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May 20, 2020

Honorable Scott S. Harris  
Clerk  
Supreme Court of the United States  
One First Street, N.E.  
Washington, DC 20543

**Re: *Niz-Chavez v. Barr*, No. 19-863**

Dear Mr. Harris:

In its brief in opposition (at 16) and in its May 1, 2020 letter to this Court, the government opposed certiorari in part based on the pendency of a petition for rehearing en banc in *Guadalupe v. Attorney General of the U.S.*, 951 F.3d 161 (3d Cir. 2020). Today the Third Circuit denied the government's petition for rehearing en banc in that case.

The Third Circuit's decision, together with the Tenth Circuit's denial of the government's petition for rehearing en banc in *Banuelos-Galviz v. Barr*, 953 F.3d 1176 (10th Cir. 2020), *see* Gov't May 1, 2020 Letter, makes clear that those circuits will not recede from their conflict with the Fifth and Sixth Circuits. Circuits on both sides of the split have now refused to reconsider, and the government's argument that the circuit conflict may resolve without this Court's intervention is no longer tenable. *See* Cert. Reply Br. 4.

The government does not otherwise dispute that the question presented in this case is sufficiently important and recurring to merit this Court's review; indeed, the importance and recurrence of the question presented were key reasons why the government sought rehearing en banc in multiple circuits. *See* Cert. Reply Br. 4-7. Moreover, this case is an appropriate vehicle to resolve that certworthy question, as the Sixth Circuit's ruling on the question presented was the only basis on which Mr. Niz-Chavez was denied the opportunity to apply for cancellation of removal. *See* Cert. Reply Br. 7-10.

I would appreciate your distributing this letter to the Court as soon as possible, as the petition has already been distributed for the May 28 Conference.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Zimmer', written over a light blue rectangular background.

David J. Zimmer

cc: Counsel of Record