 8 C.F.R. § 214.14(c)(5)(i) (explaining procedure for U visa applicants within U.S.); *Visas for Victims of Criminal Activity*, U.S. DEPARTMENT OF STATE — BUREAU OF CONSULAR

AFFAIRS, https://travel.state.gov/content/travel/en/us-visas/other-visa-categories/visas-for-victims-of-criminal-activity.html (last visited May 5, 2020) (noting that after USCIS approval of Form I-918, noncitizens abroad "must apply for a U visa at a U.S. Embassy or Consulate"). Finally, the Board did not discuss the legal effects of physical removal from the United States.

Because the Board did not explicitly address the possibility of physical removal from the United States, the parties did not fully brief the issue. While the Petitioner made passing references to the issue in his briefing, the Respondent neither addressed the issue in his brief before this Court nor argued that an executed removal order or the Petitioner's removal to Mexico would not constitute prejudice. Indeed, Respondent argued that Petitioner could "continue to pursue a U-visa from USCIS *after* the entry of a removal order" in part by quoting regulations that authorize a U visa applicant to "file a request for a stay of removal" from Immigration and Customs Enforcement (ICE). Respondent's Brief at 26 (emphasis supplied).

The Court may not have perceived the difference between entry of a removal order and physical removal, but the difference is significant. Because this Court decided a question not explicitly addressed by the Board and without the benefit of adversarial briefing, the Court may find it helpful to grant rehearing to allow the parties to brief the issue more fully. It may also consider remanding so the agency can address the question in the first instance. *See, e.g., Ali v. Achim*, 468 F.3d 462, 473 (7th Cir. 2006); *Bastanipour v. INS*, 980 F.2d 1129, 1134 (7th Cir. 1992).

If the Court finds the Board's decision with respect to prejudice lacks clarity or sufficient analysis of the issue, the Court has authority to remand this matter to the Board for further consideration and clarification. *See Ruderman v. Whitaker*, 914 F.3d 567, 572 (7th Cir. 2019); *Lopez v. Gonzales*, 427 F.3d 492, 497 (7th Cir. 2005).

II. Removal of a U visa Applicant Triggers New Inadmissibility Grounds and Creates Practical Bars to Protection of Victims.

The parties' briefing did not squarely address the effects of physical removal on a noncitizen. The Court is correct in its statement that "USCIS will process the application whether or not Alvarez-Espino remains in the United States." *Alvarez-Espino,* 951 F.3d at 872-73. But the process would not be unaffected. As Amici explain below, new inadmissibility grounds would apply if Petitioner were physically removed. Moreover, the Petitioner would be unable to access deferred action abroad. Together or separately, these are sufficient to constitute prejudice.

A. Physical Removal Would Trigger Additional Inadmissibility Grounds.

While the mere entry of a removal order does not create additional admissibility barriers, physical removal from the United States would trigger new grounds of inadmissibility and would require additional waiver forms and applications.

The Immigration and Nationality Act provides that a U visa applicant (like the Petitioner) is inadmissible for ten years after execution of a final removal order. 8 U.S.C. § 1182(a)(9)(A)(ii). The statute lifts this inadmissibility if, prior

to return to the U.S. "the Attorney General has consented to the alien's reapplying for admission." 8 U.S.C. § 1182(a)(9)(A)(iii). Longstanding agency precedent holds that mere entry of a removal order does not trigger this inadmissibility; only the execution of the order triggers this ground. *See Matter of C—H—*, 9 I. & N. Dec. 265, 266 (Comm. 1961).

Furthermore, a U visa applicant who (like the Petitioner) has been unlawfully present in the country also faces an additional inadmissibility ground due to prior unlawful presence. 8 U.S.C. § 1182(a)(9)(B). This provision, like the provision immediately preceding, is triggered by the noncitizen's "departure . . . from the United States." 8 U.S.C. § 1182(a)(9)(B)(i)(II). The unlawful presence inadmissibility ground is inapplicable unless the noncitizen actually departs the United States. *See Matter of Arrabally and Yerrabelly*, 25 I. & N. Dec. 771 (BIA 2012). Again, physical removal would render Petitioner inadmissible, while the order of removal does not.

In short, departure under a removal order would trigger new inadmissibility grounds and would bar a U visa applicant from being granted a visa absent new and additional waivers. This would constitute prejudice.[2]

[2] While a U visa applicant subsequently removed could file a *nunc pro tunc* waiver application with USCIS or a new waiver application with the U.S. Embassy or Consulate including newly triggered inadmissibility grounds, undoubtedly the new inadmissibility grounds " 'had the potential for affecting the outcome of the proceedings.' " *Alvarez-Espino*, 951 F.3d at 872 (quoting *Sanchez*, 894 F.3d at 863).

