

1 IN THE SUPREME COURT OF THE UNITED STATES

2 - - - - -x

3 ERIC H. HOLDER, JR., ATTORNEY :

4 GENERAL, :

5 Petitioner : No. 10-1542

6 v. :

7 CARLOS MARTINEZ GUTIERREZ. :

8 - - - - -x

9 and

10 - - - - -x

11 ERIC H. HOLDER, JR., ATTORNEY :

12 GENERAL, :

13 Petitioner : No. 10-1543

14 v. :

15 DAMIEN ANTONIO SAWYERS. :

16 - - - - -x

17 Washington, D.C.

18 Wednesday, January 18, 2012

19

20 The above-entitled matter came on for oral

21 argument before the Supreme Court of the United States

22 at 10:19 a.m.

23 APPEARANCES:

24 LEONDRA R. KRUGER, ESQ., Assistant to the Solicitor

25 General, Department of Justice, Washington, D.C.; for

1 Petitioner.

2 STEPHEN B. KINNAIRD, ESQ., Washington, D.C.; for

3 Respondent in No. 10-1542.

4 CHARLES A. ROTHFELD, ESQ., Washington, D.C.; for

5 Respondent in No. 10-1543.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

| | | |
|----|--|------|
| 1 | C O N T E N T S | |
| 2 | ORAL ARGUMENT OF | PAGE |
| 3 | LEONDRA R. KRUGER, ESQ. | |
| 4 | On behalf of the Petitioner | 4 |
| 5 | ORAL ARGUMENT OF | |
| 6 | STEPHEN B. KINNAIRD, ESQ. | |
| 7 | On behalf of the Respondent in No. 10-1542 | 27 |
| 8 | ORAL ARGUMENT OF | |
| 9 | CHARLES A. ROTHFELD, ESQ. | |
| 10 | On behalf of the Respondent in No. 10-1543 | 39 |
| 11 | REBUTTAL ARGUMENT OF | |
| 12 | LEONDRA R. KRUGER, ESQ. | |
| 13 | On behalf of the Petitioner | 54 |
| 14 | | |
| 15 | | |
| 16 | | |
| 17 | | |
| 18 | | |
| 19 | | |
| 20 | | |
| 21 | | |
| 22 | | |
| 23 | | |
| 24 | | |
| 25 | | |

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

(10:19 a.m.)

CHIEF JUSTICE ROBERTS: We'll hear argument first this morning in Case 10-1542, Holder v. Gutierrez, and the consolidated case.

Ms. Kruger.

ORAL ARGUMENT OF LEONDRA R. KRUGER

ON BEHALF OF THE PETITIONER

MS. KRUGER: Mr. Chief Justice, and may it please the Court:

Under section 1229b of Title 8, an alien who has not been a lawful permanent resident for at least 5 years, or who has not continuously resided in the United States for at least 7 years following admission in any status, is not eligible for cancellation of removal under the first prong of the statute. That is true regardless of whether the alien can show that his parents, or any other third party, for that matter, did satisfy those requirements.

The Ninth Circuit, alone among the courts of appeals, has recognized a rule of imputed eligibility under section 1229b(a). That rule is wrong for at least two reasons. First of all, it is inconsistent with the plain text of the statute.

The touchstones of eligibility under section

1 1229b(a), LPR status, admission, and residence, are all
2 terms that are defined in the INA to refer to attributes
3 that are individual to the alien seeking relief,
4 attributes that cannot be satisfied by a third party.

5 But even if the statute were thought to be
6 ambiguous with respect to this question, the Board of
7 Immigration Appeals has interpreted the statute to mean
8 that the alien seeking relief must personally and
9 actually satisfy both durational requirements. That
10 interpretation is at the very least a reasonable reading
11 of the statute, if not the only reasonable reading of
12 the statute.

13 JUSTICE SOTOMAYOR: But did it make that
14 determination as a legal matter or as an exercise of its
15 discretion? As I read its opinion, it felt that it had
16 to come to that conclusion as a matter of law.

17 MS. KRUGER: I think --

18 JUSTICE SOTOMAYOR: If we were to find the
19 statute ambiguous, where has it explained its policy
20 decisions independent of its legal conclusions?

21 MS. KRUGER: First of all, Justice
22 Sotomayor, we don't think the statute is ambiguous; and
23 so, we don't think there's any reason to go to Chevron
24 step two in this case.

25 But if you look at the Board's decision in

1 Escobar in particular, I think the Board makes clear
2 that, although it thought the statutory language was
3 clear, it also rested its decision on other
4 considerations that are uniquely within the Board's
5 expertise. It discussed how the imputation rule
6 comports with the general policies of the statute, how
7 it comports with the rule that the Board itself has
8 recognized over time, that LPR status is something
9 that's individual to a particular alien, and that the
10 alien seeking relief has to individually, both
11 procedurally and substantively, satisfy the eligibility
12 requirements.

13 And it also noted that the imputation rule
14 would create significant holes in the statutory scheme.
15 It would mean that an individual who may not even have
16 been eligible for admission to the United States or
17 lawful admission for permanent residence would
18 nevertheless receive a significant benefit that goes
19 along with that status.

20 CHIEF JUSTICE ROBERTS: You say that you
21 think the statute is unambiguous, but it -- it doesn't
22 address issues of imputation at all, does it?

23 MS. KRUGER: It does not address issues of
24 imputation.

25 CHIEF JUSTICE ROBERTS: Well, if it doesn't

1 even address it, it seems to me the best you can say is
2 that it's ambiguous.

3 MS. KRUGER: Well, I don't think that a
4 statute, as this Court has recognized, has to address
5 every conceivable possibility in order to be
6 unambiguous. And this statute, I think, is unambiguous
7 in that it refers to eligibility requirements that are
8 by their nature, as defined in immigration law,
9 individual to a specific alien. There's --

10 JUSTICE GINSBURG: What about -- there
11 was -- wasn't there in the prior law a child domicile --
12 a child was able to satisfy the 7-year requirement based
13 on the parent's domicile, which was deemed to be the
14 child's?

15 MS. KRUGER: Right. There -- the
16 Respondents relied very heavily on three court of
17 appeals cases that had interpreted the predecessor to
18 this statute, former section 212(c), to allow imputation
19 of a parent's domicile to a child. Those courts relied
20 on the common law rule that a child's domicile follows
21 that of his parents. And applying that rule, they
22 allowed children to rely on their parents' domicile in
23 the United States to satisfy the 7-year lawful
24 unrelinquished domicile requirement in that statute.

25 JUSTICE SCALIA: I guess a child doesn't

1 have any domicile except the parents'; right? Children
2 who run away from home do not acquire new domiciles, do
3 they?

4 MS. KRUGER: Under this Court's decision in
5 Holyfield, the common law rule is that the child's
6 domicile is determined by that of his parents,
7 regardless of where the child resides in fact. When
8 Congress repealed former section 212(c) and enacted the
9 current cancellation of removal statute, it removed any
10 reference to the word "domicile," instead replacing the
11 requirement of 7 years unrelinquished domicile with two
12 durational requirements that are at issue in this case.

13 JUSTICE KENNEDY: Is that change alone
14 sufficient for us to say that this is -- was a clear
15 indication by the Congress of an intent or purpose to
16 alter the imputation rule?

17 MS. KRUGER: I think if this Court is
18 willing to presume along with Respondents that Congress
19 would have been aware of these three court of appeals
20 decisions that were issued, it should be noted, very
21 late in the life of a provision that had existed in more
22 or less the same form since the Immigration Act of 1917,
23 then the Court also must presume that Congress was aware
24 that the basis for those decisions was the common law
25 definition of the term "domicile" and that Congress

1 meant what it did when it replaced "domicile" with three
2 eligibility criteria that are defined terms in the
3 immigration law and all of which refer to attributes
4 that are individual to a specific alien.

5 JUSTICE GINSBURG: Does a child who is not
6 emancipated have the capacity to independently establish
7 a residence?

8 MS. KRUGER: Under the -- how the INA
9 defines the term "residence" is an actual principal
10 dwelling in fact. So, yes, a child will dwell somewhere
11 in fact and can do so independent of a parent. That is
12 in marked contrast to the common law rule of domicile
13 that this Court explained at length in its Holyfield
14 decision and that the courts of appeals applied in
15 interpreting former section 212(c).

16 JUSTICE KENNEDY: Can a parent ask for a
17 permanent resident status for a 5-year-old child?

18 MS. KRUGER: Yes, a parent could.

19 JUSTICE KENNEDY: So, if you have two cases,
20 one -- two 5-year-olds. One, as in this case, lives
21 with the parent, but the application has not been
22 granted or not been filed; and the other, the
23 application has been granted. And they're treated --
24 they're treated differently?

25 MS. KRUGER: I think that's right,

1 Justice Kennedy. And I think that that is a necessary
2 corollary of the way the immigration system is
3 constructed. As a general rule, LPR status and
4 admission are criteria that are individual to a
5 particular alien. To be sure, minor children of lawful
6 permanent residents receive a high preference in the
7 immigration visa system.

8 But there's no rule that says that children
9 automatically receive the same legal status as their
10 lawful permanent resident parents.

11 JUSTICE SOTOMAYOR: Assuming we don't accept
12 Respondents' -- what appears to be their argument, that
13 being an LPR is not a requirement of the statute, if we
14 assume that being an LPR is what triggers the
15 availability for the Attorney General's exercise of
16 discretion, how does that -- how does the imputation
17 rule harm the statute? The child has lived with the
18 parents for 5 years, whether before or after -- well,
19 after, it wouldn't be an issue, but before the grant of
20 LPR status. How does that harm the purposes of the
21 statute?

22 I thought the idea of the statute was to
23 give individuals who had ties to the United States an
24 opportunity to stay. If a child's been with their
25 parents for 5, 10, 15 years, what sense does it make to

1 deprive them of the Attorney General's exercise of
2 discretion merely because the administrative process has
3 taken too long to give them something which they're
4 going to get and which they've gotten?

5 MS. KRUGER: I think it's worth separating
6 out two different components of the cancellation of
7 removal decision. It is certainly true that it's an
8 important criteria, in determining whether or not an
9 individual is entitled as a matter of discretion to
10 cancellation of removal relief, how strong their ties
11 are to the United States, what their family ties are and
12 so on. But it has never been thought that particularly
13 compelling reasons for the exercise of discretion can
14 overcome the plain threshold requirements for
15 eligibility for the exercise of discretion under 1229b.

16 The difficulty with the imputation rule that
17 the Ninth Circuit has recognized is that it undermines
18 the plain requirements for those threshold
19 determinations of eligibility, conferring an important
20 benefit that goes along with long-time permanent
21 resident status and long-time continuous residence after
22 admission on individuals who not only did not receive
23 the necessary formal authorization from immigration
24 officials at the requisite time; they may not even have
25 been eligible to receive those authorizations.

1 I think it's also worth noting that this
2 statute is not the beginning and the end of discretion
3 in the immigration system. It is always true, and it is
4 -- certainly was the case when Congress enacted the
5 statute in 1996, that immigration officials have the
6 discretion not to bring removal proceedings in the first
7 place, to terminate removal proceedings once they have
8 begun, to defer action on the execution of a removal
9 order. And current immigration and customs enforcement
10 guidance makes clear that a minor receives particular
11 consideration within the totality of the circumstances
12 in determining whether or not prosecutorial discretion
13 is something that should be exercised.

14 JUSTICE BREYER: So, how does it work? I'm
15 -- how does it work? Two legal permanent residents, a
16 man and his wife, happen to show up in New York, and
17 they have a 6-month-old child. All right. What's the
18 legal -- why doesn't the INS just take the child, ship
19 him off? I mean there -- is it just discretion? Or is
20 there some rule of law or regulation that prevents that
21 from happening?

22 MS. KRUGER: It will depend on the
23 individual circumstances.

24 JUSTICE BREYER: Well, no. I've given you
25 the hypothetical. I mean, there we are.

1 MS. KRUGER: Right.

2 JUSTICE BREYER: That's all you know.

3 MS. KRUGER: So, Congress has taken some
4 steps with respect to some subset of aliens.
5 Respondent, for example, brings up the LIFE Act, and
6 that is an example of where Congress has taken a step
7 to --

8 JUSTICE BREYER: I'm not asking for that.
9 I'm saying, what in the law -- that's all you know. All
10 right? There are -- you know the hypothetical.

11 I want -- one possible thing to say would be
12 that child is -- is actually -- we are imputing that
13 he's here for lawful permanent residence, too. Every
14 circuit had had some kind of imputation rule, and
15 moreover there are other areas of law where I have found
16 imputation rules in the immigration law. Roughly, I
17 have three or four cases on that. But they're --
18 they're not exactly comparable.

19 Okay. So, I just want to know what is it
20 that prevents you from taking the child and shipping him
21 off to China if we don't impute?

22 MS. KRUGER: Well, I think the answer is
23 certainly not that we impute the admission of the -- as
24 to child.

25 JUSTICE BREYER: I'm not asking that. You

1 know the question. I just want your best effort --

2 MS. KRUGER: So, if there --

3 JUSTICE BREYER: -- to give an answer. Or
4 I'm thinking that your answer is there is nothing; it's
5 either imputation or nothing.

6 MS. KRUGER: Well, I think that that's --

7 JUSTICE BREYER: And you don't want me to
8 reach that conclusion.

9 MS. KRUGER: No, I think that that's
10 incorrect. There are certain provisions of law that
11 would allow for the child to be admitted but on an
12 independent basis from the parents. If a child is not
13 admissible --

14 JUSTICE GINSBURG: If the supposition -- if
15 the supposition is that the parents -- I think
16 Justice Breyer's supposition was that both parents were
17 LPRs. The likelihood of the 6-month-old child being
18 born in the United States and therefore being a citizen
19 would be rather large.

20 MS. KRUGER: Well, that's certainly right.
21 It is also true that --

22 JUSTICE BREYER: No, no. That isn't my
23 hypothetical.

24 (Laughter.)

25 MS. KRUGER: Right. The child in your

1 hypothetical -- the child is not born in the United
2 States, right?

3 If the child does not independently satisfy
4 the criteria for admissibility, then the child has
5 entered the United States illegally and remains here at
6 the discretion of immigration officials.

7 JUSTICE SCALIA: I suppose if they come with
8 somebody else's 6-month-old child, they'd have to send
9 that child back to China, too, wouldn't they?

