No. 15-15307

In the United States Court of Appeals for the Ninth Circuit

ARIZONA DREAM ACT COALITION, ET AL.,
Plaintiffs-Appellees,

v.

JANICE K. BREWER, ET AL.,
Defendants-Appellants.

Appeal from the United States District Court for the District of Arizona, (Campbell, J.)
Case No. CV12-02546

AMICUS CURIAE BRIEF OF THE IMMIGRATION REFORM LAW INSTITUTE IN SUPPORT OF DEFENDANTS-APPELLANTS AND SUPPORTING REVERSAL OF THE DECISION BELOW

Dale L. Wilcox
Executive Director & General Counsel*
IMMIGRATION REFORM LAW INSTITUTE
25 Massachusetts Ave NW, Suite 335
Washington, DC 20001
* Member of 9th Circuit Bar; DC Bar pending; under supervision
Phone: (202) 232-5590
Fax: (202) 464-3590
E-mail: dwilcox@irli.org

Attorney for Amicus Curiae

RULE 26.1(a) CORPORATE DISCLOSURE STATEMENT

Amicus curiae Immigration Reform Law Institute is a 501(c)(3) not for profit corporation with no parent corporation or any publicly held corporation that owns 10% or more of its stock.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Other Sources

INTEREST OF *AMICUS CURIAE*

The Immigration Reform Law Institute, Inc. (IRLI) is a non-profit legal education and advocacy law firm working to defend the rights of individual Americans and their local communities from the harms and challenges posed by mass migration to the United States, both lawful and unlawful, to monitor and hold accountable federal, state, or local government officials who undermine, fail to respect, or comply with our national immigration and citizenship laws, and to provide expert immigration-related legal advice, training, and resources to public officials, the legal community, and the general public. IRLI's vision is a nation where our borders are secure, the American people are no longer disadvantaged and harmed by the deleterious effects of unlawful immigration, and legal immigration levels are set at a rate consistent with the national interest. IRLI's interests are thus aligned with, but not identical to, those of the State Defendants-Appellants.

AUTHORITY TO FILE AND RULE 29(c)(5) STATEMENT

Pursuant to Fed. R. App. P. 29(a), an *amicus curiae* may "may file a brief . . . if the brief states that all parties have consented to its filing." Counsel for both parties consented to IRLI filing an *amicus curiae* brief in this case. No counsel for a party authored this brief in whole or in part and no person or entity, other than

amicus curiae, its members, or its counsel, has contributed money that was intended to fund preparing or submitting the brief.

ARGUMENT

This case presents a straightforward equal protection challenge—whether the Arizona Department of Transportation ("ADOT") is required under the Fourteenth Amendment to accept employment authorization documents ("EAD") coded as (c)(33), as sufficient proof that the "applicant's presence in the United States is authorized under federal law." A.R.S. § 28-3153(D). Code (c)(33) identifies aliens who benefit from the Department of Homeland ("DHS") Security's Deferred Action for Childhood Arrivals ("DACA") policy. *Ariz. Dream Act Coalition v. Brewer*, 757 F.3d 1053, 1059 (9th Cir. 2014).

There are principally two issues for the Court to address. First, the Court must address whether those with a (c)(33) EAD source code are "similarly situated" to other EAD source codes which ADOT accepts to conform with Arizona's "authorized under federal law" standard. A.R.S. § 28-3153(D). Second, if this Court determines that (c)(33) aliens are similarly situated to EAD holders who are eligible for an Arizona driver's license, the Court must determine whether ADOT's policy is rationally related to a legitimate state interest.

Amicus curiae agrees with the arguments set forth by Defendants-Appellants ("Arizona") in this case and the reasoning as to why DACA aliens are not similarly

situated to other aliens who are eligible for an Arizona driver's license using an EAD. *Amicus curiae* also agrees with Arizona that rational basis scrutiny applies here. *Amicus curiae* submits this brief to provide additional reasons why this Court should reverse the district court's decision.

I. DACA ALIENS WITH EMPLOYMENT AUTHORIZATION ARE NOT SIMILARLY SITUATED TO OTHER ALIENS WITH EMPLOYMENT AUTHORIZATION THAT MEET ADOT'S REVISED POLICY.

