



U.S. Department of Justice

Office of the Solicitor General

Washington, D.C. 20530

May 1, 2020

Honorable Scott S. Harris
Clerk
Supreme Court of the United States
Washington, D.C. 20543

Re: Agusto Niz-Chavez v. William P. Barr, No. 19-863

Dear Mr. Harris:

In the government's brief in opposition to the petition for a writ of certiorari in this case, we noted that the government had filed a petition for rehearing en banc in *Banuelos-Galviz v. Barr*, 953 F.3d 1176 (10th Cir. 2020). See Br. in Opp. 16. On April 20, 2020, the Tenth Circuit denied the government's petition for rehearing en banc in *Banuelos-Galviz*. The denial of rehearing in *Banuelos-Galviz* lets stand a Tenth Circuit decision that conflicts with the Sixth Circuit's decision in this case. The government's petition for rehearing en banc in *Guadalupe v. Attorney General*, 951 F.3d 161 (3d Cir. 2020), however, remains pending before the Third Circuit, and the en banc Ninth Circuit has not yet issued its decision in *Lopez v. Barr*, 925 F.3d 396 (2019), petition for reh'g en banc granted, 948 F.3d 989 (2020). See Br. in Opp. 15-16. The government's brief in opposition also explains that this case would be a poor vehicle for this Court's review, because the question presented is not outcome-determinative. See *id.* at 17-19.

Sincerely,

Noel J. Francisco
Solicitor General

cc: See Attached Service List