10 MS. KRUGER: Well --

11 JUSTICE SCALIA: Which would be very sad,
12 but that would be the law, right?

13 MS. KRUGER: Well --

14 JUSTICE BREYER: Actually they came from
15 Italy, in my hypothetical.

16 (Laughter.)

17 MS. KRUGER: I mean, I think that
18 Martinez --

19 JUSTICE SCALIA: They should not have sent
20 him back to China, then. Why did they do that?

21 (Laughter.)

22 MS. KRUGER: I think that Martinez
23 Gutierrez's situation, I think, is a good example of
24 this. He entered the United States illegally with the
25 -- with his parents and remained here illegally until he

1 was admitted as an LPR at the age of 19 as an adult.
2 Until that time, there were no efforts to remove him
3 from the United States, and I think that that's fairly
4 typical, but that's not because his parents' admission
5 or their lawful status in the United States was imputed
6 to Martinez Gutierrez, and there is no background
7 principle in the law that would allow for such
8 imputation of an individual formal authorization to
9 remain in the country by immigration officials to be
10 imputed from one to another.

11 Rather, the immigration system sets up a
12 system in which a lawful permanent resident parent can
13 seek to -- to petition for an immigration visa on behalf
14 of a child and facilitate that child's eventual
15 adjustment to lawful permanent resident status, but it's
16 not something happens automatically. It's something
17 that happens through a regular, orderly process.

18 JUSTICE KENNEDY: Can you give me an example
19 of an instance in which a child who is the child of two
20 lawful permanent residents cannot get lawful permanent
21 resident status for himself at the age of 8, but that he
22 can at the age of 15? I mean, what commonly happens
23 between that period that would make him ineligible --
24 eligible only when he is 15, other than just as a matter
25 of providing all the documents?

1 MS. KRUGER: That would make him ineligible
2 at the age of 15?

3 JUSTICE KENNEDY: Well, you -- the whole
4 point here is that some children are given lawful
5 permanent resident status and -- and some are not. But
6 I'm asking, does the passage of time, assuming two
7 lawful resident parents, ever make it so that a child
8 who was formerly ineligible is now eligible? He was
9 ineligible at 5, but he's eligible at 14? I mean, how
10 does that work?

11 MS. KRUGER: I think the most common
12 scenario is one in which a visa number doesn't become
13 available until the child is -- is --

14 JUSTICE KENNEDY: Oh, I don't mean a visa
15 number. But nothing -- nothing with -- with respect to
16 the child's real status other than his -- where he is on
17 the queue in the immigration department?

18 MS. KRUGER: That would be the most common
19 scenario, is -- is where the child is in the queue. And
20 I think Respondents place a great deal of emphasis on
21 the amount of time it takes for visa numbers to become
22 available for both children and spouses of lawful
23 permanent residents, but that has been a regular and
24 acknowledged feature of the immigration system for
25 decades.

1 The Congress that enacted IIRIRA in 1996 was
2 well aware of the waiting times for these visa numbers.
3 It had before it proposals for reducing the backlog, and
4 it rejected those proposals. It enacted in the
5 cancellation of removal statute two eligibility criteria
6 that do not turn on potential eligibility for receiving
7 LPR status or admission to the United States but,
8 instead, turn on actually having received that formal
9 authorization from immigration officials.

10 And I think that the best inference that we
11 can draw from the statutory language is that Congress
12 meant what it said; it attached special significance to
13 that formal authorization, the formal exercise of
14 authority by immigration officials, and not simply the
15 potential for that exercise in the future.

16 JUSTICE KAGAN: Ms. Kruger, you take a
17 statute that doesn't say anything about imputation one
18 way or the other, and you say that statute can still be
19 unambiguous. And that would I think be true as a
20 general matter. But now you add to that statute a
21 history and a tradition and a practice in immigration
22 law of imputation of various kinds. One is imputation
23 of domicile in the way we talked about, but there are
24 other imputations that occur throughout the field of
25 immigration law. Some cut for the alien; some cut

1 against the alien.

2 In the world of that practice and tradition,
3 are you at least in a sphere in which there's ambiguity,
4 in which the agency essentially has discretion to decide
5 whether it wants to impute in this way?

6 MS. KRUGER: I think the answer is "no,"
7 Justice Kagan, because the other circumstances in which
8 imputation had been allowed under the immigration laws
9 differ in very important respects from the imputation --

10 JUSTICE KAGAN: But none of them are
11 textually commanded; is that right? I mean, the --
12 they're all situations in which the agency has decided
13 that there are good reasons to impute various factors.

14 MS. KRUGER: Well, I don't think that the
15 only reason that the agency has allowed for imputation
16 is that there is good reason as a general policy matter.

17 JUSTICE SCALIA: Counsel, I can't hear you
18 very well. Would you --

19 MS. KRUGER: Certainly.

20 JUSTICE SCALIA: Can you crank up the thing
21 or something?

22 MS. KRUGER: I will.

23 JUSTICE SCALIA: Thank you.

24 MS. KRUGER: I'll try to speak more directly
25 into the microphone.

1 The reason the -- the agency has allowed for
2 imputation in other circumstances is with respect to
3 certain inquiries that involve an inquiry into the
4 alien's intent. So, for example, the Board has allowed
5 for imputation under section 1182(k), which provides for
6 -- for discretionary relief from the Attorney General
7 when an immigrant did not know or could not have known
8 that they were inadmissible. And the Board has said
9 that, for those purposes, the parents' knowledge of
10 inadmissibility is imputed to the minor child. So, too,
11 in the context of abandonment of LPR status. The Board
12 has said --

13 JUSTICE SCALIA: Excuse me. That first one
14 usually cuts against the immigrant, I would assume. So,
15 if the parents knew, the child knows, and the child
16 normally would not know, right?

17 MS. KRUGER: Well, that's correct.

18 JUSTICE SCALIA: Yes.

19 MS. KRUGER: That's correct. But I think
20 the critical point is that the agency has interpreted
21 imputation of intent, of state of mind, to be
22 permissible, in part for the same reason that the common
23 law rule about domicile formed, which is that --

24 JUSTICE KAGAN: So, you think that all the
25 imputations that exist in immigration law are all a

1 matter of imputing intent?

2 MS. KRUGER: I think that that's -- all of
3 the imputations that Respondents have pointed to concern
4 state of mind type requirements. They don't concern
5 formal authorizations by immigration officials. The
6 Board, I think, has been very consistent, certainly in
7 the context of cancellation of removal, in not imputing
8 the legal status of being an LPR or admission from
9 parent to child. And it's difficult to see any other
10 examples in which such imputation would be permissible,
11 in part because the background presumption of the
12 immigration law is that those are both attributes that
13 have to be individually achieved and the eligibility
14 criteria have to be independently satisfied by each
15 individual alien.

16 JUSTICE SOTOMAYOR: So, why is a parent's
17 fraudulent conduct imputed to a child? There's no
18 intent there. The child obviously doesn't have an
19 intent or couldn't have an intent to commit a crime.
20 So, why is that imputed by the BIA?

21 MS. KRUGER: Well, I don't --

22 JUSTICE SOTOMAYOR: Other than that it's a
23 holding against the immigrant, which your adversary
24 points out is not a very favorable outlook for the
25 agency, that it only imputes when it harms the

1 immigrant. But, putting that aside, there's no intent
2 involved in the fraud. It's just the commission of an
3 act.

4 MS. KRUGER: Well, I think that where the
5 imputation has come in, in the Board's analysis, is with
6 respect to the state of mind and not with respect to the
7 objective conduct.

8 JUSTICE SOTOMAYOR: What's the state of mind
9 of committing an act, like a fraudulent act?

10 MS. KRUGER: It's -- I think where this has
11 come up is in the context of knowing that the -- that
12 the alien is not in fact admissible to the United
13 States, is generally where it's come up. I'm not --

14 JUSTICE SOTOMAYOR: The child doesn't commit
15 a fraudulent act.

16 MS. KRUGER: But, again, I think that the
17 principle that the Board has applied is that, because
18 the child is presumed not capable of forming a requisite
19 intent, the parent's intent is imputed to the child.

20 But I think for present purposes the
21 critical point is, even in that context, what is being
22 imputed is not a formal status conferred on an
23 individual alien by immigration officials, or admission,
24 a formal authorization to enter the country. That is,
25 again, conferred on an individual basis by immigration

1 officials. I think Respondents can identify no
2 circumstance, no precedent, for that type of imputation,
3 and it's one that would be inconsistent with the basic
4 structure of the immigration system.

5 JUSTICE GINSBURG: They do say --

6 JUSTICE KENNEDY: It's a little odd that the
7 domicile is the more exacting of the two requirements,
8 and yet the Congress allowed imputation in the domicile
9 case but not -- not in the residence case. It seems
10 almost backward.

11 MS. KRUGER: Well, to be --

12 JUSTICE KENNEDY: Congress enacts a more
13 forgiving and less exacting standard, but then takes
14 away the imputation.

15 MS. KRUGER: Well, to be clear,
16 Justice Kennedy, Congress did not supply a definition of
17 the term "domicile." And so, the court of appeals
18 opinions that Respondents are relying on followed the
19 common law rule that says that a child's domicile
20 follows that of his parents, but those courts applied
21 that rule in very different ways.

22 Two courts of appeals permitted children to
23 benefit from the domicile of their parents in the United
24 States even when they were not even physically present
25 in the United States for the full 7-year period; whereas

1 the Ninth Circuit, for its part, applied that rule only
2 where the alien child had been -- had entered the United
3 States lawfully with his parents, according to the Ninth
4 Circuit, remains lawfully in the United States
5 thereafter, and simply had become an LPR outside of the
6 full 7-year period.

7 In crafting the current cancellation of
8 removal statute, there's no reason to believe that
9 Congress was aware of these three court of appeals
10 opinions that were, again, decided very late in the life
11 of former section 212(c). But even if it had been aware
12 of those decisions, it also would have been aware that
13 by using defined terms in the INA that are defined in a
14 way that's individual to the particular alien, it was
15 eliminating any reference to the common law rule.

16 Unlike domicile, there is no rule that says
17 that a child's LPR status follows that of his parents or
18 that a child's admission follows that of its parents.

19 JUSTICE BREYER: I don't see how -- were you
20 finished?

21 MS. KRUGER: Yes.

22 JUSTICE BREYER: I don't see how the -- you
23 can read the Lepe-Guitron -- that was one of the cases
24 -- it seems to me clearly imputes residence as well.
25 They quote the earlier case from the circuit which said

1 the 7 years of domicile have to come after their
2 admission for permanent residence. And then the dissent
3 says, hey, what about permanent residents? And what
4 they say is this case is different because, in that
5 earlier case, the parents had never been admitted. He
6 came after he was married in this case. He's here after
7 his parents were admitted. Now, I grant you they didn't
8 explicitly say this, but I don't see how they reached
9 their conclusion without it.

10 And then there's a different split in the
11 circuits about the pro and con of tacking on periods,
12 you know, before the domicile, after, et cetera. And
13 that seems to be what Congress resolved.

14 So, I think if you're talking about what was
15 the law, the law was you did impute with -- you did
16 impute for residence. And then Congress sort of just
17 doesn't deal with that and deals with a slightly
18 different thing. Is that a fair reading, or what do you
19 think?

20 MS. KRUGER: I don't think it is, but first
21 I'd like to clarify that the Ninth Circuit had no reason
22 to impute residence in Lepe-Guitron, in part because the
23 alien in that case had resided in fact in the United
24 States throughout the 7-year period. I think
25 Respondents make the argument that Lepe-Guitron was in

1 fact imputing LPR status, as opposed to residence in
2 fact.

3 But I think that that is an incorrect
4 reading of the Ninth Circuit's decision as well, and
5 that's for the following reason: All three courts of
6 appeals that Respondents rely on dealt separately with
7 the threshold requirement under former section 212(c)
8 that the alien be a lawful permanent resident. None of
9 those three courts permitted LPR status to be imputed
10 from parent to child. So, where there was an explicit
11 requirement in the statute that LPR status be obtained
12 by the alien seeking relief, the courts were very clear
13 in requiring that the alien before them independently
14 satisfied that requirement.

15 In *Lepe-Guitron*, the Ninth Circuit
16 acknowledged that, under circuit precedent, it had held
17 that domicile requires an intent to remain permanently
18 in the United States lawfully and said that that meant
19 that the alien had to be in LPR status. *Lepe-Guitron*
20 said that with respect to children, that intent to
21 remain in the United States lawfully need not be an LPR
22 status so long as their parents were lawfully domiciled
23 in the United States.

24 If the Court has no further questions, I'd
25 like to reserve the balance of my time.

1 CHIEF JUSTICE ROBERTS: Thank you, counsel.
2 Mr. Kinnaird.

3 ORAL ARGUMENT OF STEPHEN B. KINNAIRD
4 ON BEHALF OF THE RESPONDENT IN
5 NO. 10-1542

6 MR. KINNAIRD: Mr. Chief Justice, and may it
7 please the Court:

8 Children present special problems under the
9 immigration laws, and, as discussed, both the courts and
10 the agency in various contexts have resorted to
11 imputation to cure those problems. And here the -- the
12 statute is silent as to imputation, and ambiguity arises
13 as applied to the special circumstance of children who
14 were minors during the years in question.

15 CHIEF JUSTICE ROBERTS: I don't know
16 whether -- I'm having trouble applying the concepts of
17 unambiguous and ambiguous in this situation. As far as
18 I can tell, this is something that the statute just
19 doesn't deal with, and I don't know that you
20 characterize that correctly as ambiguous. It's just
21 kind of off the table.

22 MR. KINNAIRD: I think it's ambiguous as
23 applied to this specific circumstance. And the
24 ambiguity arises because the requirements for which
25 there is imputation, status and residency, are matters

1 that are not within the capacity or the control of a
2 minor. A minor does not decide whether or when a parent
3 will apply for LPR status for him or her. He does not
4 control the -- the maintenance of that status over a
5 period of years, and he also does not control where he
6 resides.

7 JUSTICE SCALIA: Well, can you give any
8 example -- the Government says you can't -- of an
9 instance where status is imputed, not intent, but just
10 status; where the status that the parents have is
11 automatically given to the child or, for that matter,
12 automatically taken away from the child?

