No. 25-966

In the Supreme Court of the United States

DEPARTMENT OF LABOR, ET AL., PETITIONERS

v.

SUN VALLEY ORCHARDS, LLC

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

REPLY BRIEF FOR THE PETITIONERS

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REPLY BRIEF FOR THE PETITIONERS

This is a quintessential case warranting review. Under the H–2A visa program, U.S. employers may obtain the privilege of "import[ing]" aliens to perform temporary agricultural work in the United States, so long as the employers comply with statutory and regulatory provisions governing pay and working conditions. 8 U.S.C. 1188(a)(1). In the decision below, the Third Circuit invalidated an Act of Congress that authorizes the Department of Labor to "impos[e] appropriate penalties * * * to assure employer compliance with terms and conditions of employment under [the program]." 8 U.S.C. 1188(g)(2). Like other decisions holding Acts of Congress unconstitutional, that decision warrants this Court's review—especially because it deprives the agency of an important tool for enforcing the requirements of the H–2A visa program and casts doubt on similar administrative adjudications under other visa programs.

Respondent's objections to review are baseless. Respondent claims (Br. in Opp. 14-16) that the decision below does not invalidate any Act of Congress, suggesting that the statute authorizes the Secretary of Labor to seek civil penalties in federal court and that only Department of Labor regulations stand in the way of doing so. That is wrong, but even under that framing, the decision below invalidates the administrative scheme that the Department has used since the statute's enactment nearly 40 years ago to "impos[e] appropriate penalties" solely in agency proceedings. 8 U.S.C. 1188(g)(2); see 29 C.F.R. 501.30. By any metric, barring the Department from relying on in-house adjudication of civil penalties to enforce the terms and conditions of the H–2A program—and requiring the Department to jettison its decades-old procedures for resolving such cases—inflicts upheaval in a national program and abundantly warrants certiorari.

Respondent emphasizes (Br. in Opp. 16-18) the absence of a circuit conflict, but the decision below untenably prevents the Department of Labor from adjudicating civil penalties in any case where venue might lie in the Third Circuit. And this Court regularly grants review even in the absence of a circuit split when, as here, a court of appeals has invalidated a key part of an administrative scheme. See, *e.g.*, *SEC* v. *Jarkesy*, 603 U.S. 109, 120 (2024); *United States* v. *Texas*, 599 U.S. 670, 675 (2023). Finally, respondent's defense (Br. in Opp. 18-25) of the Third Circuit's decision on the merits misapprehends the public rights at stake as well as this Court's precedents. The Court should grant the petition for a writ of certiorari.

A. This Case Fits Within The Public-Rights Doctrine

Article III reserves federal adjudications involving private rights to the federal courts, but Congress may assign adjudications involving public rights to agencies executing the laws under Article II. See Pet. 14-16. Respondent correctly notes that courts should "give 'close attention to the basis for each asserted application of the [public-rights] doctrine,'" that "[h]istory matters" in judging the doctrine's scope, and that an unduly expansive application of the doctrine risks undermining "Article III's guarantee of an independent judicial forum." Br. in Opp. 18-19 (citation omitted). This case, however, falls within the doctrine's heartland.

Immigration is a paradigmatic public right. See Pet. 16-23. Because no one has a private right to bring aliens into the United States, Congress may "prescribe the terms and conditions on which they may come in" and "commit the enforcement of such conditions * * * to executive officers." *Oceanic Steam Navigation Co.* v. *Stranahan*, 214 U.S. 320, 335 (1909) (citation omitted).

Further, cases involving government benefits implicate classic public rights. See Pet. 15. Executive agencies may therefore adjudicate disputes concerning governmental privileges, such as "pensions and payments to veterans." *Crowell* v. *Benson*, 285 U.S. 22, 51 (1932).

This case thus comfortably fits within the public-rights doctrine because it involves public benefits in the immigration context. The H–2A program grants employers the ability to "import" foreigners to the United States for temporary agricultural work—but only if the employers comply with various terms and conditions, including conditions related to housing and pay. 8 U.S.C. 1188(a)(1); see Pet. 23-29. The Executive Branch may assess monetary remedies for violations of those terms and conditions, just as it may assess such remedies upon carriers that violate the terms and conditions of transporting aliens to the United States. See *Oceanic Steam*, 214 U.S. at 339-340.