A. DACA aliens have no basis to claim any authorized presence or pathway to authorized status under any congressional enactment.

"The Equal Protection Clause of the Fourteenth Amendment commands that no State shall 'deny to any person within its jurisdiction the equal protection of the laws,' which is essentially a direction that all persons similarly situated should be treated alike. *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 439 (1985) *citing Plyler v. Doe*, 475 U.S. 202, 216 (1982)). "The first step in equal protection analysis is to identify [ADOT's] classification of groups.... Once the plaintiff establishes governmental classification, it is necessary to identify a 'similarly situated' class against which the plaintiff's class can be prepared." *Rosenbaum v. City & County of San Francisco*, 484 F.3d 1142, 1153 (9th Cir. 2007) (citations and internal quotation marks omitted). "The groups must be comprised of similarly situated persons so that the factor motivating the alleged discrimination can be identified." *Thornton v. City of St. Helens*, 425 F.3d 1158, 1167 (9th Cir. 2005)

(citing *Freeman v. City of Santa Ana*, 68 F.3d 180, 1187 (9th Cir. 1995)). "An equal protection claim will not lie by 'conflating all persons not injured into a preferred class receiving better treatment' than the plaintiff." *Thornton*, 425 F.3d at 1167 (quoting *Joyce v. Mavromatis*, 783 F.2d 56, 57 (6th Cir. 1986)).

In determining whether two aliens are similarly situated, a state may rely on how Congress treats the subgroups of aliens at issue. *See Plyler*, 457 U.S. at 219 n.19 (citing *De Canas v. Bica*, 424 U.S. 351 (1976)) ("[I]f the Federal Government has, by uniform rule, prescribed what it believes to be appropriate standards for the treatment of an alien subclass, the States may, of course, follow the federal direction."). This is so because "the Constitution does not require things which are different in fact or opinion to be treated in law as though they were the same." *Id.* at 216 (citation and internal quotations omitted).

The district court addressed three EAD source codes, (c)(9), (c)(10), and (c)(11)[1], which it believed represented classifications of aliens similarly situated to (c)(33)-coded DACA aliens. *Ariz. Dream Act Coalition v. Brewer*, 2015 U.S. Dist. LEXIS 8043, *17-18 (D. Ariz. January 22, 2015). The Immigration and Nationality Act ("INA"), however, which ADOT followed in implementing its policy, requires a finding that DACA-coded aliens are <u>not</u> similarly situated to

[1] Each of the EAC codes at issue in this case, with the exception of DACA, are references to provisions in 8 C.F.R. § 274a.12. For instance, a (c)(9) EAC code can be found at 8 C.F.R. § 274a.12(c)(9).

other EAD-coded aliens to whom ADOT grants driver's license eligibility. Specifically, unlike DACA-coded aliens, every EAD code that ADOT accepts represents an alien who (1) possesses a formal immigration status, (2) is on a path to obtaining a formal immigration status, or (3) seeks or has obtained relief expressly provided for in the INA. Stated another way, Congress has, in some way by statute, either created the formal immigration status or created a process for the alien to obtain a formal immigration status.

DACA, on the other hand, has never received congressional recognition or approval in any way, shape or form, nor has Congress created processes specifically for DACA aliens.[2] *See* DACA Memorandum at 3 (June 15, 2012), *available at* http://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf (stating DACA "confers no substantive right, immigration status or pathway to citizenship. Only the Congress, acting through its legislative authority, can confer these rights." DACA is merely an extra-statutory, agency-created policy that protects certain aliens from removal based on DHS-created criteria.

As for (c)(11) aliens, the district court simply erred. Not only is a parolee found in the INA, but unlike in the case of a DACA alien, the statute expressly states that the parolee may remain in the United States during the period of the

[2] In fact, as will be discussed below, legislation similar to DACA has been repeatedly rejected by Congress.

alien's stay. *See* 8 U.S.C. 1182(d)(5)(A). Additionally, under 8 U.S.C. §§ 1621(a) and 1641(b)(4), Congress treats parolees differently than illegal aliens, including DACA aliens, for purposes of obtaining state and local public benefits. *See Texas v. U.S.*, 2015 U.S. App. LEXIS 8657, *38-39, n.48 (5th Cir. 2015) (citing *U.S. v. Alabama,* 691 F.3d 1269, 1298 (11th Cir. 2012), for the proposition that Driver's licenses fall within the meaning of § 1621(c)'s definition of a state and local benefit.). In contrast, DACA aliens do not qualify for state and local public benefits under 8 U.S.C. § 1621(a), including driver's licenses.[3]