13 MR. KINNAIRD: Section 212(c) imputed
14 status, as the Ninth Circuit found. The reason was that
15 the requirement there was not just for unrelinquished
16 domicile but lawful unrelinquished domicile, and,
17 therefore, they had to reach back to the period in which
18 the parent was an LPR --

19 JUSTICE SCALIA: But there -- there, you --
20 what they're imputing is the intent to remain in the
21 place, right? And that's -- that's an -- that's intent.
22 That's imputing intent.

23 MR. KINNAIRD: No, they also had to impute
24 lawfulness, which meant that the parent had to be an LPR
25 for that period or at least in some lawful status. And

1 in each of the three instances, the parents were LPRs in
2 the times in question. So, there definitely was a
3 foregoing rule of imputation of status. And I would
4 submit that --

5 JUSTICE SCALIA: And the child would not
6 have been lawfully there but for the imputation of
7 lawfulness from the parents.

8 MR. KINNAIRD: That's right. He -- well, he
9 would not have qualified for -- for a waiver of removal.

10 JUSTICE KAGAN: Mr. Kinnaird, I take it that
11 the point you're making is the statute is ambiguous in
12 the sense that its silence does not prevent the BIA from
13 making this imputation if it wants to. But the BIA
14 clearly doesn't want to. So, where does that leave you?

15 MR. KINNAIRD: Well, I think if it is
16 ambiguous, then the BIA actually has to exercise its
17 discretion and grapple with that ambiguity. And that is
18 one of the fundamental problems, as Justice --

19 JUSTICE KAGAN: Well, are you saying that
20 the BIA needs to write an opinion that says now we are
21 doing Chevron step two analysis? Is that what you're
22 saying, that this is a matter of labeling?

23 MR. KINNAIRD: I don't think it's a matter
24 of -- of magic words, but what it has to do is actually
25 grapple with and recognize the ambiguity, at least in

1 the alternative, and then exercise its discretion to say
2 if this is a permissible construction of the Act and
3 there's another permissible construction, which of the
4 two better serves the statutory purpose.

5 CHIEF JUSTICE ROBERTS: But it doesn't have
6 to grapple with everything that's not there. I mean,
7 there are a lot of things that the statutes don't
8 address.

9 MR. KINNAIRD: Agreed.

10 CHIEF JUSTICE ROBERTS: It seems to me that
11 they don't have to grapple with everything that's there.
12 You just have to say this doesn't address it. So,
13 whoever is asking for the affirmative, which is you,
14 loses.

15 MR. KINNAIRD: I don't think --

16 CHIEF JUSTICE ROBERTS: You're saying: We
17 think this law should allow -- should provide for this,
18 should be extended for this. And it's one thing to say,
19 well, the statute's ambiguous; it talks about children
20 in one category but not in another category; so, the
21 issue's there; we don't know what they meant. It's
22 another thing if it's something that's totally not on
23 the table. I mean, if -- if you claimed that the law
24 required every minor to get \$500 a year, you wouldn't
25 say the statute was ambiguous about that. You'd say it

1 doesn't have anything to do with it.

2 MR. KINNAIRD: Well, that's right, Your
3 Honor, but I think the ambiguity arises here because the
4 matters in question are ones not within the capacity or
5 control of the minor, and that's been the traditional
6 basis on which the BIA has looked for imputation. And
7 when you take into account --

8 JUSTICE GINSBURG: In your -- your
9 argument -- under your argument an alien, a child, who
10 never acquired LPR status in its own right could get a
11 cancellation of removal based on the parents' status.

12 MR. KINNAIRD: I don't think that's right.
13 The Ninth Circuit did not address that, but I think the
14 better reading of the statute, even if (a)(1) is
15 somewhat ambiguous on that point, is that you have to be
16 an LPR in order to seek cancellation. And then for
17 these durational requirements and the look-back to
18 status, there you do imputation.

19 And the reason is twofold. One, section
20 212(c), which it replaced, was limited to LPRs. The
21 second is that there is a separate subsection,
22 subsection (b), of that same statute. I don't believe
23 it's in the addenda provided to the courts, but it is
24 cancellation of removal for certain nonpermanent
25 resident aliens. And the critical distinction between

1 the two, besides differences in criteria, is that that
2 one authorizes adjustment of status as well as
3 cancellation.

4 JUSTICE KENNEDY: What would --

5 MR. KINNAIRD: So, if you're not an actual
6 LPR, you need to have adjustment of status to -- to not
7 be in a legal limbo.

8 JUSTICE KENNEDY: Mr. Kinnaird, what would
9 happen if the child remains with the grandparents in
10 Mexico and his parents are living in Los Angeles for 6
11 years until they can afford to take him. Is the
12 parents' residence then imputed to the child so that
13 when he moved to Los Angeles in year 7 he is deemed to
14 have been there for 6 years?

15 MR. KINNAIRD: I think if there's a
16 significant separation of that duration, I think there
17 would be a question about whether you have the
18 significant relationship between parent and child to
19 warrant imputation. But it is true that under former
20 section 212(c), at least in two of the cases, they
21 imputed residency where the child was not actually
22 resident.

23 JUSTICE BREYER: You had an example in your
24 brief, I thought -- you might -- I thought that it was
25 an example of status rather than intent. The example

1 that you gave -- I took that way; tell me if I'm -- is
2 where an alien comes in and wants asylum, and then you
3 can't get it if you were resettled in another country.
4 And there are criteria -- country with a resettlement
5 program. And then that seemed like a status, a
6 residence. Were you resettled in the other country or
7 were you not? That's his status, and then that's
8 imputed to the child.

9 MR. KINNAIRD: That's right. And the
10 resettlement doesn't have any element of intent to it.
11 So, it's not true that everything turns upon intent.

12 And I would also point out that, under
13 section (a)(1), it's not simply a requirement that there
14 have been some grant of LPR status at some point and
15 passage of 5 -- of 5 years. The statutory definition of
16 "lawfully admitted for permanent residence" includes a
17 requirement that the status has not changed. And that
18 requires domiciliary intent because the BIA has
19 interpreted that phrase to mean that you can change your
20 status by intent, and in fact the Department of Homeland
21 Security has defended against cancellation claims on the
22 grounds that there was abandonment during a -- during
23 the 5-year period. So, if you had a child coming forth,
24 you would have to look, in certain circumstances at
25 least, to the parent for intent of abandonment.

1 So, I think this is an element where there
2 is direct continuity from section 212(c). It makes
3 eminent sense. And even if the BIA is deemed to have
4 exercised its discretion here, I think its rule is
5 patently unreasonable, and for a number of reasons.

6 First, they're not able to advance a single
7 policy reason that would be favorable to non-imputation.
8 It destroys family unity, and it forecloses eligibility
9 for relief for even people like Mr. Martinez Gutierrez,
10 who has lived here since the age of 5.

11 JUSTICE GINSBURG: There -- this Court has
12 dealt in the constitutional context with parent-child
13 relationships under the immigration law. And let's take
14 *Fiallo v. Bell*. There the Court said, well, it tells us
15 that for married parents it's this way, and for a child
16 born out of wedlock, that relationship is something
17 else. That could be considered quite arbitrary when the
18 question is, is the child left orphaned? But the Court
19 said, well, that's what the statute said. It made that
20 distinction, and the Court upheld it.

21 But there are a number of cases where there
22 is -- the statute does say, parent-child relationship,
23 this is imputed, that is not, and dealt -- the Court
24 dealt with that in *Miller and Nguyen*.

25 MR. KINNAIRD: Yes, Your Honor. I think

1 Congress has the latitude to be -- to draw arbitrary
2 lines. I don't think the agency does if imputation is a
3 permissible alternative. I think they have to give a
4 reasoned basis for denying imputation when it was the
5 prior rule.

6 CHIEF JUSTICE ROBERTS: Isn't it -- why
7 can't the BIA adopt or why doesn't the background
8 principle apply that you're not entitled to admission
9 unless you make an affirmative case for it?

10 You say, well, the -- the government hasn't
11 advanced any policy reason on the other side. Why isn't
12 that the basic policy of the government?

13 MR. KINNAIRD: Well, I think they have to
14 look to the actual statute, and they have to give their
15 own reasons, which I don't think they've done adequately
16 as a matter of discretion. But here, this is a --

17 JUSTICE SCALIA: Why isn't it -- why isn't
18 it an adequate reason that they've come up with here and
19 in their decisions that the prior word was "domicile"
20 and a child's domicile is that of the parents, and that
21 the word under the new statute is "residence" and the
22 child's residence is not necessarily the residence of
23 the parent? That seems to me a perfectly valid reason.

24 MR. KINNAIRD: Well, I wouldn't say that's
25 Chevron step two discretion. But I think you also have

1 to look to the fact that there was not only imputation
2 of domicile; it required lawfulness. And -- and in
3 imputing domicile, they were also imputing residence.
4 So, it's true the word "domicile" has --

5 JUSTICE SCALIA: That may well be, but it's
6 a different word.

7 MR. KINNAIRD: It's a different word, yes.

8 JUSTICE SCALIA: And the one word demands
9 imputation; the other doesn't. So, I mean, I don't
10 think you can say there's no -- no rational basis given
11 by the agency.

12 MR. KINNAIRD: Well, the rational basis
13 comes in if -- if there's ambiguity and they're
14 determining why -- if it's a permissible construction,
15 why it should be rejected or not.

16 JUSTICE SOTOMAYOR: One of the problems that
17 I have is that I see the imputation as an equitable
18 doctrine.

19 MR. KINNAIRD: Yes.

20 JUSTICE SOTOMAYOR: And to me, that often
21 means discretionary.

22 MR. KINNAIRD: Yes.

23 JUSTICE SOTOMAYOR: If it is that,
24 discretionary, I -- I don't know what more the BIA has
25 to say than "I don't want to," because it renders lots

1 of issues open, like what do we do with 1229b(a)(2)?
2 Isn't that an end run on stopping this continuous 7-year
3 statute, or 10, whatever it is, if we're imputing a
4 parent's residence or any of the things that you're --
5 that the government said, the BIA said, in rendering its
6 decision?

7 I mean, you can't force a court to -- the
8 BIA to impute. So, what more do they have to say than
9 we don't think it's consistent with the statute, even if
10 it is ambiguous to do this?

11 MR. KINNAIRD: Well, I would say the statute
12 has an equitable purpose which allows imputation. I do
13 not think there's discretion, if imputation is
14 permissible unless there's a rational basis in serving
15 the policies of the Act, to deny imputation. And
16 discretion does come in at the second phase, which is
17 when the Attorney General determines whether or not the
18 -- the cancellation should be granted.

19 So, we should bear in mind that this is a
20 statute strictly for eligibility, simply to get to the
21 phase where there's unreviewable discretion in the
22 Attorney General to deny relief. And this is a
23 once-in-a-lifetime remedy. You can only apply for
24 cancellation once in your life.

25 So, I think in the special circumstance of

1 children who were minors during the period, who could
2 not have controlled their status, could not have
3 controlled their residence, this is an eminently
4 reasonable rule that's backed by Congress.

5 JUSTICE SOTOMAYOR: What's so reasonable
6 about a child who lives with their grandparents outside
7 the country? Why should their parents' being in the
8 U.S. be imputed to the benefit of that child? I
9 certainly understand it in your client's situation.
10 Your client is the one who has been here since 5 years
11 old.

12 MR. KINNAIRD: Right.

13 JUSTICE SOTOMAYOR: So --

14 MR. KINNAIRD: And if -- BIA, I think, would
15 be reasonable to draw a narrower rule, and we could
16 prevail under that rule, but I think the rationale is
17 family unity; that even though there are periods of
18 residence where there's a dysjunction, the real reason
19 is simply the operation of quotas. And -- and there was
20 a historical practice of allowing imputation of
21 residence. Since you still have the family ties, I
22 think imputation is permissible there, as long as you
23 have the significant relationship.

24 JUSTICE KENNEDY: Mr. Kinnaird, I'm having
25 trouble figuring out, is your view that non-imputation

1 is just unreasonable per se, or is your view that they
2 didn't explain non-imputation properly?

3 MR. KINNAIRD: They are alternative
4 arguments. They certainly didn't explain it. I would
5 also say it's unreasonable per se: One, because they
6 have to deal with the fact of lack of custody and
7 control. That's been the basis for their abandonment
8 decisions. They have invoked imputation only to the
9 detriment of the alien where the child has no intent
10 whatsoever.

11 So, there's no common law principle for
12 imputing mens rea, for example, knowledge of
13 inadmissibility to a child; no basis for really imputing
14 an intent to abandon when the child has none whatsoever.
15 So, at the very least, they have to explain that.

16 And because -- and the BIA has also not
17 really taken into account the nature of these as simply
18 eligibility rules.

19 Thank you.

20 CHIEF JUSTICE ROBERTS: Thank you,
21 Mr. Kinnaird.

22 Mr. Rothfeld.

23 ORAL ARGUMENT OF CHARLES A. ROTHFELD

24 ON BEHALF OF THE RESPONDENT IN

25 NO. 10-1543

1 MR. ROTHFELD: Thank you, Mr. Chief Justice,
2 and may it please the Court:

3 So far as subsection (2) of the provision
4 that we're talking about this morning, which is the
5 provision that concerns me in the Sawyers case, we think
6 that the Government's reading is simply not a sensible
7 approach to the statute. And in that sense, our
8 position is not that the statute is ambiguous. We think
9 that the statutory context and the particular meaning of
10 the words that Congress used require imputation in the
11 circumstances of this case.

12 I'll start with the statutory background,
13 where I think the Government understates the nature of
14 the prevailing settled rule that it applied.

15 CHIEF JUSTICE ROBERTS: We usually like to
16 start with the statutory language. Where is this issue
17 addressed in this statute at all?

18 MR. ROTHFELD: Imputation as such, as has
19 been said, is not directly addressed. But the words
20 that the -- that Congress used, the word "residence" and
21 the word -- particularly "continuous residence" are
22 words that Congress would have thought carried along
23 with it the concept of imputation. And the reason why
24 that is so, I think it's necessary to start with a
25 little bit of the background both of the statute and how

1 those words have been interpreted in prior usages.
2 Congress would have been aware of when it used them in
3 the statute.

4 Under the prior relief provision here,
5 section 212(c), the old provision, the courts that --
6 courts of appeals that had addressed it had uniformly
7 applied an imputation rule. The Government says it's
8 three courts. Two of those courts are the Second and
9 Ninth Circuits, the largest immigration circuits that
10 decide two-thirds of the immigration cases in the
11 country. So, I think one can presume that Congress
12 would have been aware of this rule.

