No. 18-587

In the Supreme Court of the United States

UNITED STATES DEPARTMENT OF HOMELAND SECURITY, ET AL., PETITIONERS

v.

REGENTS OF THE UNIVERSITY OF CALIFORNIA, ET AL.

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

REPLY BRIEF FOR THE PETITIONERS

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When this Court declined to grant certiorari before judgment to review the district court's injunction requiring the Department of Homeland Security (DHS) to maintain the non-enforcement policy known as Deferred Action for Childhood Arrivals (DACA), the Court made clear that it expected the court of appeals to "proceed expeditiously to decide this case," at which time the government could renew its request. 2/26/18 Order (No. 17-1003). More than ten months later, the court of appeals' judgment is here and the Court is presented the opportunity it anticipated in February. The Court should now grant certiorari and resolve this important dispute this Term.

1. When the government filed this petition in November, the court of appeals had still not issued its judgment. The petition therefore explained (at 15-17) why this case met the Court's heightened standard for

certiorari before judgment. See Sup. Ct. R. 11. Respondents rely heavily on that same standard in opposition. See, *e.g.*, Indiv. Br. in Opp. 12 ("There is no reason * * * to ignore normal processes and grant review"); Regents Br. in Opp. 14 (arguing against "truncat[ing] the ordinary process"). By virtue of the intervening judgment, however, the certiorari decision is now governed by the Court's ordinary standard under Rule 10. And whether further review is warranted under *that* standard is not a close question. Respondents' arguments to the contrary lack merit.

a. Respondents contend (Indiv. Br. in Opp. 12-17) that review is unwarranted in the absence of a circuit conflict. But certiorari is appropriate when "a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court." Sup. Ct. R. 10(c). And the Court frequently reviews decisions, like the one below, that interfere with the implementation of federal policies and enforcement of federal law, particularly immigration law, without any conflict. See, *e.g.*, *Trump* v. *Hawaii*, 138 S. Ct. 2392 (2018); *United States* v. *Sanchez-Gomez*, 138 S. Ct. 1532 (2018); *Sessions* v. *Dimaya*, 138 S. Ct. 1204 (2018). Indeed, this Court granted certiorari absent a circuit conflict in *United States* v. *Texas*, 136 S. Ct. 2271 (2016), after the Fifth Circuit affirmed a nationwide preliminary injunction preventing implementation of the Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) and expanded DACA policies.

The court of appeals' decision here presents at least as strong a case for this Court's review. The district court's nationwide injunction commands the government to preserve a policy that affirmatively sanctions the ongoing violation of federal law by 700,00 aliens who

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