While it may be true that DACA aliens share some similarities with (c)(9)-(11)-coded aliens, *Ariz. Dream Act Coalition*, 757 F.3d 1058-1059, the important question is whether they are substantially similar in material ways. *Freeman,* 68 F.3d at 1187 (stating "[d]iscrimination cannot exist in a vacuum; it can be found only in the unequal treatment of people in similar circumstances") (citation and quotations omitted). Clearly, they are not. Congress created processes through which an illegal alien may apply for cancellation of removal and adjust to a lawful status. For some aliens, part of that process involves adjudications of their cancellation of removal and adjustment of status applications, processes during

[3] After this litigation, ADOT may need to reevaluate its policy again to ensure that its policies are also complying with 8 U.S.C. § 1621. This Brief is limited to whether DACA aliens and (c)(9)-(11) EAD coded aliens are similarly situated and what level of scrutiny applies. It does not address whether ADOT is complying with 8 U.S.C. § 1621 generally.

which Congress did not mandate detention. In comparison, Congress has provided no process or authorization for DACA. ADOT may constitutionally rely on federal statutes when setting its policy.

B. DACA does not have the force of law so DACA aliens cannot claim to be similarly situated to aliens who are following a lawful process.

The United States Constitution delegates almost all immigration-related powers to Congress. "The conditions for entry of every alien, the particular classes of aliens that shall be denied entry altogether, the basis for determining such classification, the right to terminate hospitality to aliens, [and] the grounds on which such determination shall be based, have been recognized as matters *solely for the responsibility of the Congress*." *Harisiades v. Shaughnessy,* 342 U.S. 580, 596-97 (1952) (Frankfurter, J., concurring) (emphasis added). The plenary authority of Congress over aliens under Art. I, § 8, cl. 4, is not open to question. *INS v. Chadha*, 462 U.S. 919, 940 (1983).

Arizona correctly argues that the Executive Branch's power to implement DACA is at its "lowest ebb" because it acted contrary to Congressional action. Ariz. Br. at 32-35 (quoting *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 638 (1952) (Jackson, J. concurring)). Arizona cites the fact that Congress rejected the DREAM Act three times, a policy which, if enacted, would grant DACA recipients similar relief as that provided under the DACA program. Ariz. Br. at 12, 34-35. In actuality, some form of the DREAM Act, either standing alone or as part

of a larger bill, has been introduced not just on three occasions, but at least eleven times since 2001.[4] Congress has thus repeatedly exercised its "plenary authority" in the area of immigration to reject a nearly identical policy to that conjured up by the President through unilateral executive action. DACA aliens are thus dissimilar to (c)(9)-(11)-coded aliens in both the plain text of the law and in legislative intent.

DACA was indisputably created only because Congress itself would not authorize such a policy, not in any of the 11 similar variants introduced as legislation. The fact that DACA and the DREAM Act are interrelated and share similarities has been widely reported. *See, e.g.*, Julia Preston, *Obama to Permit Young Migrants to Remain in U.S.*, N.Y. TIMES, (June 15, 2012) ("The group of illegal immigrants that will benefit from the policy is similar to those who would have been eligible to become legal permanent residents under the Dream Act, legislation that Mr. Obama has long supported."), *available at http://www.nytimes.com/2012/06/16/us/us-to-stop-deporting-some-illegal-*

[4] Border Security, Economic Opportunity, and Immigration Modernization Act, S. 744, Sec. 2103 (2013); DREAM Act of 2010, S. 3827 (2010); DREAM Act of 2007, S. 2205 (2007); Comprehensive Immigration Reform Act of 2007, S. 1348, Subtitle C (2007); American Dream Act, H.R. 1275 (2007); American Dream Act, H.R. 5131 (2006); Comprehensive Immigration Reform Act of 2006, S. 2611, Subtitle C (2006); DREAM Act of 2005, S. 2075 (2005); DREAM Act, S. 1545 (2003); Student Adjustment Act of 2003, H.R. 1684 (2003); DREAM Act, S. 1291 (2001). Additionally, the DREAM Act did pass the House once on December 8, 2010 with a vote of 216-198 as an amendment to H.R. 5281 (2010) (Roll no. 625). It failed, however, to pass cloture in the Senate on December 18, 2010 with a vote of 55-41(Record Vote No. 278).