13 And the Government concedes that Congress
14 didn't change the language of 212(c) because it was
15 dissatisfied with imputation. It had other purposes in
16 mind altogether. And so --

17 CHIEF JUSTICE ROBERTS: What does the
18 statute say about imputation of individuals' residence
19 to grandparents?

20 MR. ROTHFELD: The rule -- it says nothing
21 directly about it.

22 CHIEF JUSTICE ROBERTS: It says nothing
23 about it. So, would you say the statute is ambiguous on
24 whether or not residents' legal permanent residence
25 status should be imputed to grandparents?

1 MR. ROTHFELD: Well, I think there could be
2 circumstances in which imputation is appropriate when --
3 when the child is in the custody of the grandparent.
4 But I'm focusing on parents because that's how the cases
5 have been decided up to that point.

6 The BIA itself had said, prior to the
7 enactment of this statute, in the *In re Ng* case that --
8 which I think is the case the Justice Breyer had
9 referred to -- it had said in so many words the
10 residence of the parent is imputed to child when the
11 child is a minor. Congress would have been aware of
12 that when it used the word "residence" in
13 subsection (2).

14 JUSTICE GINSBURG: What do you do -- what
15 you do if the parents -- the father is an LPR, the
16 mother is not? Do we then impute to the child the
17 father's status? The couple is not married.

18 MR. ROTHFELD: There are rules, common law
19 rules, that the courts had applied in determining whose
20 residence and whose domicile would be attributed to the
21 child when the parents were not -- didn't have joint
22 custody. When the -- if we're talking only about
23 residence here --

24 JUSTICE GINSBURG: They have joint custody.
25 They live together. They're just not married.

1 MR. ROTHFELD: I think that -- again, the
2 courts have applied -- if we're distinguishing -- for
3 purposes of residence -- and I'm not talking about the
4 technical LPR status here when I'm using the term
5 "residence"; I am referring simply to kind of the
6 general common law concept.

7 JUSTICE GINSBURG: Well, I think it was
8 agreed that -- that LPR status would be necessary. At
9 least, Mr. Kinnaird said that.

10 MR. ROTHFELD: We --

11 JUSTICE GINSBURG: So, we're talking about
12 the 5-year period and the 7-year period. The child
13 would have to have LPR status.

14 MR. ROTHFELD: We agree ultimately, to get
15 relief, the child has to have LPR status and certainly
16 under subsection (1) of the provision, which is not at
17 issue in the Sawyers case. That concerns 5 years of LPR
18 status. Subsection(2), which is all that I'm concerned
19 with in Sawyers because that's the only -- only element
20 of the relief provision that he was deemed not to
21 satisfy, concerns only the term "residence," not LPR as
22 such; simply continuous residence in the United States.

23 And so, the question of would Congress have
24 thought that residence, continuous residence, is
25 imputable from parent to child -- I think it would have

1 for two reasons: First of all, it would have believed
2 that residence as a general matter is imputable. The
3 BIA had said so itself in the Ng case. And as it --
4 domicile, which the Government concedes was imputable,
5 necessarily includes --

6 JUSTICE SCALIA: Excuse me. Was residence
7 at issue in that case?

8 MR. ROTHFELD: It was indeed. It was a firm
9 resettlement case, and the question was whether or not
10 the alien had been a resident of Hong Kong. And the
11 parents were residents, and the BIA said, well, the
12 parents' residence is imputed to the child.

13 JUSTICE SOTOMAYOR: Just for factual
14 correction, the record doesn't tell us whether he was
15 living with his mother -- Mr. Sawyer was living with his
16 mother.

17 MR. ROTHFELD: That's correct.

18 JUSTICE SOTOMAYOR: And the answer to that
19 is? Is this a child living with a grandparent out of
20 the country or not?

21 MR. ROTHFELD: The record does not
22 reflect -- we don't know if he was living in U.S. in an
23 unlawful status up until the point he became an LPR at
24 age 15. The record simply doesn't answer that question.

25 JUSTICE BREYER: You're saying -- I just

1 want to hear your whole argument here. You're saying
2 they would have had, Congress, as a background, the Ng
3 case where they imputed the Hong Kong residence; the
4 fact that you were about to say, that domicile
5 necessarily includes residence. And is there something
6 else?

7 MR. ROTHFELD: That's the principle, but
8 that --

9 JUSTICE BREYER: All right.

10 MR. ROTHFELD: That's correct. That -- but
11 I can add to that a little bit, that in the section
12 212 cases, in which domicile was imputed, as the
13 Government recognizes, in at least two of those cases,
14 the child was not in the United States for a portion of
15 that time; and, therefore, necessarily those courts must
16 have been imputing not only domicile but residence. And
17 that is necessarily the case because -- residence is an
18 element, a subset, of domicile --

19 JUSTICE ALITO: So, if he came to the United
20 States at 15 from Jamaica, he was a resident of the
21 United States before he came --

22 MR. ROTHFELD: As a -- as a legal matter,
23 just as he was -- would have been domiciled in the
24 United States.

25 JUSTICE ALITO: Would he be a resident of

1 Jamaica, too, at that time?

2 MR. ROTHFELD: I think not. I think -- I
3 think our common law would have regarded him as a
4 resident of the United States --

5 JUSTICE ALITO: If his father was living in
6 the U.K., would he be a resident of the U.K.?

7 MR. ROTHFELD: There might be legal rules
8 that -- that specify the physical presence is equivalent
9 to residence for particular purposes. But as this Court
10 held in Holyfield, as the Government recognizes in a
11 domicile context, a child can be a domicile of a
12 jurisdiction in which they have never set foot. The
13 legal presumption is that a child is -- takes the
14 domicile of the parent, and -- and residence is a
15 necessary subset, as this Court has said long ago,
16 before any of these statutes were passed. The
17 definition --

18 JUSTICE GINSBURG: But you can be a resident
19 without being a domiciliary?

20 MR. ROTHFELD: One can be -- yes, because
21 the definition, as this Court said, of -- of "domicile"
22 is residence in a particular place accompanied by an
23 intent to remain there indefinitely. And so, you have
24 to have both. You can't be a domicile without being a
25 resident of the jurisdiction.

1 Congress would have been aware of that. And
2 when it used the term "residence," it would have been
3 aware of that as a general proposition, and it would
4 have been aware that in the particular context of
5 section 212(c), imputation rule for relief in the
6 immigration laws, that use of the term "resident"
7 carries with it imputation.

8 I think that makes this -- so far as we're
9 concerned, that makes the use of the term "continuous
10 residence" in subsection (b) unambiguous and requires
11 imputation. Congress would have been aware of this.
12 There's no reason to think, the Government concedes,
13 Congress was not trying to change the imputation rule
14 when it changed the terminology from -- from "domicile"
15 to "resident."

16 In fact, it's sort of perverse to say that
17 Congress had -- achieved that purpose, because it was
18 a -- this was a liberalizing change. The reason that
19 Congress -- it's quite clear from the statutory
20 background why Congress changed the language from 7
21 years' unrelinquished lawful domicile in the old 212(c)
22 to continuous residence after admission in any status in
23 -- in subsection (b) of the new statute -- was to
24 broaden the availability of relief.

25 Congress was confronted with a split in the

1 circuits on the interpretation of the old rule, as to
2 whether or not one could achieve unrelinquished
3 domicile -- lawful unrelinquished domicile while not in
4 an LPR status, because the BIA had taken the position
5 that for -- to have lawful domicile, you have to
6 lawfully intend to stay here permanently; you can't do
7 that if you're not an LPR.

8 And, therefore, Congress, confronting the
9 split on circuits -- because some courts had rejected
10 the BIA's view, Congress said, okay, we're going to put
11 in subsection (a) of the new statute a requirement of 5
12 years' LPR status.

13 JUSTICE ALITO: If Congress had wanted to
14 use the term "resided" in the ordinary sense of the
15 word, they wanted to require that the alien actually
16 have lived in the United States continuously for 7
17 years, what language would they have used? What
18 language should they have used?

19 MR. ROTHFELD: For -- for the child? Well,
20 I think --

21 JUSTICE ALITO: If they wanted (2) to mean
22 that the alien must have actually -- that person must --
23 the one who committed the crime later must actually have
24 resided in the United States continuously for 7 years --

25 MR. ROTHFELD: I would --

1 JUSTICE ALITO: -- then what should they --
2 actually lived in the United States for 7 years, what
3 language should they have used?

4 MR. ROTHFELD: For -- for an adult, the
5 language that they did use, because I think "continuous
6 residence" carries with it the requirement that the
7 person be physically present in the United States --

8 JUSTICE ALITO: For a minor.

9 MR. ROTHFELD: If they're a minor?

10 JUSTICE ALITO: For that to apply to
11 everybody.

12 MR. ROTHFELD: I -- I would think, given the
13 context, of which imputation was the settled rule, that
14 Congress would have had to indicate affirmatively that
15 imputation was impermissible. Just as if -- if Congress
16 uses the term "domicile" as they did in the old section
17 212(c), knowing the context in which, as a universal
18 matter, the domicile of the parents is attributed to the
19 child, one would expect --

20 JUSTICE ALITO: "Domicile" is a legal term.
21 You don't go around and you meet somebody and say, Where
22 are you domiciled?

23 (Laughter.)

24 JUSTICE ALITO: You might not even say,
25 Where do you reside? But it's closer to being ordinary

1 language.

2 MR. ROTHFELD: Well -- and "reside" can have
3 different meanings in different contexts. There is a
4 definition in the statute which the BIA itself has said
5 does not apply to conditional uses of the term. So, you
6 know, "residence" in its plainest sense -- I mean, as
7 this Court said in the Savorgnan case, which is where
8 Congress derived the -- the definition which is now in
9 the INA, that was under the plainest use of the term
10 "residence." You know, unadorned. And that was the
11 statutory definition, which says without regard to
12 intent.

13 But when there's a conditional use, when
14 it's continuous residence, as in subsection (b) of the
15 statute, or permanent residence, necessarily one has to
16 look at intent. And, therefore, that statutory
17 definition cannot apply. The BIA itself has said that
18 expressly in the Huang case, which we discuss in our
19 brief, that so far as permanent residence is concerned,
20 the statutory definition has no application because
21 necessarily one has to look to intent.

22 And so, this is sort of a second --
23 secondary argument here, but insofar as intent is
24 essential for imputation, which is what the Government
25 says -- the Government says the reason that the switch

1 from "domicile" to "residence" matters is because
2 "domicile" looks to intent, and "residence" doesn't.
3 But, in fact, continuous residence does, necessarily
4 does, look to intent because it's the intent to remain
5 continuously or permanently.

6 JUSTICE KENNEDY: Is -- is there some
7 advantage to giving parents an incentive to apply for
8 early lawful permanent residence? Because under your
9 view, parents wouldn't have to bother to apply for it at
10 all. I'm -- I'm wondering about the --

11 MR. ROTHFELD: Well, I --

12 JUSTICE KENNEDY: -- the consequences of
13 deciding in your favor. And the other one, quite
14 distinct, is it seems to me that there probably would
15 not be some floodgate of -- of imputed residence cases.

16 MR. ROTHFELD: I -- I -- the only thing
17 we're talking about here, of course, is -- is a
18 particular relief from removal provision. And so,
19 certainly, the -- the expectation that the child someday
20 down the road may seek relief from removal --

21 JUSTICE KENNEDY: Right.

22 MR. ROTHFELD: -- if they do -- if they
23 become an LPR and do something wrong is not going to
24 induce parents to delay.

25 JUSTICE SCALIA: Mr. Rothfeld, I'm -- I'm

1 curious, how often -- this dispute here is simply about
2 whether the Attorney General is permitted to cancel
3 removal, right?

4 MR. ROTHFELD: That is correct.

5 JUSTICE SCALIA: How often does -- are
6 applications for cancellation of removal granted? I
7 mean, is it a common phenomenon, or are we really
8 talking here about just spinning it out longer so that
9 the -- so that the person who will ultimately be
10 deported can stay here that much longer?

11 MR. ROTHFELD: I -- I can't give you current
12 statistics. I think this Court said, I believe in the
13 St. Cyr case, that a fairly -- substantial -- 40 percent
14 or so of the cases are granted. The Gutierrez case, in
15 fact, the IJ would have granted removal and --

16 JUSTICE SCALIA: You think it's as high as
17 40 percent?

18 MR. ROTHFELD: I believe that that's -- I
19 wouldn't swear to that, Your Honor, but -- but it is
20 a -- a significant percentage. And, again, Gutierrez is
21 an example of that. The IJ would have granted it but
22 for the -- the rejection of the imputation rule further
23 on in the -- in the process.

24 And I think this is actually kind of a
25 significant point, which goes to what Congress would

1 have had in mind. We are only talking about not
2 entitlement to relief; we're talking about entitlement
3 to ask the Attorney General, in the exercise of his
4 unreviewable discretion, to grant relief to deserving
5 immigrants who would otherwise be forced out of the
6 country by application of an inflexible rule.

7 CHIEF JUSTICE ROBERTS: I suppose one of the
8 things he could take into account in exercising his
9 discretion is whether we're actually dealing with a
10 minor, or, as I understand in this case, it's someone
11 who is quite a bit older.

12 MR. ROTHFELD: He -- it is unreviewable
13 discretion, yes. He could take anything into account.
14 And, certainly, the nature of the family ties, the --
15 the background of the immigrant, all of those things are
16 taken into account. But the question -- whether or not
17 Congress when it passed this statute, knowing how
18 section 212(c) had been interpreted, the prospect that
19 Congress meant to --

20 JUSTICE SOTOMAYOR: Counsel, that's a very
21 big assumption. I mean, yes, it's the two biggest
22 circuits who have defined domicile and imputation, but
23 it wasn't us, number one. And, number two, going back
24 to Justice Alito's question, they didn't adopt the same
25 word, "domicile"; they changed it. So --

1 MR. ROTHFELD: Well, I can give you --

2 JUSTICE SOTOMAYOR: And that's what the BIA
3 was saying.

4 MR. ROTHFELD: I can give you two responses
5 to that, if I may, Justice Sotomayor. First, yes, I
6 mean, it is a presumption that Congress is aware of
7 judicial decisions, but I think that presumption --

8 JUSTICE SOTOMAYOR: It can't be aware of all
9 judicial decisions.

10 MR. ROTHFELD: No, but in this particular
11 context, there's particular reason to think they were
12 because Congress, it is agreed, enacted this legislation
13 to cure a conflict in the circuits involving the
14 application of this cancellation provision. And so,
15 there would have been particular reason for Congress to
16 be aware of what the courts had done.

