

No. 23-542

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**In the Supreme Court of the United States**

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MERRICK B. GARLAND, ATTORNEY GENERAL,  
PETITIONER

*v.*

EDIN DONELSY MADRID-MANCIA

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*ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT*

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**REPLY BRIEF FOR THE PETITIONER**

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The question presented in this case is identical to the question presented in *Campos-Chaves v. Garland*, No. 22-674 (argued Jan. 8, 2024), and *Garland v. Singh*, No. 22-884 (argued Jan. 8, 2024). Respondent contends (Br. in Opp. 19), however, that “factual and procedural complexities” make it unnecessary to hold this case pending this Court’s forthcoming decision in *Campos-Chaves* and *Singh*. See *id.* at 12-19. Respondent’s arguments for denying the petition for a writ of certiorari before *Campos-Chaves* and *Singh* are decided are unsound.

Respondent contends (Br. in Opp. 16) that this case is distinguishable from *Campos-Chaves* and *Singh* because, in her view, this case involves “factual disputes about \* \* \* respondent’s notification of change in address and actual receipt of the Notice of Hearing.” But respondent concedes (*ibid.*) that the court of appeals did not resolve those disputes or base its decision on re-

spondents' contention that she lacked actual notice. Instead, the court held that the lack of a specific hearing time in respondent's initial Notice to Appear was "alone sufficient," *ibid.*, to permit respondent to reopen her removal proceeding. See Pet. App. 13a, 20a. That is the same interpretation of the INA that the government has challenged in *Campos-Chaves* and *Singh*.

In any event, this Court is "a court of review, not of first view." *Cutter v. Wilkinson*, 544 U.S. 709, 718 n.7 (2005). If this Court adopts the government's interpretation of the INA in *Campos-Chaves* and *Singh*, the Court should then allow the lower courts on remand to consider respondent's additional arguments in the first instance.

Respondent also contends (Br. in Opp. 18-19) that holding the petition would cause "undue delay to [respondent's] rights to have the other issues at hand adjudicated" and create "uncertainty" for respondent. Although respondent's desire for certainty is understandable, she does not suggest that the government delayed in exercising its right to seek a writ of certiorari.\* At this point in the Court's Term, her case is likely to be held for no more than a few weeks beyond the date on which a denial of certiorari could occur. Nor does respondent suggest that waiting for the resolution of *Campos-Chavez* and *Singh* will prejudice her ability to litigate the "other issues" she mentions, *id.* at 19, whether the Court vacates and remands or denies certiorari. And to the extent that her personal circumstances

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\* The court of appeals denied rehearing on August 21, 2023, and the government's petition was filed on November 20, 2023. Respondent's brief in opposition was filed, after two extensions, on May 13, 2024.

warrant it, the court of appeals could seek to minimize delays on remand.

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For the foregoing reasons and those stated in the petition for a writ of certiorari, the petition should be held pending this Court's decision in *Campos-Chaves v. Garland, supra* (No. 22-674), and *Garland v. Singh, supra* (No. 22-884), and then disposed of as appropriate in light of that decision.

Respectfully submitted.

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