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