17 CHIEF JUSTICE ROBERTS: You -- you said you
18 had two points. Do you want to get your second out, in
19 half a sentence?

20 MR. ROTHFELD: I -- I can rest at this
21 point, Your Honor.

22 Thank you so much.

23 CHIEF JUSTICE ROBERTS: Thank you.

24 Ms. Kruger, you have 4 minutes remaining.

25 REBUTTAL ARGUMENT OF LEONDRA R. KRUGER

1 ON BEHALF OF THE PETITIONER

2 MS. KRUGER: Thank you.

3 I'd like to make three quick points --

4 JUSTICE KENNEDY: The -- the Respondent said
5 that the BIA gave no policy reason, no policy
6 justifications, for its -- for its interpretation.

7 Is that correct in your view?

8 MS. KRUGER: I don't think that that is
9 correct. The BIA noted -- to be clear, the BIA was, I
10 think, heavily influenced by what it saw as the clear
11 language of the statute, but it also noted that the
12 imputation rule was inconsistent with a history of
13 non-imputation of LPR status, an approach that treats
14 LPR status as accorded to individual aliens.

15 JUSTICE SCALIA: What do you respond to the
16 point that lawfulness has been attributed, not just
17 intent, but under the prior law, lawfulness was also
18 attributed?

19 MS. KRUGER: I think this goes back to the
20 answer I was giving to Justice Breyer earlier. Where
21 former section 212(c) had an explicit lawful status
22 requirement, which is the status of being a lawful
23 permanent resident, no court of appeals allowed
24 imputation from parent to child.

25 Their argument is a little bit more

1 convoluted than that. It is that because domicile,
2 lawful unrelinquished domicile, was interpreted to mean
3 the ability to form a lawful intent to remain
4 permanently in the United States, and the Ninth Circuit
5 said you could only form such an intent if you are a
6 lawful permanent resident, that in Lepe-Guitron, the
7 Ninth Circuit was therefore necessarily imputing LPR
8 status from parent to child.

9 I think the more straightforward way to read
10 the Ninth Circuit's decision is that it was imputing the
11 intent to remain permanently in the United States from
12 parent to child, based in part on the parents'
13 establishment of a domicile, and based on the common law
14 rule that the child's domicile follows that of his
15 parents.

16 CHIEF JUSTICE ROBERTS: Counsel, in response
17 to Justice Kennedy's question about whether they gave a
18 policy reason, your answer was that they, you know,
19 followed the history. I'm not sure that's the same as a
20 policy.

21 MS. KRUGER: Well, in -- in addition to
22 discussing the individual nature of LPR status, they
23 also noted the consequence of the Ninth Circuit's
24 imputation rule would be to permit a kind of end run
25 around the substantive eligibility requirements for LPR

1 status. So, theoretically, you could have an individual
2 minor alien who's not eligible, who's inadmissible for
3 adjustment of status, who would nevertheless be accorded
4 a substantial benefit of that status without regard to
5 whether or not he could have received that status in
6 fact.

7 I want to --

8 JUSTICE SCALIA: Was that the case under the
9 prior law?

10 MS. KRUGER: Under the -- under former
11 section 212(c).

12 JUSTICE SCALIA: Yes, when -- yes.

13 MS. KRUGER: Again, no court --

14 JUSTICE SCALIA: So, it's not unthinkable.

15 MS. KRUGER: No court had imputed LPR
16 status, the threshold requirement for relief under --
17 under the predecessor statute, from parent to child.
18 So, it wasn't the case that somebody who was actually
19 ineligible for -- for LPR status would nevertheless be
20 eligible for waiver of removal under -- under that
21 provision.

22 JUSTICE SOTOMAYOR: I just don't understand
23 that argument because they've conceded that you need
24 the -- the child needs their own LPR status before it
25 triggers --

1 MS. KRUGER: Right, and I think that
2 concession --

3 JUSTICE SOTOMAYOR: -- residency.

4 MS. KRUGER: I think that concession is
5 important for the following reason: When Congress
6 enacted the present cancellation of removal statute, it
7 preserved that threshold requirement that you had to be
8 an LPR in order to seek relief, but it added a
9 durational requirement. You had to have attained that
10 status at least 5 years before you sought relief.

11 There's no reason to think, if there's no
12 precedent for imputing LPR status in the first place,
13 that there would be precedent for imputing LPR status
14 going back 5 years. One necessarily follows from the
15 other.

16 If I could, I'd like to address the other
17 proposition that Respondent Sawyers makes, that courts
18 were necessarily imputing residence as an element of
19 domicile. That argument relies heavily on the 1967
20 regional commissioner decision dealing with firm
21 resettlement.

22 If you look at that decision, you will see
23 that the regional commissioner focused very intensely on
24 the minor alien's particular actions -- identity,
25 documents that he received personally from the foreign

1 country, his own schooling, and residence. And the
2 degree to which the regional commissioner rested on
3 principles of imputation is entirely unclear.

4 CHIEF JUSTICE ROBERTS: Thank you, counsel.

5 The case is submitted.

6 (Whereupon, at 11:20 a.m., the case in the
7 above-entitled matter was submitted.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

| A | | | | |
|------------------------|--------------------------|-------------------------|-------------------------|-------------------------|
| abandon 39:14 | 11:2 | 44:10 48:15,22 | 55:23 | asylum 33:2 |
| abandonment | admissibility | 57:2 | APPEARAN... | attached 18:12 |
| 20:11 33:22,25 | 15:4 | aliens 13:4 | 1:23 | attained 58:9 |
| 39:7 | admissible | 31:25 55:14 | appears 10:12 | Attorney 1:3,11 |
| ability 56:3 | 14:13 22:12 | alien's 20:4 | application 9:21 | 10:15 11:1 |
| able 7:12 34:6 | admission 4:14 | 58:24 | 9:23 50:20 | 20:6 37:17,22 |
| above-entitled | 5:1 6:16,17 | ALITO 45:19 | 53:6 54:14 | 52:2 53:3 |
| 1:20 59:7 | 10:4 11:22 | 45:25 46:5 | applications | attributed 42:20 |
| accept 10:11 | 13:23 16:4 | 48:13,21 49:1 | 52:6 | 49:18 55:16,18 |
| accompanied | 18:7 21:8 | 49:8,10,20,24 | applied 9:14 | attributes 5:2,4 |
| 46:22 | 22:23 24:18 | Alito's 53:24 | 22:17 23:20 | 9:3 21:12 |
| accorded 55:14 | 25:2 35:8 | allow 7:18 14:11 | 24:1 27:13,23 | authority 18:14 |
| 57:3 | 47:22 | 16:7 30:17 | 40:14 41:7 | authorization |
| account 31:7 | admitted 14:11 | allowed 7:22 | 42:19 43:2 | 11:23 16:8 |
| 39:17 53:8,13 | 16:1 25:5,7 | 19:8,15 20:1,4 | apply 28:3 35:8 | 18:9,13 22:24 |
| 53:16 | 33:16 | 23:8 55:23 | 37:23 49:10 | authorizations |
| achieve 48:2 | adopt 35:7 | allowing 38:20 | 50:5,17 51:7,9 | 11:25 21:5 |
| achieved 21:13 | 53:24 | allows 37:12 | applying 7:21 | authorizes 32:2 |
| 47:17 | adult 16:1 49:4 | alter 8:16 | 27:16 | automatically |
| acknowledged | advance 34:6 | alternative 30:1 | approach 40:7 | 10:9 16:16 |
| 17:24 26:16 | advanced 35:11 | 35:3 39:3 | 55:13 | 28:11,12 |
| acquire 8:2 | advantage 51:7 | altogether 41:16 | appropriate | availability |
| acquired 31:10 | adversary 21:23 | ambiguity 19:3 | 42:2 | 10:15 47:24 |
| act 8:22 13:5 | affirmative | 27:12,24 29:17 | arbitrary 34:17 | available 17:13 |
| 22:3,9,9,15 | 30:13 35:9 | 29:25 31:3 | 35:1 | 17:22 |
| 30:2 37:15 | affirmatively | 36:13 | areas 13:15 | aware 8:19,23 |
| action 12:8 | 49:14 | ambiguous 5:6 | argument 1:21 | 18:2 24:9,11 |
| actions 58:24 | afford 32:11 | 5:19,22 7:2 | 3:2,5,8,11 4:3 | 24:12 41:2,12 |
| actual 9:9 32:5 | age 16:1,21,22 | 27:17,20,22 | 4:7 10:12 | 42:11 47:1,3,4 |
| 35:14 | 17:2 34:10 | 29:11,16 30:19 | 25:25 27:3 | 47:11 54:6,8 |
| add 18:20 45:11 | 44:24 | 30:25 31:15 | 31:9,9 39:23 | 54:16 |
| added 58:8 | agency 19:4,12 | 37:10 40:8 | 45:1 50:23 | a.m 1:22 4:2 |
| addenda 31:23 | 19:15 20:1,20 | 41:23 | 54:25 55:25 | 59:6 |
| addition 56:21 | 21:25 27:10 | amount 17:21 | 57:23 58:19 | |
| address 6:22,23 | 35:2 36:11 | analysis 22:5 | arguments 39:4 | B |
| 7:1,4 30:8,12 | ago 46:15 | 29:21 | arises 27:12,24 | b 2:2 3:6 27:3 |
| 31:13 58:16 | agree 43:14 | Angeles 32:10 | 31:3 | 31:22 47:10,23 |
| addressed 40:17 | agreed 30:9 43:8 | 32:13 | aside 22:1 | 50:14 |
| 40:19 41:6 | 54:12 | answer 13:22 | asking 13:8,25 | back 15:9,20 |
| adequate 35:18 | alien 4:11,17 5:3 | 14:3,4 19:6 | 17:6 30:13 | 28:17 53:23 |
| adequately | 5:8 6:9,10 7:9 | 44:18,24 55:20 | Assistant 1:24 | 55:19 58:14 |
| 35:15 | 9:4 10:5 18:25 | 56:18 | assume 10:14 | backed 38:4 |
| adjustment | 19:1 21:15 | ANTONIO 1:15 | 20:14 | background |
| 16:15 32:2,6 | 22:12,23 24:2 | appeals 4:21 5:7 | assuming 10:11 | 16:6 21:11 |
| 57:3 | 24:14 25:23 | 7:17 8:19 9:14 | 17:6 | 35:7 40:12,25 |
| administrative | 26:8,12,13,19 | 23:17,22 24:9 | assumption | 45:2 47:20 |
| | 31:9 33:2 39:9 | 26:6 41:6 | 53:21 | 53:15 |

| | | | | |
|-------------------------|------------------------|-------------------------|------------------------|-------------------------|
| backlog 18:3 | born 14:18 15:1 | 41:10 42:4 | 28:11,12 29:5 | clear 6:1,3 8:14 |
| backward 23:10 | 34:16 | 45:12,13 51:15 | 31:9 32:9,12 | 12:10 23:15 |
| balance 26:25 | bother 51:9 | 52:14 | 32:18,21 33:8 | 26:12 47:19 |
| based 7:12 | Breyer 12:14,24 | category 30:20 | 33:23 34:15,18 | 55:9,10 |
| 31:11 56:12,13 | 13:2,8,25 14:3 | 30:20 | 38:6,8 39:9,13 | clearly 24:24 |
| basic 23:3 35:12 | 14:7,22 15:14 | certain 14:10 | 39:14 42:3,10 | 29:14 |
| basis 8:24 14:12 | 24:19,22 32:23 | 20:3 31:24 | 42:11,16,21 | client 38:10 |
| 22:25 31:6 | 42:8 44:25 | 33:24 | 43:12,15,25 | client's 38:9 |
| 35:4 36:10,12 | 45:9 55:20 | certainly 11:7 | 44:12,19 45:14 | closer 49:25 |
| 37:14 39:7,13 | Breyer's 14:16 | 12:4 13:23 | 46:11,13 48:19 | come 5:16 15:7 |
| bear 37:19 | brief 32:24 | 14:20 19:19 | 49:19 51:19 | 22:5,11,13 |
| beginning 12:2 | 50:19 | 21:6 38:9 39:4 | 55:24 56:8,12 | 25:1 35:18 |
| begin 12:8 | bring 12:6 | 43:15 51:19 | 57:17,24 | 37:16 |
| behalf 3:4,7,10 | brings 13:5 | 53:14 | children 7:22 | comes 33:2 |
| 3:13 4:8 16:13 | broaden 47:24 | cetera 25:12 | 8:1 10:5,8 17:4 | 36:13 |
| 27:4 39:24 | | change 8:13 | 17:22 23:22 | coming 33:23 |
| 55:1 | C | 33:19 41:14 | 26:20 27:8,13 | commanded |
| believe 24:8 | C 3:1 4:1 | 47:13,18 | 30:19 38:1 | 19:11 |
| 31:22 52:12,18 | cancel 52:2 | changed 33:17 | child's 7:14,20 | commission |
| believed 44:1 | cancellation | 47:14,20 53:25 | 8:5 10:24 | 22:2 |
| Bell 34:14 | 4:15 8:9 11:6 | characterize | 16:14 17:16 | commissioner |
| benefit 6:18 | 11:10 18:5 | 27:20 | 23:19 24:17,18 | 58:20,23 59:2 |
| 11:20 23:23 | 21:7 24:7 | CHARLES 2:4 | 35:20,22 56:14 | commit 21:19 |
| 38:8 57:4 | 31:11,16,24 | 3:9 39:23 | China 13:21 | 22:14 |
| best 7:1 14:1 | 32:3 33:21 | Chevron 5:23 | 15:9,20 | committed |
| 18:10 | 37:18,24 52:6 | 29:21 35:25 | circuit 4:20 | 48:23 |
| better 30:4 | 54:14 58:6 | Chief 4:3,9 6:20 | 11:17 13:14 | committing 22:9 |
| 31:14 | capable 22:18 | 6:25 27:1,6,15 | 24:1,4,25 | common 7:20 |
| BIA 21:20 29:12 | capacity 9:6 | 30:5,10,16 | 25:21 26:15,16 | 8:5,24 9:12 |
| 29:13,16,20 | 28:1 31:4 | 35:6 39:20 | 28:14 31:13 | 17:11,18 20:22 |
| 31:6 33:18 | CARLOS 1:7 | 40:1,15 41:17 | 56:4,7 | 23:19 24:15 |
| 34:3 35:7 | carried 40:22 | 41:22 53:7 | circuits 25:11 | 39:11 42:18 |
| 36:24 37:5,8 | carries 47:7 | 54:17,23 56:16 | 41:9,9 48:1,9 | 43:6 46:3 52:7 |
| 38:14 39:16 | 49:6 | 59:4 | 53:22 54:13 | 56:13 |
| 42:6 44:3,11 | case 4:4,5 5:24 | child 7:11,12,19 | Circuit's 26:4 | commonly |
| 48:4 50:4,17 | 8:12 9:20 12:4 | 7:25 8:7 9:5,10 | 56:10,23 | 16:22 |
| 54:2 55:5,9,9 | 23:9,9 24:25 | 9:17 10:17 | circumstance | comparable |
| BIA's 48:10 | 25:4,5,6,23 | 12:17,18 13:12 | 23:2 27:13,23 | 13:18 |
| big 53:21 | 35:9 40:5,11 | 13:20,24 14:11 | 37:25 | compelling |
| biggest 53:21 | 42:7,8 43:17 | 14:12,17,25 | circumstances | 11:13 |
| bit 40:25 45:11 | 44:3,7,9 45:3 | 15:1,3,4,8,9 | 12:11,23 19:7 | components |
| 53:11 55:25 | 45:17 50:7,18 | 16:14,19,19 | 20:2 33:24 | 11:6 |
| Board 5:6 6:1,7 | 52:13,14 53:10 | 17:7,13,19 | 40:11 42:2 | comports 6:6,7 |
| 20:4,8,11 21:6 | 57:8,18 59:5,6 | 20:10,15,15 | citizen 14:18 | con 25:11 |
| 22:17 | cases 7:17 9:19 | 21:9,17,18 | claimed 30:23 | conceded 57:23 |
| Board's 5:25 6:4 | 13:17 24:23 | 22:14,18,19 | claims 33:21 | concedes 41:13 |
| 22:5 | 32:20 34:21 | 24:2 26:10 | clarify 25:21 | 44:4 47:12 |

