



STAND FOR JUSTICE

By Hand Delivery and Email

March 1, 2017

Scott S. Harris
Clerk
Supreme Court of the United States
1 First Street, NE
Washington, DC 20543

Re: *Jennings v. Rodriguez*, No. 15-1204

Dear Mr. Harris,

Petitioners' Reply Brief relies on a recently released DHS memo not available to Respondents before their Reply Brief was finalized. *See* Petitioners' Reply Br. 6 n.2 (citing Memorandum from Secretary John Kelly, *Implementing the President's Border Security and Immigration Enforcement Improvements Policies* (Feb 20, 2017)) ("Kelly Memo").

Quoting the Kelly Memo, Petitioners assert that the agency's 2009 parole guidance, which favors release of arriving asylum seekers who satisfy certain criteria, "remains 'in full force and effect.'" *Id.* (quoting Kelly Memo at 10). Although Petitioners acknowledge that the guidance is "subject to 'further review and evaluation,'" *id.* (quoting Kelly Memo at 9), they omit any reference to other statements in the memo that suggest DHS now intends to deny release on parole more frequently than it has in the past. *See, e.g.*, Kelly Memo at 9 (stating that parole authority "should be exercised sparingly," asserting without evidentiary support that "[t]he practice of granting parole to certain aliens in pre-designated categories . . . has contributed to a border security crisis . . . and created an incentive for additional illegal immigration," and noting that the agency will be issuing "final regulations clarifying the appropriate use of the parole power").

Respectfully submitted,

Ahilan T. Arulanantham
Counsel of Record for Respondents

cc: Noel J. Francisco, Acting Solicitor General