B. Physical Removal Would Prevent Petitioner From Accessing Deferred Action Protection.

A second practical difficulty would arise due to a gap in the U visa regulations. In short, U visa applicants outside the United States cannot access the benefits of deferred action, which is available to U visa applicants within the United States.

This issue arises due to the annual U visa cap. 8 U.S.C. § 1184(p)(2)(A). Agency regulations employ deferred action to provide interim protection while U visa applicants wait within the United States for a visa to become available.[3] The regulations implement Congressional intent to protect victims of crime while enforcing the quota by placing U visa applicants in the United States on a "waitlist" if the only barrier to receiving a U visa is the numerical cap. 8 C.F.R. § 214.14(d)(2); see 72 Fed. Reg. 53013, 53027 (Sept. 17, 2007) (explaining that waitlist approach "balance[d] the statutorily imposed numerical cap against the dual goals of enhancing law enforcement's ability to investigate and prosecute criminal activity and providing protection to alien victims of crime"). The regulations mandate that waitlisted applicants be granted deferred action; this allows the applicant to stay in the United States, stops accrual of unlawful

[3] As of April 28, 2020, USCIS reported that the typical processing time to make a waitlist determination for a Form I-918 U visa applicant was 54.5 to 55 months. *Check Case Processing Times*, U.S. CITIZENSHIP AND IMMIGRATION SERVICES, https://egov.uscis.gov/processing-times/ (last visited Apr. 28, 2019). USCIS's most recent report indicates that "the wait time for a principal petitioner to receive a final decision (and status, if approved) is currently 5-10 years." U VISA FILING TRENDS, U.S. CITIZENSHIP AND IMMIGRATION SERVICES (2020).

presence, and authorizes the applicant to apply for employment authorization. 8 C.F.R. § 214.14(d)(2)-(3).

While regulations provide that U visa applicants abroad may be paroled into the United States, the USCIS Ombudsman has highlighted the stark "disparity between [U visa applicants] living in the United States and those residing abroad", noting that "U petitioners and derivative family members in the United States systematically receive deferred action and employment authorization" while those outside the United States do not. CITIZENSHIP AND IMMIGRATION SERVICES OMBUDSMAN, PAROLE FOR ELIGIBLE U VISA PRINCIPAL AND DERIVATIVE PETITIONERS RESIDING ABROAD (2016). The Ombudsman recommended steps to address this disparity, but USCIS has yet to act on the Ombudsman's recommendation, rendering U visa applicants abroad generally unable to access the regulatory benefits of deferred action.

III. The U Visa Was Designed Specifically to Stop Removal of Victims Because their Removal Empowers Abusers.

The U visa targets domestic violence offenses and other specified offenses. A scheme that permits removal of a U visa applicant not only prejudices an individual crime victim, it contravenes congressional intent and shifts power back to abusers.[4] The statutory text expresses Congress' goal of offering "*protection against deportation*" to victims of domestic violence and other crimes. *See* Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-

[4] The U visa statute does not apply only to domestic violence situations, but Congress had domestic violence offenses particularly in mind when it wrote the statute, and Amici focus on domestic violence matters.

386, 114 Stat. 1464, 1518, § 1502(a)(2) (Oct. 28, 2000) (emphasis added). Congress was concerned that "abusers are virtually immune from prosecution *because their victims can be deported* as a result of action by their abusers." *Id.* § 1502(a)(3) (emphasis added).

Congress added protection because abusers traditionally use removal as leverage, threatening to have their victim deported if they report crimes; many domestic violence survivors are reluctant to report abuse due to a fear of deportation. *See Sanchez v. Keisler*, 505 F.3d 641, 643 (7th Cir. 2007); Jill Theresa Messing et al, *Latinas' Perceptions of Law Enforcement: Fear of Deportation, Crime Reporting, and Trust in the System*, 30(3) AFFILIA: J. OF WOMEN AND SOCIAL WORK 328, 330 (2015). *See also* Cora Engelbrecht, *Fewer Immigrants Are Reporting Domestic Abuse. Police Blame Fear of Deportation*, N.Y. Times (June 3, 2018), https://www.nytimes.com/2018/06/03/us/immigrants-houston-domestic-violence.html.