Respondent sidesteps many of the government's arguments—including its discussion of founding-era history, see Pet. 16-17; precedent, see Pet. 17-22; and separation-of-powers principles, see Pet. 22-23. Respondent instead advances (Br. in Opp. 18-25) five main objections, but none is sound.

First, respondent emphasizes (Br. in Opp. 21-22) that this case involves monetary remedies such as civil penalties and back wages and suggests that only Article III courts may award such remedies. But, applying the public-rights doctrine, this Court has held that agencies may assess civil penalties or other monetary remedies against:

- Transportation companies that unlawfully bring aliens to the United States. See *Lloyd Sabaudo Societa Anonima per Azioni* v. *Elting*, 287 U.S. 329, 331, 334-335 (1932); *Oceanic Steam*, 214 U.S. at 338-340.

- Taxpayers who underpay their income taxes. See *Helvering* v. *Mitchell*, 303 U.S. 391, 401-404 (1938); *Phillips* v. *Commissioner*, 283 U.S. 589, 593-601 (1931).

- Importers who undervalue their merchandise, see *Passavant* v. *United States*, 148 U.S. 214, 221-222 (1893), or engage in unfair competition, see *Ex parte Bakelite Corp.*, 279 U.S. 438, 446-447, 458 (1929).

- Government contractors who fail to fulfill their contractual obligations. See *Allman* v. *United States*, 131 U.S. 31, 35 (1889).

In short, when a case involves public rights, Congress may "impose appropriate obligations and sanction their enforcement by reasonable money penalties, giving to executive officers the power to enforce such penalties without the necessity of invoking the judicial power." *Oceanic Steam*, 214 U.S. at 339. And the public-rights doctrine allows executive agencies not only to grant or deny public benefits, but also to assess penalties to enforce the conditions of receiving those benefits. Contra Br. in Opp. 25 n.9. The imposition of monetary penalties does not, by itself, turn a public-rights case into a private-rights dispute.

Second, respondent inaptly analogizes (Br. in Opp. 20-21) this case to a suit for breach of an employment contract. But the administrative adjudication here does not seek to enforce a bargain between an employer and its employees. Instead, it seeks to enforce respondent's commitment to *the government* to comply with specified requirements as a condition of receiving approval to import foreign labor. See Pet. 27-28. And the public-rights doctrine allows executive agencies to assess penalties against parties who violate the terms of such agreements with the government. See *Allman*, 131 U.S. at 35.

Third, respondent portrays (Br. in Opp. 22) this case as concerning "employment" "at a farm in New Jersey," not immigration. That elides the point of the H-2A program: to authorize immigration by temporary agricultural workers. It also ignores that the public-rights doctrine encompasses both immigration cases and cases concerning public benefits—and this is both. See Pet.

21. At the founding (and still today), "engaging in foreign commerce was regarded as a privilege rather than a right." *Learning Resources, Inc.* v. *Trump*, 146 S. Ct. 628, 680 (2026) (Thomas, J., dissenting). A farm in New Jersey has no private right to bring aliens into the United States to perform agricultural labor without the federal government's permission. The ability to "import an alien as an H–2A worker," 8 U.S.C. 1188(a)(1), is a government-granted privilege. Under the public-rights doctrine, Congress may establish the "terms and conditions" of receiving that privilege and may "commit the enforcement of such conditions" to "executive officers." *Oceanic Steam*, 214 U.S. at 335 (citation omitted). That is what Congress has done here: It has required farms that import H–2A workers to follow specified conditions, see 8 U.S.C. 1188(a)-(c), and it has empowered the Labor Department to enforce those conditions through monetary remedies, see 8 U.S.C. 1188(g)(2).

Fourth, respondent observes (Br. in Opp. 2) that, when a farm hires foreign workers under the H–2A program, it must comply with the program's requirements as to both foreign and domestic employees. But Congress imposed that broad condition on importing foreign labor because it reflects a core purpose of the program: ensuring that the importation of foreign labor "will not adversely affect the wages and working conditions of workers in the United States." 8 U.S.C. 1188(a)(1)(B). That regulation of immigration's effects on domestic labor is fully consistent with the fact that the program concerns immigration and confers a conditional public benefit.