immigrants.html. Prior to implementing DACA by means of an agency memorandum, the President had repeatedly acknowledged the limits on his power to create DACA as well, while referencing the DREAM Act. *See*, *e.g.*, Jan C. Ting, *Obama's Own Words Refute His Stand on Immigration Authority*, N.Y. TIMES (Nov. 18, 2014) ("[T]here's been a great disservice done to the cause of getting the DREAM Act passed and getting comprehensive immigration passed by perpetuating the notion that somehow, by myself, I can go and do these this. It's just not true.... We live in a democracy. You have to pass bills through the legislature, and then I can sign it."), *available at* http://www.nytimes.com/roomfordebate/2014/11/18/constitutional-limits-of-presidential-action-on-immigration-12/obamas-own-words-refute-his-stand-on-immigration-authority. Subsequent to announcing DACA, the President even acknowledged that he was creating DACA "[i]n the absence of any immigration action from Congress" under the guise of "focus[ing] ... immigration enforcement resources in the right places." Remarks by the President on Immigration, White House Transcript (June 15, 2012), *available at* https://www.whitehouse.gov/the-press-office/2012/06/15/remarks-president-immigration.

In light of Congress's repeated refusal to enact the DREAM Act, coupled with the President's acknowledgments that he lacked his claimed authority and that he was acting *because* Congress refused to act, this case clearly falls within

Youngstown's third category. Any authority the President has to unilaterally treat millions of illegal aliens as lawfully or quasi-lawfully present in the United States is only his "executive power without any constitutional powers of Congress over the matter." *Youngstown*, 343 U.S. at 637. The power to create immigration policy, however, is an Article I power, not an Article II power. *Chadha*, 462 U.S. at 940.

The district court's reliance on DACA aliens being similarly situated to (c)(9)-(c)(11)-coded aliens is based on an extraordinarily broad discretionary power allegedly given to the Executive Branch in implementing immigration laws. *Ariz. Dream Act Coalition v. Brewer*, 2015 U.S. Dist. LEXIS 8043, *6 (D. Ariz. January 22, 2015). Whether any claimed discretion includes the authority to refuse to enforce federal statutes, Congress's actions demonstrate that any "discretion" that the Executive may claim does not extend to DACA, a practice and policy which the legislative branch has repeatedly rejected. The Executive Branch's pronouncements show that it understood this, yet created the policy anyway. To find that DACA aliens, who Congress has repeatedly rejected recognizing, are similar to aliens for whom Congress has recognized and created pathways for legalization—even if ultimately unsuccessful—is an affront to congressional power and would represent a serious breach in the separation of powers doctrine. *Medellin v. Texas*, 552 U.S. 491, 524-25 (2008) ("The President's authority to act,

as with the exercise of any governmental power, must stem either from an act of Congress or from the Constitution.") (citations and internal quotations omitted).

II. RATIONAL BASIS SCRUTINY APPLIES TO ADOT'S POLICY.

If the Court determines that DACA aliens are similarly situated to (c)(9)-(11)-coded aliens, it next will examine which level of scrutiny should apply. Under Supreme Court precedent, rational basis scrutiny is applicable here.

"[A]bsent controlling congressional direction, the courts have themselves devised standards for determining the validity of state legislation or other official action that is challenged as denying equal protection." *City of Cleburne*, 473 U.S. at 439-40. "The general rule is that legislation is presumed to be valid and will be sustained if the classification drawn by the statute is rationally related to a legitimate state interest." *Id.* (citations omitted). "When social or economic legislation is at issue, the Equal Protection Clause allows the States wide latitude ... and the Constitution presumes that even improvident decisions will eventually be rectified by the democratic process." *Id.* (internal citation omitted).