The Panel's no-prejudice ruling would permit, as a matter of law, precisely the result Congress sought to avoid through the U visa: removal of victims from the United States. *Cf. supra* at § 1502(a)(2). This is an awful result for the law. Not only would removal confirm immigrant survivors' fear that they could be deported if they report abuse, it would empower abusers in other ways. A deported survivor might lose custody of her children, allowing the children to remain in the United States with their abusive parent. *See, e.g.,* C. Elizabeth Hall, Note, *Where Are my Children . . . and my Rights? Parental Rights Termination as a Consequence of Deportation*, 60 DUKE L.J. 1459 (2011). Immigrants are

often removed to countries with weak criminal justice systems that are unable or unwilling to prevent or prosecute domestic violence, and with fewer victim services resources, putting survivors at risk of further abuse. *See, e.g., Orellana v. Barr*, 925 F.3d 145, 151-53 (4th Cir. 2019).

The incongruence between the result here and Congressional intent strongly suggests that the Panel's holding be revisited.

IV. It is Crucial that Survivors and Crime Victims Not Be Deported While USCIS Decides Their U Visa Applications.

The prejudice question before the Court in this case implicates a broader question: whether U visa applicants may be deported while their U visa applications are pending, without regard to the merits of those applications. As explained above, Congress intended the U visa to protect crime victims from removal, and was particularly concerned that abusers not be able to use the removal process as a way to intimidate their victims or to escape justice by deporting the witnesses against them.

The Agency did not refuse to remand Petitioner's case because of concerns about the strength of the U visa claim. *Cf. Guerra Rocha v. Barr*, 951 F.3d 848, 852 (7th Cir. 2020); *Matter of Sanchez Sosa*, 25 I. & N. Dec. 807, 813 (B.I.A. 2012). It did not find that Petitioner had failed to exercise due diligence, or pursued the U visa for an improper purpose. *Cf. Matter of L-A-B-R-*, 27 I. & N. Dec. 405, 415 (B.I.A. 2018). Those might be rational reasons to refuse to remand this matter. *INS v. Abudu*, 485 U.S. 94, 108-110 (1988).

The proposition that ordering someone removed from the United States does not prejudice a U visa applicant implicates all victims of crime, without

regard to the strength of the claim or the posture of the case. If a U visa applicant suffers no cognizable harm from being removed, there seems no reason why Immigration Courts must await USCIS adjudications rather than ordering removal forthwith. But as explained above, that would be inconsistent with Congressional intent.

Amici acknowledge the constraints under which the immigration courts labor. But removal in these cases is deeply wrong. And to the extent that the Board is simply passing the buck to DHS to decide whether to effectuate removal, that is no answer at all. DHS is charged with enforcing removal orders, and has been ordered to do so without categorical exception. Exec. Order No. 13768, Enhancing Public Safety in the Interior of the United States (Jan. 25, 2017) (directing DHS to "ensure that aliens ordered removed from the United States are promptly removed" without "exempt[ing] classes or categories of removable aliens from potential enforcement"). Whatever the merits of the new policy, it illustrates why the Board cannot enter removal orders that frustrate the purpose of the U visa while counting on DHS to put into effect the statute Congress wrote.

The effects of this decision will likely be greater than the Court anticipated, as its logic runs well beyond denials of remand. Amici urge the Court to grant rehearing to reverse course.

CONCLUSION

Amicus respectfully urges the Court to grant rehearing in this case.

Respectfully Submitted:

/s Charles Roth

Dated: May 5, 2020

Jess Hunter-Bowman
National Immigrant Justice Center
110 E. Washington St.
Goshen, IN 46528
(773) 672-6611 (T)
(312) 660-1505 (F)
jbowman@heartlandalliance.org

Charles Roth
National Immigrant Justice Center
224 S. Michigan Ave.
Suite 600
Chicago, IL 60604
(312) 660-1613 (T)
(312) 660-1505 (F)

ADDENDUM

The Asian Pacific Institute on Gender-Based Violence (formerly, Asian & Pacific Islander Institute on Domestic Violence) is a national resource center on domestic violence, sexual violence, trafficking, and other forms of gender-based violence in Asian and Pacific Islander communities. The Institute serves a national network of advocates and community-based service programs that work with Asian and Pacific Islander and immigrant survivors, and is a leader on providing analysis and advocacy on critical issues facing victims of gender-based violence in the Asian and Pacific Islander and in immigrant communities. The Institute promotes culturally relevant intervention and prevention, provides expert consultation, technical assistance and training, conducts and disseminates critical research, and informs public policy on issues facing immigrant survivors of gender-based violence, including through its leadership in partnerships through the Alliance for Immigrant Survivors (www.immigrantsurvivors.org), the Domestic Violence Resource Network, and the National Taskforce to End Sexual and Domestic Violence.