Fifth, respondent objects (Br. in Opp. 1) that the agency adjudication was conducted by "the agency's hand-picked judges" and that "agency employees served as prosecutor, witness, and judge." But the question presented is whether the public-rights doctrine allows an executive agency to assess monetary remedies to enforce the H–2A program's conditions, not whether the procedures used here comport with due process. Objections to those procedures have no bearing on the distinction between public and private rights.

B. This Court's Review Is Warranted

1. This case warrants review because the Third Circuit has invalidated a federal statute—8 U.S.C. 1188(g)(2)—that empowers the Department of Labor to assess monetary remedies for violations of the conditions of the H–2A program. Respondent contends (Br. in Opp. 15-16) that the statute would still allow the Department to seek civil penalties in court. But even if respondent were correct on that point, the Third Circuit's invalidation of the statute as applied to administrative adjudications would still warrant this Court's review.

Even under respondent's view, the Third Circuit's decision precludes the Department of Labor from employing the administrative adjudicatory scheme that it has relied upon for decades to redress violations of H–2A program terms and conditions. As respondents note (Br. in Opp. 16), Department of Labor regulations that have been place since the Reagan Administration provide that the agency may obtain "civil money penalties" through an "administrative process." 29 C.F.R. 501.30. The Third Circuit's decision invalidates that decades-old administrative setup and would warrant review on that basis alone, even were respondents correct that the applicable statutes would allow the Department to promulgate regulations switching approaches now.

This Court's grant of review in *Jarkesy* proves the point. That statutory scheme expressly allowed the Securities and Exchange Commission (SEC) to choose between "seek[ing] civil penalties in federal court" and "impos[ing] them through its own in-house proceedings." *Jarkesy*, 603 U.S. at 118. This Court granted certiorari after the Fifth Circuit invalidated the in-house option, even though the SEC could still seek penalties in court. See *id.* at 120. Certiorari is equally warranted here.

Certiorari is particularly warranted because of the important role that administrative adjudications play in enforcing the conditions of participation in the H–2A visa program. That program covers hundreds of thousands of workers and accounts for about 16% of the United States' agricultural workforce. See Pet. 29-30. The program's terms and conditions are essential to ensuring that the program "will not adversely affect the wages and working conditions of workers in the United States." 8 U.S.C. 1188(a)(1)(B). Administrative adjudications provide an efficient mechanism for ensuring that employers who participate in that vast program comply with those terms and conditions.

2. Respondent also questions (Br. in Opp. 14-16) whether the statute authorizes the administrative imposition of monetary remedies at all. But the Third Circuit did not rely on that statutory argument, see Pet. App. 19a n.6, which lacks merit and in any event need not be addressed were the Court to grant review.

Section 1188(g)(2) provides:

> The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this section.

8 U.S.C. 1188(g)(2). By providing that "[t]he Secretary of Labor is authorized to * * * impos[e] appropriate penalties," *ibid.*, the statute unambiguously authorizes the Secretary to assess civil penalties.

Moreover, the statute empowers the Secretary to "*impos[e]* appropriate penalties and *see[k]* appropriate injunctive relief." 8 U.S.C. 1188(g)(2) (emphasis added). That contrast in verbs is a "material variation in terms" that "suggests a variation in meaning." Antonin Scalia & Bryan A. Garner, *Reading Law* 170 (2012); see *Russello* v. *United States*, 464 U.S. 16, 23 (1983). The agency may "impose" monetary penalties itself—meaning that the agency can do so through agency adjudication and need not ask a court to impose them—but may "seek" injunctive relief from courts.

As noted, the Department has long embraced that textual interpretation via regulations that exclusively permit administrative adjudication of civil penalties. Implementing regulations issued soon after the enactment of the statutory provisions at issue authorized the Department to "assess civil money penalties" and "recover unpaid wages" in administrative proceedings alone. 52 Fed. Reg. 20,524, 20,526 (June 1, 1987). The substance of those regulations has remained in effect ever since. See 29 C.F.R. 501.15 *et seq.* Those regulations—which were issued "roughly contemporaneously with enactment of the statute" and have "remained consistent over time"—are "especially useful in determining the statute's meaning." *Loper Bright Enterprises* v. *Raimondo*, 603 U.S. 369, 386 (2024).