"The general rule gives way, however, when a statute classifies by race, alienage, or national origin." *Id.* Those classifications are subject to "strict scrutiny and will be sustained only if they are suitably tailored to serve a compelling state interest." *Id. (*citing *McLaughlin v. Florida*, 379 U.S. 184, 192 (1964); *Graham v. Richardson*, 403 U.S. 365 (1971)). "Similar oversight by the courts is due when

state laws impinge on personal rights protected by the Constitution." *City of Cleburne*, 473 U.S. at 440 (citing *Kramer v. Union Free School District No. 15*, 395 U.S. 621 (1969); *Shapiro v. Thompson*, 394 U.S. 618 (1969); *Skinner v. Oklahoma ex rel. Williamson*, 316 U.S. 535 (1942)).

First, there should be no dispute that strict scrutiny does not apply. "No controlling legislation" gives specific protection to DACA aliens, *City of Cleburne*, 473 U.S. at 439, nor has Congress enacted controlling legislation to protect DACA aliens. To the contrary, Congress has repeatedly rejected a law similar to the DACA policy each time it has been introduced.[5]

Next, a driver's license is not a "fundamental right." *See Miller v. Reed*, 176 F.3d 1202, 1206 (9th Cir. 1999) (no "fundamental right to drive a motor vehicle"). What is more, applying for DACA and applying for an EAD are "voluntary action[s]" and cannot be the basis for claiming suspect classification. *Plyler*, 457 U.S. at 219, n.19; *U.S. v. Coleman*, 166 F.3d 428, 431 (2d Cir. 1999).

Second, intermediate scrutiny cannot apply. As Arizona notes, intermediate scrutiny cannot apply because none of the plaintiffs "(1) 'have suffered a history of discrimination; (2) exhibit obvious, immutable, or distinguishing characteristics

[5] Even further, DACA is merely an extra-statutory policy created by the Executive Branch without any rulemaking whatsoever and thus lacks the force of law. *Barclays Bank PLC v. Franchise Tax Bd. Of Cal.*, 512 U.S. 298, 300 (1994) ("Executive Branch communications that express federal policy but lack the force of law cannot render unconstitutional [Arizona's] otherwise valid, congressionally condoned" policy).

that define them as a discrete group; and (3) show that they are a minority or politically powerless." Ariz. Br. at 41 (quoting *High Tech Gays v. Def. Indus. Security Clearance Office*, 895 F.2d 563, 573 (9th Cir. 1990) (string citation omitted)). Arizona cites to the holding of the Arizona district court to support its argument, Ariz. Br. at 43, but other reasons prevent intermediate scrutiny from applying in this case as well.

Importantly, there is no "immutable" characteristic about those who have obtained the DACA benefit. *High Tech Gays*, 895 F.2d at 573. "Laws are subject to intermediate scrutiny when they discriminate based on certain other suspect classifications, such as gender." *Kahawaiolaa v. Norton*, 386 F.3d 1271, 1277 (9th Cir. 2005) (citing *Miss. Univ. for Women v. Hogan*, 458 U.S. 718, 723-24 (1982)). "[U]undocumented status [is not] an absolutely immutable characteristic, since it is the product of conscious, indeed unlawful, action." *Plyler*, 457 U.S. at 220. The DACA qualifications themselves are not immutable-- "in school, has graduated from school , has obtained a general education development certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States[.]" DACA Memorandum at 2. DACA recipients are illegal aliens who have been given work authorization and a temporary reprieve from removal. They simply do not fall within the same category as persons harmed by laws that discriminate against disability and gender disability. *City of Cleburne*, 473 U.S.

432; *Miss. Univ. for Women*, 458 U.S. 718. As a result, only rational basis scrutiny remains.