ASISTA Immigration Assistance (ASISTA) worked with Congress to create and expand routes to secure immigration status for survivors of domestic violence, sexual assault, and other crimes, which were incorporated in the 1994 Violence Against Women Act (VAWA) and its progeny. ASISTA serves as liaison for the field with Department of Homeland Security (DHS) personnel charged with implementing these laws, most notably Citizenship and Immigration Services (CIS), Immigration and Customs Enforcement (ICE), and

DHS's Office for Civil Rights and Civil Liberties. ASISTA also trains and provides technical support to local law enforcement officials, civil and criminal court judges, domestic violence and sexual assault advocates, and legal services, non-profit, pro bono, and private attorneys working with immigrant crime survivors. ASISTA has previously filed amicus briefs in the Second, Seventh, Eighth, and Ninth Circuits. See *Rosario v. Holder*, 627 F.3d 58 (2d Cir. 2010); *Sanchez v. Keisler*, 505 F.3d 641 (7th Cir. 2007); *L.D.G. v. Holder*, 744 F.3d 1022 (7th Cir. 2014); *Lopez-Birrueta v. Holder*, 633 F.3d 1211 (9th Cir. 2011).

The National Coalition Against Domestic Violence (NCADV) is a non-profit group that is the nation's oldest national grassroots domestic violence organization. NCADV seeks institutional change in order to create a society in which domestic violence is never tolerated or minimized, in which victims and survivors are respected, and in which service providers have the resources to serve all victims and survivors.

The National Immigrant Justice Center (NIJC) is the largest provider of free and low-cost legal services in the Midwest, and represents, together with pro bono counsel, 13,000 people each year. NIJC is a leading advocate for immigrant domestic violence survivors and other victims of crime, representing hundreds of such individuals every year. It has a longstanding concern with ensuring that victims of crime have access to immigration relief and are able to pursue that relief prior to removal.

The National Network to End Domestic Violence (NNEDV) is a not-for profit organization incorporated in the District of Columbia in 1994 to end domestic violence. As a network of the 56 state and territorial domestic violence and dual domestic violence and sexual assault coalitions and their over 2,000 member programs, NNEDV serves as the national voice of millions of women, children and men victimized by domestic violence, and their advocates. NNEDV was instrumental in promoting Congressional enactment and implementation of the Violence Against Women Act. NNEDV works with federal, state and local policy makers and domestic violence advocates throughout the nation to identify and promote policies and best practices to advance victim safety. Immigrants are particularly vulnerable to domestic abuse and other gender based crimes. NNEDV has a strong interest in ensuring that immigrant victims have adequate access to U visa protections so that they can report the crimes they experienced without fear that the disclosure will result in removal proceedings.

Tahirih Justice Center (Tahirih) is the largest multi-city direct services and policy advocacy organization specializing in assisting immigrant women and girls who survive gender-based violence. Tahirih offers free legal and social services to women and girls fleeing all forms of gender-based violence, including human trafficking, forced labor, domestic violence, rape and sexual assault, and female genital cutting/mutilation. Since its beginning in 1997, Tahirih has assisted more than 20,000 individuals. Through direct services, policy advocacy, and training and education, Tahirih protects immigrant

women and girls and promotes a world where they can enjoy equality and live in safety and dignity. Tahirih amicus briefs have been accepted in numerous federal courts across the country.

CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and Circuit Rule 32 and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Office Word 2007 in Bookman Old Style, Font Size 12, with footnotes in Bookman Old Style, Font Size 11.

I certify that this brief complies with the type-volume limitations of Fed. R. App. P. 29(b)(4), because, excluding the parts of the document exempoed by Fed. R. App. P. 32(f), this brief contains **2596** words.

Dated: May 5, 2020

/s/ Charles Roth
Charles Roth

CERTIFICATE OF SERVICE

I, Charles Roth, counsel for Amici, certify that I electronically filed the foregoing **BRIEF AMICUS CURIAE IN SUPPORT OF PETITIONER'S PETITION FOR REHEARING** with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the appellate CM/ECF system on May 5, 2020.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/S/ Charles Roth
Charles Roth