| | | | | |
|--|---|---|--|---|
| <p>conceivable 7:5 concept 40:23 43:6 concepts 27:16 concern 21:3,4 concerned 43:18 47:9 50:19 concerns 40:5 43:17,21 concession 58:2 58:4 conclusion 5:16 14:8 25:9 conclusions 5:20 conditional 50:5 50:13 conduct 21:17 22:7 conferred 22:22 22:25 conferring 11:19 conflict 54:13 confronted 47:25 confronting 48:8 Congress 8:8,15 8:18,23,25 12:4 13:3,6 18:1,11 23:8 23:12,16 24:9 25:13,16 35:1 38:4 40:10,20 40:22 41:2,11 41:13 42:11 43:23 45:2 47:1,11,13,17 47:19,20,25 48:8,10,13 49:14,15 50:8 52:25 53:17,19 54:6,12,15 58:5 consequence 56:23 consequences</p> | <p>51:12 consideration 12:11 considerations 6:4 considered 34:17 consistent 21:6 37:9 consolidated 4:5 constitutional 34:12 constructed 10:3 construction 30:2,3 36:14 context 20:11 21:7 22:11,21 34:12 40:9 46:11 47:4 49:13,17 54:11 contexts 27:10 50:3 continuity 34:2 continuous 11:21 37:2 40:21 43:22,24 47:9,22 49:5 50:14 51:3 continuously 4:13 48:16,24 51:5 contrast 9:12 control 28:1,4,5 31:5 39:7 controlled 38:2 38:3 convoluted 56:1 corollary 10:2 correct 20:17,19 44:17 45:10 52:4 55:7,9 correction 44:14 correctly 27:20 counsel 19:17 27:1 53:20 56:16 59:4</p> | <p>country 16:9 22:24 33:3,4,6 38:7 41:11 44:20 53:6 59:1 couple 42:17 course 51:17 court 1:1,21 4:10 7:4,16 8:17,19,23 9:13 23:17 24:9 26:24 27:7 34:11,14 34:18,20,23 37:7 40:2 46:9 46:15,21 50:7 52:12 55:23 57:13,15 courts 4:20 7:19 9:14 23:20,22 26:5,9,12 27:9 31:23 41:5,6,8 41:8 42:19 43:2 45:15 48:9 54:16 58:17 Court's 8:4 crafting 24:7 crank 19:20 create 6:14 crime 21:19 48:23 criteria 9:2 10:4 11:8 15:4 18:5 21:14 32:1 33:4 critical 20:20 22:21 31:25 cure 27:11 54:13 curious 52:1 current 8:9 12:9 24:7 52:11 custody 39:6 42:3,22,24 customs 12:9 cut 18:25,25 cuts 20:14</p> | <p>Cyr 52:13 <hr/> D <hr/> D 4:1 DAMIEN 1:15 deal 17:20 25:17 27:19 39:6 dealing 53:9 58:20 deals 25:17 dealt 26:6 34:12 34:23,24 decades 17:25 decide 19:4 28:2 41:10 decided 19:12 24:10 42:5 deciding 51:13 decision 5:25 6:3 8:4 9:14 11:7 26:4 37:6 56:10 58:20,22 decisions 5:20 8:20,24 24:12 35:19 39:8 54:7,9 deemed 7:13 32:13 34:3 43:20 defended 33:21 defer 12:8 defined 5:2 7:8 9:2 24:13,13 53:22 defines 9:9 definitely 29:2 definition 8:25 23:16 33:15 46:17,21 50:4 50:8,11,17,20 degree 59:2 delay 51:24 demands 36:8 deny 37:15,22 denying 35:4 department 1:25 17:17</p> | <p>33:20 depend 12:22 deported 52:10 deprive 11:1 derived 50:8 deserving 53:4 destroys 34:8 determination 5:14 determinations 11:19 determined 8:6 determines 37:17 determining 11:8 12:12 36:14 42:19 detriment 39:9 differ 19:9 differences 32:1 different 11:6 23:21 25:4,10 25:18 36:6,7 50:3,3 differently 9:24 difficult 21:9 difficulty 11:16 direct 34:2 directly 19:24 40:19 41:21 discretion 5:15 10:16 11:2,9 11:13,15 12:2 12:6,12,19 15:6 19:4 29:17 30:1 34:4 35:16,25 37:13,16,21 53:4,9,13 discretionary 20:6 36:21,24 discuss 50:18 discussed 6:5 27:9 discussing 56:22 dispute 52:1 dissatisfied</p> |
|--|---|---|--|---|

| | | | | | |
|--|-----------------------------|--|-----------------------------|--|---|
| <p>41:15 dissent 25:2 distinct 51:14 distinction 31:25 34:20 distinguishing 43:2 doctrine 36:18 documents 16:25 58:25 doing 29:21 domicile 7:11,13 7:19,20,22,24 8:1,6,10,11,25 9:1,12 18:23 20:23 23:7,8 23:17,19,23 24:16 25:1,12 26:17 28:16,16 35:19,20 36:2 36:3,4 42:20 44:4 45:4,12 45:16,18 46:11 46:11,14,21,24 47:14,21 48:3 48:3,5 49:16 49:18,20 51:1 51:2 53:22,25 56:1,2,13,14 58:19 domiciled 26:22 45:23 49:22 domiciles 8:2 domiciliary 33:18 46:19 draw 18:11 35:1 38:15 duration 32:16 durational 5:9 8:12 31:17 58:9 dwel 9:10 dwelling 9:10 dysjunction 38:18 D.C 1:17,25 2:2 2:4</p> | <hr/> <p>E</p> <hr/> | <p>ERIC 1:3,11 Escobar 6:1 ESQ 1:24 2:2,4 3:3,6,9,12 essential 50:24 essentially 19:4 establish 9:6 establishment 56:13 et 25:12 eventual 16:14 everybody 49:11 exacting 23:7,13 exactly 13:18 example 13:5,6 15:23 16:18 20:4 28:8 32:23,25,25 39:12 52:21 examples 21:10 Excuse 20:13 44:6 execution 12:8 exercise 5:14 10:15 11:1,13 11:15 18:13,15 29:16 30:1 53:3 exercised 12:13 34:4 exercising 53:8 exist 20:25 existed 8:21 expect 49:19 expectation 51:19 expertise 6:5 explain 39:2,4 39:15 explained 5:19 9:13 explicit 26:10 55:21 explicitly 25:8 expressly 50:18 extended 30:18</p> | <hr/> <p>F</p> <hr/> | <p>facilitate 16:14 fact 8:7 9:10,11 22:12 25:23 26:1,2 33:20 36:1 39:6 45:4 47:16 51:3 52:15 57:6 factors 19:13 factual 44:13 fair 25:18 fairly 16:3 52:13 family 11:11 34:8 38:17,21 53:14 far 27:17 40:3 47:8 50:19 father 42:15 46:5 father's 42:17 favor 51:13 favorable 21:24 34:7 feature 17:24 felt 5:15 Fiallo 34:14 field 18:24 figuring 38:25 filed 9:22 find 5:18 finished 24:20 firm 44:8 58:20 first 4:4,16,23 5:21 12:6 20:13 25:20 34:6 44:1 54:5 58:12 floodgate 51:15 focused 58:23 focusing 42:4 followed 23:18 56:19 following 4:14 26:5 58:5 follows 7:20 23:20 24:17,18 56:14 58:14</p> | <p>foot 46:12 force 37:7 forced 53:5 forecloses 34:8 foregoing 29:3 foreign 58:25 forgiving 23:13 form 8:22 56:3,5 formal 11:23 16:8 18:8,13 18:13 21:5 22:22,24 formed 20:23 former 7:18 8:8 9:15 24:11 26:7 32:19 55:21 57:10 formerly 17:8 forming 22:18 forth 33:23 found 13:15 28:14 four 13:17 fraud 22:2 fraudulent 21:17 22:9,15 full 23:25 24:6 fundamental 29:18 further 26:24 52:22 future 18:15</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>G 4:1 general 1:4,12 1:25 6:6 10:3 18:20 19:16 20:6 37:17,22 43:6 44:2 47:3 52:2 53:3 generally 22:13 General's 10:15 11:1 GINSBURG 7:10 9:5 14:14 23:5 31:8</p> |
|--|-----------------------------|--|-----------------------------|--|---|

| | | | | |
|--|---|---|--|---|
| 34:11 42:14,24 43:7,11 46:18 give 10:23 11:3 14:3 16:18 28:7 35:3,14 52:11 54:1,4 given 12:24 17:4 28:11 36:10 49:12 giving 51:7 55:20 go 5:23 49:21 goes 6:18 11:20 52:25 55:19 going 11:4 48:10 51:23 53:23 58:14 good 15:23 19:13,16 gotten 11:4 government 28:8 35:10,12 37:5 40:13 41:7,13 44:4 45:13 46:10 47:12 50:24,25 Government's 40:6 grandparent 42:3 44:19 grandparents 32:9 38:6 41:19,25 grant 10:19 25:7 33:14 53:4 granted 9:22,23 37:18 52:6,14 52:15,21 grapple 29:17 29:25 30:6,11 great 17:20 grounds 33:22 guess 7:25 guidance 12:10 Gutierrez 1:7 4:4 16:6 34:9 52:14,20 | Gutierrez's 15:23 <hr/> H <hr/> H 1:3,11 half 54:19 happen 12:16 32:9 happening 12:21 happens 16:16 16:17,22 harm 10:17,20 harms 21:25 hear 4:3 19:17 45:1 heavily 7:16 55:10 58:19 held 26:16 46:10 hey 25:3 high 10:6 52:16 historical 38:20 history 18:21 55:12 56:19 Holder 1:3,11 4:4 holding 21:23 holes 6:14 Holyfield 8:5 9:13 46:10 home 8:2 Homeland 33:20 Hong 44:10 45:3 Honor 31:3 34:25 52:19 54:21 Huang 50:18 hypothetical 12:25 13:10 14:23 15:1,15 <hr/> I <hr/> idea 10:22 identify 23:1 identity 58:24 IIRIRA 18:1 | IJ 52:15,21 illegally 15:5,24 15:25 immigrant 20:7 20:14 21:23 22:1 53:15 immigrants 53:5 immigration 5:7 7:8 8:22 9:3 10:2,7 11:23 12:3,5,9 13:16 15:6 16:9,11 16:13 17:17,24 18:9,14,21,25 19:8 20:25 21:5,12 22:23 22:25 23:4 27:9 34:13 41:9,10 47:6 impermissible 49:15 important 11:8 11:19 19:9 58:5 imputable 43:25 44:2,4 imputation 6:5 6:13,22,24 7:18 8:16 10:16 11:16 13:14,16 14:5 16:8 18:17,22 18:22 19:8,9 19:15 20:2,5 20:21 21:10 22:5 23:2,8,14 27:11,12,25 29:3,6,13 31:6 31:18 32:19 35:2,4 36:1,9 36:17 37:12,13 37:15 38:20,22 39:8 40:10,18 40:23 41:7,15 41:18 42:2 47:5,7,11,13 | 49:13,15 50:24 52:22 53:22 55:12,24 56:24 59:3 imputations 18:24 20:25 21:3 impute 13:21,23 19:5,13 25:15 25:16,22 28:23 37:8 42:16 imputed 4:21 16:5,10 20:10 21:17,20 22:19 22:22 26:9 28:9,13 32:12 32:21 33:8 34:23 38:8 41:25 42:10 44:12 45:3,12 51:15 57:15 imputes 21:25 24:24 imputing 13:12 21:1,7 26:1 28:20,22 36:3 36:3 37:3 39:12,13 45:16 56:7,10 58:12 58:13,18 INA 5:2 9:8 24:13 50:9 inadmissibility 20:10 39:13 inadmissible 20:8 57:2 incentive 51:7 includes 33:16 44:5 45:5 inconsistent 4:23 23:3 55:12 incorrect 14:10 26:3 indefinitely 46:23 independent | 5:20 9:11 14:12 independently 9:6 15:3 21:14 26:13 indicate 49:14 indication 8:15 individual 5:3 6:9,15 7:9 9:4 10:4 11:9 12:23 16:8 21:15 22:23,25 24:14 55:14 56:22 57:1 individually 6:10 21:13 individuals 10:23 11:22 41:18 induce 51:24 ineligible 16:23 17:1,8,9 57:19 inference 18:10 inflexible 53:6 influenced 55:10 inquiries 20:3 inquiry 20:3 INS 12:18 insofar 50:23 instance 16:19 28:9 instances 29:1 intend 48:6 intensely 58:23 intent 8:15 20:4 20:21 21:1,18 21:19,19 22:1 22:19,19 26:17 26:20 28:9,20 28:21,22 32:25 33:10,11,18,20 33:25 39:9,14 46:23 50:12,16 50:21,23 51:2 51:4,4 55:17 56:3,5,11 |
|--|---|---|--|---|