3. Respondent emphasizes (Br. in Opp. 16-18) the lack of a circuit conflict. But this Court often grants review even absent a circuit conflict when a court of appeals' decision "has decided an important question of federal law that has not been, but should be, settled by

this Court" or "has decided an important federal question in a way that conflicts with relevant decisions of this Court." Sup. Ct. R. 10(c). This case satisfies those criteria. The court below rendered a constitutional ruling that conflicts with this Court's public-rights jurisprudence; precludes the Department of Labor from using an administrative penalty procedure that the Department has relied on for nearly 40 years; and upends enforcement of the terms of a visa program that accounts for about a sixth of the United States' agricultural workforce. See Pet. 5, 29-32.

Further percolation is unwarranted, contra Br. in Opp. 16-17, especially given that the court of appeals' decision significantly impairs the Department of Labor's implementation of the H–2A program by precluding administrative assessment of civil penalties against H–2A employers in the Third Circuit. And denying review here could delay resolution of the question presented for years. Respondent cites (*id.* at 17) three other lower-court cases that raise overlapping questions: *Butler Amusements, Inc.* v. *United States Department of Labor*, No. 24-cv-1042, 2025 WL 2457687 (D.D.C. Aug. 26, 2025); *C.S. Lawn & Landscape, Inc.* v. *United States Department of Labor*, No. 23-cv-1533, 2026 WL 820976 (D.D.C. Mar. 25, 2026); and *Triple R Farms, LLC* v. *Department of Labor*, No. 26-cv-87 (E.D. Ky. filed Mar. 12, 2026). But as respondent acknowledges (Br. in Opp. 17 nn.5-6), *Butler Amusements* and *C.S. Lawn* involve a different albeit similar statutory provision and visa program (the H–2B program), and the appeal in *Butler Amusements* (where the government prevailed in district court) has been dismissed for failure to prosecute. The complaint in *Triple R Farms*, in turn, was filed only weeks ago, making it unlikely that the case will reach this Court soon. See Compl., *Triple R Farms*, *supra* (No. 26-cv-87).

C. This Case Is An Appropriate Vehicle For Resolving The Question Presented

Respondent agrees (Br. in Opp. 13 n.4) that "there are no vehicle problems that would * * * bar this Court's review" of the question presented. Respondent states (*ibid.*) that it has "shut down farming operations during this litigation," but that development does not moot the case. "'A case is not moot so long as a claim for monetary relief survives[.]' * * * If there is any chance of money changing hands, [the] suit remains live." *Mission Product Holdings, Inc.* v. *Tempnology, LLC*, 587 U.S. 370, 377 (2019) (brackets and citation omitted). Respondent acknowledges (Br. in Opp. 13 n.4) that, because it "remains duly incorporated," it is "still potentially subject to the agency's award of penalties and back wages."

Further, while the government has no objection to respondent's alternative formulation of the question presented, respondent's broadsides (Br. in Opp. 25-27) against the government's formulation lack merit. Respondent objects that the question presented asks whether Article III precludes "Congress" from assigning the adjudication at issue here to the Department of Labor. *Id.* at 25 (citation omitted). But that is the very question that the court of appeals decided when it held that "Sun Valley was entitled to have its case decided by an Article III court." Pet. App. 2a. Respondent is correct (Br. in Opp. 26) that, if the Court grants certiorari, it need not address, or presume the answer to, the statutory question whether Congress has in fact authorized administrative adjudications. The Court need "decide only the constitutional question" resolved below, *ibid.*, and, if appropriate, remand for consideration of the statutory question. Nothing about the question presented suggests otherwise.

Respondent also argues (Br. in Opp. 26) that, while the question presented asks whether the Department of Labor may adjudicate proceedings to enforce "the terms and conditions of participating in the H–2A visa program," Pet. I, the statute authorizes the Secretary to impose penalties to assure employer compliance with the "terms and conditions of employment under this section," 8 U.S.C. 1188(g)(2). Those formulations are interchangeable. Since "this section" sets forth the conditions for employing aliens under the H–2A program, the "conditions of employment under this section" *are* the conditions of participating in the program. *Ibid.*

* * * * *

The petition for a writ of certiorari should be granted.

Respectfully submitted.

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