



U.S. Department of Justice
Civil Division

January 22, 2026

VIA ACMS

Catherine O'Hagan Wolfe, Clerk of the Court
U.S. Court of Appeals for the Second Circuit
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: *Ozturk v. Hyde, et al.*, No. 25-1019 & *Mahdawi v. Trump, et al.*, No. 25-1113
Fed. R. App. P. 28(j) Letter regarding *Khalil v. President, United States*,
No. 25-2162 & 25-2357, -- F.4th--, 2026 WL 111933 (3d Cir. Jan. 15, 2026)

Dear Ms. Wolfe:

We write to inform the Court about the Third Circuit's decision in *Khalil v. President of the United States*, which is directly relevant to *Ozturk* and *Mahdawi*.

In *Khalil*, the Third Circuit held that the "channelling provision" in the Immigration and Nationality Act, 8 U.S.C. § 1252(b)(9), stripped the district court of jurisdiction over Khalil's habeas petition and required him to wait to raise his claims until he files a petition for review ("PFR") in a court of appeals from a final order of removal. 2026 WL 111933, at *8.

Examining the "arising from" language in section 1252(b)(9), the Third Circuit concluded that, because the claims Khalil raised were "*legal questions* challenging the government's very basis for trying to remove (and thus detaining) him," they were "inextricably linked" to his removal proceedings. *Id.* at *10. Khalil's claims were not "now-or-never" claims and instead could be decided later on a PFR, including his claims that the government was targeting him under a policy of punishing his speech and that his charges of removability violated the First and Fifth Amendments. *Id.* at *10-11.

Notably, the Third Circuit concluded that although Khalil challenged his detention, "his arguments against it [were] identical to his arguments against removal." *Id.* at *11. And because his arguments challenging detention "necessarily challenge the government's decision to commence removal proceedings, the PFR court

will be able to review those ‘legal questions’ once the Board enters a final order of removal.” *Id.* (cleaned up).

As the Government has argued, Ozturk’s claims and Mahdawi’s claims, like Khalil’s, challenge their removability and detention and thus are inextricably intertwined with their removal proceedings. Appellant Br. (*Mahdawi*) 28-39; Appellant Reply Br. (*Mahdawi*) 15-25; Appellant Br. (*Ozturk*) 40-45; Appellant Reply Br. (*Ozturk*) 26-32. Ozturk and Mahdawi therefore must pursue these challenges through the PFR process. Like the *Khalil* court, this Court should vacate and remand the cases with instructions to dismiss the petitions.

Sincerely,

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