| | | | | |
|---|---|---|---|--|
| <p>interpretation 5:10 48:1 55:6 interpreted 5:7 7:17 20:20 33:19 41:1 53:18 56:2 interpreting 9:15 invoked 39:8 involve 20:3 involved 22:2 involving 54:13 issue 8:12 10:19 40:16 43:17 44:7 issued 8:20 issues 6:22,23 37:1 issue's 30:21 Italy 15:15</p> <hr/> <p style="text-align: center;">J</p> <p>Jamaica 45:20 46:1 January 1:18 joint 42:21,24 JR 1:3,11 judicial 54:7,9 jurisdiction 46:12,25 Justice 1:25 4:3 4:9 5:13,18,21 6:20,25 7:10 7:25 8:13 9:5 9:16,19 10:1 10:11 12:14,24 13:2,8,25 14:3 14:7,14,16,22 15:7,11,14,19 16:18 17:3,14 18:16 19:7,10 19:17,20,23 20:13,18,24 21:16,22 22:8 22:14 23:5,6 23:12,16 24:19 24:22 27:1,6</p> | <p>27:15 28:7,19 29:5,10,18,19 30:5,10,16 31:8 32:4,8,23 34:11 35:6,17 36:5,8,16,20 36:23 38:5,13 38:24 39:20 40:1,15 41:17 41:22 42:8,14 42:24 43:7,11 44:6,13,18,25 45:9,19,25 46:5,18 48:13 48:21 49:1,8 49:10,20,24 51:6,12,21,25 52:5,16 53:7 53:20,24 54:2 54:5,8,17,23 55:4,15,20 56:16,17 57:8 57:12,14,22 58:3 59:4</p> <p>justifications 55:6</p> <hr/> <p style="text-align: center;">K</p> <p>Kagan 18:16 19:7,10 20:24 29:10,19 Kennedy 8:13 9:16,19 10:1 16:18 17:3,14 23:6,12,16 32:4,8 38:24 51:6,12,21 55:4 Kennedy's 56:17 kind 13:14 27:21 43:5 52:24 56:24 kinds 18:22 Kinnaird 2:2 3:6 27:2,3,6,22 28:13,23 29:8</p> | <p>29:10,15,23 30:9,15 31:2 31:12 32:5,8 32:15 33:9 34:25 35:13,24 36:7,12,19,22 37:11 38:12,14 38:24 39:3,21 43:9 knew 20:15 know 13:2,9,10 13:19 14:1 20:7,16 25:12 27:15,19 30:21 36:24 44:22 50:6,10 56:18 knowing 22:11 49:17 53:17 knowledge 20:9 39:12 known 20:7 knows 20:15 Kong 44:10 45:3 Kruger 1:24 3:3 3:12 4:6,7,9 5:17,21 6:23 7:3,15 8:4,17 9:8,18,25 11:5 12:22 13:1,3 13:22 14:2,6,9 14:20,25 15:10 15:13,17,22 17:1,11,18 18:16 19:6,14 19:19,22,24 20:17,19 21:2 21:21 22:4,10 22:16 23:11,15 24:21 25:20 54:24,25 55:2 55:8,19 56:21 57:10,13,15 58:1,4</p> <hr/> <p style="text-align: center;">L</p> <p>labeling 29:22 lack 39:6</p> | <p>language 6:2 18:11 40:16 41:14 47:20 48:17,18 49:3 49:5 50:1 55:11 large 14:19 largest 41:9 late 8:21 24:10 latitude 35:1 Laughter 14:24 15:16,21 49:23 law 5:16 7:8,11 7:20 8:5,24 9:3 9:12 12:20 13:9,15,16 14:10 15:12 16:7 18:22,25 20:23,25 21:12 23:19 24:15 25:15,15 30:17 30:23 34:13 39:11 42:18 43:6 46:3 55:17 56:13 57:9 lawful 4:12 6:17 7:23 10:5,10 13:13 16:5,12 16:15,20,20 17:4,7,22 26:8 28:16,25 47:21 48:3,5 51:8 55:21,22 56:2 56:3,6 lawfully 24:3,4 26:18,21,22 29:6 33:16 48:6 lawfulness 28:24 29:7 36:2 55:16,17 laws 19:8 27:9 47:6 leave 29:14 left 34:18 legal 5:14,20</p> | <p>10:9 12:15,18 21:8 32:7 41:24 45:22 46:7,13 49:20 legislation 54:12 length 9:13 LEONDR 1:24 3:3,12 4:7 54:25 Lepe-Guitron 24:23 25:22,25 26:15,19 56:6 let's 34:13 liberalizing 47:18 life 8:21 13:5 24:10 37:24 likelihood 14:17 limbo 32:7 limited 31:20 lines 35:2 little 23:6 40:25 45:11 55:25 live 42:25 lived 10:17 34:10 48:16 49:2 lives 9:20 38:6 living 32:10 44:15,15,19,22 46:5 long 11:3 26:22 38:22 46:15 longer 52:8,10 long-time 11:20 11:21 look 5:25 33:24 35:14 36:1 50:16,21 51:4 58:22 looked 31:6 looks 51:2 look-back 31:17 Los 32:10,13 loses 30:14 lot 30:7 lots 36:25</p> |
|---|---|---|---|--|

| | | | | |
|---|---|--|--|---|
| <p>LPR 5:1 6:8 10:3,13,14,20 16:1 18:7 20:11 21:8 24:5,17 26:1,9 26:11,19,21 28:3,18,24 31:10,16 32:6 33:14 42:15 43:4,8,13,15 43:17,21 44:23 48:4,7,12 51:23 55:13,14 56:7,22,25 57:15,19,24 58:8,12,13 LPRs 14:17 29:1 31:20</p> <hr/> <p style="text-align: center;">M</p> <p>magic 29:24 maintenance 28:4 making 29:11 29:13 man 12:16 marked 9:12 married 25:6 34:15 42:17,25 Martinez 1:7 15:18,22 16:6 34:9 matter 1:20 4:18 5:14,16 11:9 16:24 18:20 19:16 21:1 28:11 29:22,23 35:16 44:2 45:22 49:18 59:7 matters 27:25 31:4 51:1 mean 5:7 6:15 12:19,25 15:17 16:22 17:9,14 19:11 30:6,23 33:19 36:9</p> | <p>37:7 48:21 50:6 52:7 53:21 54:6 56:2 meaning 40:9 meanings 50:3 means 36:21 meant 9:1 18:12 26:18 28:24 30:21 53:19 meet 49:21 mens 39:12 merely 11:2 Mexico 32:10 microphone 19:25 Miller 34:24 mind 20:21 21:4 22:6,8 37:19 41:16 53:1 minor 10:5 12:10 20:10 28:2,2 30:24 31:5 42:11 49:8,9 53:10 57:2 58:24 minors 27:14 38:1 minutes 54:24 morning 4:4 40:4 mother 42:16 44:15,16 moved 32:13</p> <hr/> <p style="text-align: center;">N</p> <p>N 3:1,1 4:1 narrower 38:15 nature 7:8 39:17 40:13 53:14 56:22 necessarily 35:22 44:5 45:5,15,17 50:15,21 51:3 56:7 58:14,18 necessary 10:1</p> | <p>11:23 40:24 43:8 46:15 need 26:21 32:6 57:23 needs 29:20 57:24 never 11:12 25:5 31:10 46:12 nevertheless 6:18 57:3,19 new 8:2 12:16 35:21 47:23 48:11 Ng 42:7 44:3 45:2 Nguyen 34:24 Ninth 4:20 11:17 24:1,3 25:21 26:4,15 28:14 31:13 41:9 56:4,7,10 56:23 nonpermanent 31:24 non-imputation 34:7 38:25 39:2 55:13 normally 20:16 noted 6:13 8:20 55:9,11 56:23 noting 12:1 number 17:12 17:15 34:5,21 53:23,23 numbers 17:21 18:2</p> <hr/> <p style="text-align: center;">O</p> <p>O 3:1 4:1 objective 22:7 obtained 26:11 obviously 21:18 occur 18:24 odd 23:6 officials 11:24 12:5 15:6 16:9 18:9,14 21:5</p> | <p>22:23 23:1 Oh 17:14 okay 13:19 48:10 old 38:11 41:5 47:21 48:1 49:16 older 53:11 once 12:7 37:24 once-in-a-lifet... 37:23 ones 31:4 open 37:1 operation 38:19 opinion 5:15 29:20 opinions 23:18 24:10 opportunity 10:24 opposed 26:1 oral 1:20 3:2,5,8 4:7 27:3 39:23 order 7:5 12:9 31:16 58:8 orderly 16:17 ordinary 48:14 49:25 orphaned 34:18 outlook 21:24 outside 24:5 38:6 overcome 11:14</p> <hr/> <p style="text-align: center;">P</p> <p>P 4:1 PAGE 3:2 parent 9:11,16 9:18,21 16:12 21:9 26:10 28:2,18,24 32:18 33:25 35:23 42:10 43:25 46:14 55:24 56:8,12 57:17 parents 4:18</p> | <p>7:21,22 8:1,6 10:10,18,25 14:12,15,16 15:25 16:4 17:7 20:9,15 23:20,23 24:3 24:17,18 25:5 25:7 26:22 28:10 29:1,7 31:11 32:10,12 34:15 35:20 38:7 42:4,15 42:21 44:11,12 49:18 51:7,9 51:24 56:12,15 parent's 7:13,19 21:16 22:19 37:4 parent-child 34:12,22 part 20:22 21:11 24:1 25:22 56:12 particular 6:1,9 10:5 12:10 24:14 40:9 46:9,22 47:4 51:18 54:10,11 54:15 58:24 particularly 11:12 40:21 party 4:18 5:4 passage 17:6 33:15 passed 46:16 53:17 patently 34:5 people 34:9 percent 52:13 52:17 percentage 52:20 perfectly 35:23 period 16:23 23:25 24:6 25:24 28:5,17 28:25 33:23</p> |
|---|---|--|--|---|

| | | | | |
|--|--|--|--|--|
| <p>38:1 43:12,12 periods 25:11 38:17 permanent 4:12 6:17 9:17 10:6 10:10 11:20 12:15 13:13 16:12,15,20,20 17:5,23 25:2,3 26:8 33:16 41:24 50:15,19 51:8 55:23 56:6 permanently 26:17 48:6 51:5 56:4,11 permissible 20:22 21:10 30:2,3 35:3 36:14 37:14 38:22 permit 56:24 permitted 23:22 26:9 52:2 person 48:22 49:7 52:9 personally 5:8 58:25 perverse 47:16 petition 16:13 Petitioner 1:5 1:13 2:1 3:4,13 4:8 55:1 phase 37:16,21 phenomenon 52:7 phrase 33:19 physical 46:8 physically 23:24 49:7 place 12:7 17:20 28:21 46:22 58:12 plain 4:24 11:14 11:18 plainest 50:6,9 please 4:10 27:7</p> | <p>40:2 point 17:4 20:20 22:21 29:11 31:15 33:12,14 42:5 44:23 52:25 54:21 55:16 pointed 21:3 points 21:24 54:18 55:3 policies 6:6 37:15 policy 5:19 19:16 34:7 35:11,12 55:5 55:5 56:18,20 portion 45:14 position 40:8 48:4 possibility 7:5 possible 13:11 potential 18:6 18:15 practice 18:21 19:2 38:20 precedent 23:2 26:16 58:12,13 predecessor 7:17 57:17 preference 10:6 presence 46:8 present 22:20 23:24 27:8 49:7 58:6 preserved 58:7 presume 8:18,23 41:11 presumed 22:18 presumption 21:11 46:13 54:6,7 prevail 38:16 prevailing 40:14 prevent 29:12 prevents 12:20 13:20 principal 9:9</p> | <p>principle 16:7 22:17 35:8 39:11 45:7 principles 59:3 prior 7:11 35:5 35:19 41:1,4 42:6 55:17 57:9 pro 25:11 probably 51:14 problems 27:8 27:11 29:18 36:16 procedurally 6:11 proceedings 12:6,7 process 11:2 16:17 52:23 program 33:5 prong 4:16 properly 39:2 proposals 18:3,4 proposition 47:3 58:17 prosecutorial 12:12 prospect 53:18 provide 30:17 provided 31:23 provides 20:5 providing 16:25 provision 8:21 40:3,5 41:4,5 43:16,20 51:18 54:14 57:21 provisions 14:10 purpose 8:15 30:4 37:12 47:17 purposes 10:20 20:9 22:20 41:15 43:3 46:9 put 48:10 putting 22:1</p> | <p style="text-align: center;">Q</p> <p>qualified 29:9 question 5:6 14:1 27:14 29:2 31:4 32:17 34:18 43:23 44:9,24 53:16,24 56:17 questions 26:24 queue 17:17,19 quick 55:3 quite 34:17 47:19 51:13 53:11 quotas 38:19 quote 24:25</p> <hr/> <p style="text-align: center;">R</p> <p>R 1:24 3:3,12 4:1,7 54:25 rational 36:10 36:12 37:14 rationale 38:16 rea 39:12 reach 14:8 28:17 reached 25:8 read 5:15 24:23 56:9 reading 5:10,11 25:18 26:4 31:14 40:6 real 17:16 38:18 really 39:13,17 52:7 reason 5:23 19:15,16 20:1 20:22 24:8 25:21 26:5 28:14 31:19 34:7 35:11,18 35:23 38:18 40:23 47:12,18 50:25 54:11,15 55:5 56:18 58:5,11 reasonable 5:10 5:11 38:4,5,15</p> | <p>reasoned 35:4 reasons 4:23 11:13 19:13 34:5 35:15 44:1 REBUTTAL 3:11 54:25 receive 6:18 10:6,9 11:22 11:25 received 18:8 57:5 58:25 receives 12:10 receiving 18:6 recognize 29:25 recognized 4:21 6:8 7:4 11:17 recognizes 45:13 46:10 record 44:14,21 44:24 reducing 18:3 refer 5:2 9:3 reference 8:10 24:15 referred 42:9 referring 43:5 refers 7:7 reflect 44:22 regard 50:11 57:4 regarded 46:3 regardless 4:17 8:7 regional 58:20 58:23 59:2 regular 16:17 17:23 regulation 12:20 rejected 18:4 36:15 48:9 rejection 52:22 relationship 32:18 34:16,22 38:23 relationships 34:13</p> |
|--|--|--|--|--|