Furthermore, the "heightened rational basis review" applied in *Plyler v. Doe* is not warranted in this case. The Supreme Court used the higher rational basis review in *Plyler* because of the importance the Court put on a basic education. *See Coleman*, 166 F.3d at 431 (stating *Plyler* required heightened scrutiny because, although illegal aliens are not a suspect class, education is "an important state function"); *Rodriguez by Rodriguez v. U.S.*, 169 F.3d 1342, 1349-50 (11th Cir. 1999); *Murphy v. Dept. of Correction*, 429 Mass. 736, 740, n.4 (1999) (privacy interest in prohibiting taking of a convicted person's blood did not warrant *Plyler* "rational basis plus" which was given to children of illegal aliens due to "the exceptional hardships that the denial of education would place" on them). The *Plyler* Court was "reluctant to impute to Congress the intention to withhold from these children, for so long as they are present in this country through no fault of their own, access to basic education." *Plyler*, 475 U.S. at 226. The Court explained its focus was the overarching importance of a remedial education to a child regardless of their immigration status: "By denying these children a basic education, we deny them the ability to live within the structure of our civic institutions, and foreclose any realistic possibility that they will contribute in even the smallest way to the progress of our Nation." *Id.* at 223. In light of the

importance of a basic education, "[i]n determining the rationality of [the state's policy, the Court] appropriately t[ook] into account its costs to the Nation and to the innocent children who [were] its victims." *Id.* at 223-224. *Plyler* thus underlines the singularity of its holding, which has *never* been expanded. *See LeClerc v. Webb*, 419 F.3d 405, 420 (5th Cir. 2005) (finding *Plyler* adopted a standard of review that "appears solely in Plyler"). This Court should have no trouble discerning Congress's intention to withhold authorized presence from DACA aliens given the number of times the DREAM Act has been rejected.

Simply put, *Plyler* compels this Court to apply the normal rational basis test. *Plyler* "acknowledged that the immigration status of the affected class of aliens precluded use of either intermediate or strict scrutiny." *LeClerc*, 419 F.3d 405 (citing *Plyler*, 457 U.S. at 223). DACA aliens are unlawfully present aliens whom the Executive Branch has decided it will temporarily suspend removal proceedings. Under the INA, these individuals are not present in the United States in a legal status, and have not attempted to pursue a statutorily created path to gain a lawful status. Instead, DHS has independently created a "policy" to prevent removal despite clear indications of congressional disapproval.

DHS admits it cannot give these aliens a legal status under federal immigration law. DACA Memorandum at 3. Thus, it simply cannot be, as the district court held, that DACA aliens would benefit from a higher level of scrutiny

under the Fourteenth Amendments than other illegal aliens. Rational basis applies, and as a result, Appellees must demonstrate that ADOT's policy is "wholly irrational."[6] *Amicus curiae* will not address rational basis scrutiny in relation to the facts in this case (as the parties will brief this issue extensively) except to state that it is not "wholly irrational" for ADOT to follow statutes enacted by Congress.

CONCLUSION

For any of the reasons stated above and for the reasons stated in Arizona's Brief, the Court should reverse the district court decision below.

[6] It should be noted that if this Court determines that the ADOT policy does violate the Equal Protection Clause, ADOT may have to review its policy again and deny licenses to additional aliens. *See Heckler v. Matthews*, 465 U.S. 728, 738-40 (1984) ("[W]hen the right invoked is that of equal treatment, the appropriate remedy is a mandate of equal treatment, a result that can be accomplished by withdrawal of benefits from the favored class ...."). ADOT will still be prohibited from giving driver's licenses to those individuals whose "presence in the United States [are not] authorized under federal law." A.R.S. § 28-3153(D). In doing so, ADOT also must comply with 8 U.S.C. § 1621.

June 8, 2015

Respectfully Submitted,

/S/ DALE L. WILCOX
Dale L. Wilcox
Executive Director & General Counsel*
IMMIGRATION REFORM
LAW INSTITUTE
25 Massachusetts Ave NW, Suite 335
Washington, DC 20001
Phone: (202) 232-5590
Fax: (202) 464-3590
E-mail: dwilcox@irli.org

* Member of 9th Circuit Bar; DC Bar pending; under supervision

Attorney for Amicus Curiae

RULE 32(a)(7) CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because this brief contains 3848 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii).

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) 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 Word 2010 in 14-point Times New Roman type.

June 8, 2015
Date

/s/ DALE L. WILCOX
Attorney for Amicus Curiae
Immigration Reform Law Institute

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on June 8, 2015. All participants in the case are registered CM/ECF users and will be served by the appellate CM/ECF system.

June 8, 2015
Date

/s/ DALE L. WILCOX
Attorney for Amicus Curiae
Immigration Reform Law Institute