| | | | | |
|--|--|---|--|--|
| <p>relied 7:16,19 relief 5:3,8 6:10 11:10 20:6 26:12 34:9 37:22 41:4 43:15,20 47:5 47:24 51:18,20 53:2,4 57:16 58:8,10 relies 58:19 rely 7:22 26:6 relying 23:18 remain 16:9 26:17,21 28:20 46:23 51:4 56:3,11 remained 15:25 remaining 54:24 remains 15:5 24:4 32:9 remedy 37:23 removal 4:15 8:9 11:7,10 12:6,7,8 18:5 21:7 24:8 29:9 31:11,24 51:18 51:20 52:3,6 52:15 57:20 58:6 remove 16:2 removed 8:9 rendering 37:5 renders 36:25 repealed 8:8 replaced 9:1 31:20 replacing 8:10 require 40:10 48:15 required 30:24 36:2 requirement 7:12,24 8:11 10:13 26:7,11 26:14 28:15 33:13,17 48:11 49:6 55:22</p> | <p>57:16 58:7,9 requirements 4:19 5:9 6:12 7:7 8:12 11:14 11:18 21:4 23:7 27:24 31:17 56:25 requires 26:17 33:18 47:10 requiring 26:13 requisite 11:24 22:18 reserve 26:25 resettled 33:3,6 resettlement 33:4,10 44:9 58:21 reside 49:25 50:2 resided 4:13 25:23 48:14,24 residence 5:1 6:17 9:7,9 11:21 13:13 23:9 24:24 25:2,16,22 26:1 32:12 33:6,16 35:21 35:22,22 36:3 37:4 38:3,18 38:21 40:20,21 41:18,24 42:10 42:12,20,23 43:3,5,21,22 43:24,24 44:2 44:6,12 45:3,5 45:16,17 46:9 46:14,22 47:2 47:10,22 49:6 50:6,10,14,15 50:19 51:1,2,3 51:8,15 58:18 59:1 residency 27:25 32:21 58:3 resident 4:12 9:17 10:10</p> | <p>11:21 16:12,15 16:21 17:5,7 26:8 31:25 32:22 44:10 45:20,25 46:4 46:6,18,25 47:6,15 55:23 56:6 residents 10:6 12:15 16:20 17:23 25:3 41:24 44:11 resides 8:7 28:6 resolved 25:13 resorted 27:10 respect 5:6 13:4 17:15 20:2 22:6,6 26:20 respects 19:9 respond 55:15 Respondent 2:3 2:5 3:7,10 13:5 27:4 39:24 55:4 58:17 Respondents 7:16 8:18 10:12 17:20 21:3 23:1,18 25:25 26:6 response 56:16 responses 54:4 rest 54:20 rested 6:3 59:2 right 7:15 8:1 9:25 12:17 13:1,10 14:20 14:25 15:2,12 19:11 20:16 28:21 29:8 31:2,10,12 33:9 38:12 45:9 51:21 52:3 58:1 road 51:20 ROBERTS 4:3 6:20,25 27:1 27:15 30:5,10</p> | <p>30:16 35:6 39:20 40:15 41:17,22 53:7 54:17,23 56:16 59:4 Rothfeld 2:4 3:9 39:22,23 40:1 40:18 41:20 42:1,18 43:1 43:10,14 44:8 44:17,21 45:7 45:10,22 46:2 46:7,20 48:19 48:25 49:4,9 49:12 50:2 51:11,16,22,25 52:4,11,18 53:12 54:1,4 54:10,20 Roughly 13:16 rule 4:21,22 6:5 6:7,13 7:20,21 8:5,16 9:12 10:3,8,17 11:16 12:20 13:14 20:23 23:19,21 24:1 24:15,16 29:3 34:4 35:5 38:4 38:15,16 40:14 41:7,12,20 47:5,13 48:1 49:13 52:22 53:6 55:12 56:14,24 rules 13:16 39:18 42:18,19 46:7 run 8:2 37:2 56:24</p> | <p>6:11 7:12,23 15:3 43:21 Savorgnan 50:7 saw 55:10 Sawyer 44:15 Sawyers 1:15 40:5 43:17,19 58:17 saying 13:9 29:19,22 30:16 44:25 45:1 54:3 says 10:8 23:19 24:16 25:3 28:8 29:20 41:7,20,22 50:11,25,25 SCALIA 7:25 15:7,11,19 19:17,20,23 20:13,18 28:7 28:19 29:5 35:17 36:5,8 44:6 51:25 52:5,16 55:15 57:8,12,14 scenario 17:12 17:19 scheme 6:14 schooling 59:1 se 39:1,5 second 31:21 37:16 41:8 50:22 54:18 secondary 50:23 section 4:11,22 4:25 7:18 8:8 9:15 20:5 24:11 26:7 28:13 31:19 32:20 33:13 34:2 41:5 45:11 47:5 49:16 53:18 55:21 57:11 Security 33:21 see 21:9 24:19</p> |
|--|--|---|--|--|

S

S 3:1 4:1
sad 15:11
satisfied 5:4
21:14 26:14
satisfy 4:19 5:9

| | | | | |
|--|---|--|--|--|
| 24:22 25:8 36:17 58:22 seek 16:13 31:16 51:20 58:8 seeking 5:3,8 6:10 26:12 send 15:8 sense 10:25 29:12 34:3 40:7 48:14 50:6 sensible 40:6 sent 15:19 sentence 54:19 separate 31:21 separately 26:6 separating 11:5 separation 32:16 serves 30:4 serving 37:14 set 46:12 sets 16:11 settled 40:14 49:13 ship 12:18 shipping 13:20 show 4:17 12:16 side 35:11 significance 18:12 significant 6:14 6:18 32:16,18 38:23 52:20,25 silence 29:12 silent 27:12 simply 18:14 24:5 33:13 37:20 38:19 39:17 40:6 43:5,22 44:24 52:1 single 34:6 situation 15:23 27:17 38:9 situations 19:12 slightly 25:17 | Solicitor 1:24 somebody 15:8 49:21 57:18 someday 51:19 somewhat 31:15 sort 25:16 47:16 50:22 Sotomayor 5:13 5:18,22 10:11 21:16,22 22:8 22:14 36:16,20 36:23 38:5,13 44:13,18 53:20 54:2,5,8 57:22 58:3 sought 58:10 speak 19:24 special 18:12 27:8,13 37:25 specific 7:9 9:4 27:23 specify 46:8 sphere 19:3 spinning 52:8 split 25:10 47:25 48:9 spouses 17:22 St 52:13 standard 23:13 start 40:12,16 40:24 state 20:21 21:4 22:6,8 States 1:1,21 4:14 6:16 7:23 10:23 11:11 14:18 15:2,5 15:24 16:3,5 18:7 22:13 23:24,25 24:3 24:4 25:24 26:18,21,23 43:22 45:14,20 45:21,24 46:4 48:16,24 49:2 49:7 56:4,11 statistics 52:12 | status 4:15 5:1 6:8,19 9:17 10:3,9,20 11:21 16:5,15 16:21 17:5,16 18:7 20:11 21:8 22:22 24:17 26:1,9 26:11,19,22 27:25 28:3,4,9 28:10,10,14,25 29:3 31:10,11 31:18 32:2,6 32:25 33:5,7 33:14,17,20 38:2 41:25 42:17 43:4,8 43:13,15,18 44:23 47:22 48:4,12 55:13 55:14,21,22 56:8,22 57:1,3 57:4,5,16,19 57:24 58:10,12 58:13 statute 4:16,24 5:5,7,11,12,19 5:22 6:6,21 7:4 7:6,18,24 8:9 10:13,17,21,22 12:2,5 18:5,17 18:18,20 24:8 26:11 27:12,18 29:11 30:25 31:14,22 34:19 34:22 35:14,21 37:3,9,11,20 40:7,8,17,25 41:3,18,23 42:7 47:23 48:11 50:4,15 53:17 55:11 57:17 58:6 statutes 30:7 46:16 statute's 30:19 statutory 6:2,14 | 18:11 30:4 33:15 40:9,12 40:16 47:19 50:11,16,20 stay 10:24 48:6 52:10 step 5:24 13:6 29:21 35:25 STEPHEN 2:2 3:6 27:3 steps 13:4 stopping 37:2 straightforward 56:9 strictly 37:20 strong 11:10 structure 23:4 submit 29:4 submitted 59:5 59:7 subsection 31:21,22 40:3 42:13 43:16 47:10,23 48:11 50:14 Subsection(2) 43:18 subset 13:4 45:18 46:15 substantial 52:13 57:4 substantive 56:25 substantively 6:11 sufficient 8:14 supply 23:16 suppose 15:7 53:7 supposition 14:14,15,16 Supreme 1:1,21 sure 10:5 56:19 swear 52:19 switch 50:25 system 10:2,7 12:3 16:11,12 | 17:24 23:4 <hr/> T <hr/> T 3:1,1 table 27:21 30:23 tacking 25:11 take 12:18 18:16 29:10 31:7 32:11 34:13 53:8,13 taken 11:3 13:3 13:6 28:12 39:17 48:4 53:16 takes 17:21 23:13 46:13 talked 18:23 talking 25:14 40:4 42:22 43:3,11 51:17 52:8 53:1,2 talks 30:19 technical 43:4 tell 27:18 33:1 44:14 tells 34:14 term 8:25 9:9 23:17 43:4,21 47:2,6,9 48:14 49:16,20 50:5 50:9 terminate 12:7 terminology 47:14 terms 5:2 9:2 24:13 text 4:24 textually 19:11 Thank 19:23 27:1 39:19,20 40:1 54:22,23 55:2 59:4 theoretically 57:1 they'd 15:8 thing 13:11 |
|--|---|--|--|--|

| | | | | |
|---|--|--|---|--|
| <p>19:20 25:18 30:18,22 51:16 things 30:7 37:4 53:8,15 think 5:17,22,23 6:1,21 7:3,6 8:17 9:25 10:1 11:5 12:1 13:22 14:6,9 14:15 15:17,22 15:23 16:3 17:11,20 18:10 18:19 19:6,14 20:19,24 21:2 21:6 22:4,10 22:16,20 23:1 25:14,19,20,24 26:3 27:22 29:15,23 30:15 30:17 31:3,12 31:13 32:15,16 34:1,4,25 35:2 35:3,13,15,25 36:10 37:9,13 37:25 38:14,16 38:22 40:5,8 40:13,24 41:11 42:1,8 43:1,7 43:25 46:2,2,3 47:8,12 48:20 49:5,12 52:12 52:16,24 54:7 54:11 55:8,10 55:19 56:9 58:1,4,11 thinking 14:4 third 4:18 5:4 thought 5:5 6:2 10:22 11:12 32:24,24 40:22 43:24 three 7:16 8:19 9:1 13:17 24:9 26:5,9 29:1 41:8 55:3 threshold 11:14 11:18 26:7</p> | <p>57:16 58:7 ties 10:23 11:10 11:11 38:21 53:14 time 6:8 11:24 16:2 17:6,21 26:25 45:15 46:1 times 18:2 29:2 Title 4:11 totality 12:11 totally 30:22 touchstones 4:25 tradition 18:21 19:2 traditional 31:5 treated 9:23,24 treats 55:13 triggers 10:14 57:25 trouble 27:16 38:25 true 4:16 11:7 12:3 14:21 18:19 32:19 33:11 36:4 try 19:24 trying 47:13 turn 18:6,8 turns 33:11 two 4:23 5:24 8:11 9:19,20 11:6 12:15 16:19 17:6 18:5 23:7,22 29:21 30:4 32:1,20 35:25 41:8 44:1 45:13 53:21,23 54:4,18 twofold 31:19 two-thirds 41:10 type 21:4 23:2 typical 16:4</p> | <p style="text-align: center;">U</p> <p>ultimately 43:14 52:9 unadorned 50:10 unambiguous 6:21 7:6,6 18:19 27:17 47:10 unclear 59:3 undermines 11:17 understand 38:9 53:10 57:22 understates 40:13 uniformly 41:6 uniquely 6:4 United 1:1,21 4:13 6:16 7:23 10:23 11:11 14:18 15:1,5 15:24 16:3,5 18:7 22:12 23:23,25 24:2 24:4 25:23 26:18,21,23 43:22 45:14,19 45:21,24 46:4 48:16,24 49:2 49:7 56:4,11 unity 34:8 38:17 universal 49:17 unlawful 44:23 unreasonable 34:5 39:1,5 unrelinquished 7:24 8:11 28:15,16 47:21 48:2,3 56:2 unreviewable 37:21 53:4,12 unthinkable 57:14 upheld 34:20 usages 41:1 use 47:6,9 48:14</p> | <p>49:5 50:9,13 uses 49:16 50:5 usually 20:14 40:15 U.K 46:6,6 U.S 38:8 44:22</p> <p style="text-align: center;">V</p> <p>v 1:6,14 4:4 34:14 valid 35:23 various 18:22 19:13 27:10 view 38:25 39:1 48:10 51:9 55:7 visa 10:7 16:13 17:12,14,21 18:2</p> <p style="text-align: center;">W</p> <p>waiting 18:2 waiver 29:9 57:20 want 13:11,19 14:1,7 29:14 36:25 45:1 54:18 57:7 wanted 48:13,15 48:21 wants 19:5 29:13 33:2 warrant 32:19 Washington 1:17,25 2:2,4 wasn't 7:11 53:23 57:18 way 10:2 18:18 18:23 19:5 24:14 33:1 34:15 56:9 ways 23:21 wedlock 34:16 Wednesday 1:18 We'll 4:3 we're 37:3 40:4</p> | <p>42:22 43:2,11 47:8 48:10 51:17 53:2,9 whatsoever 39:10,14 wife 12:16 willing 8:18 wondering 51:10 word 8:10 35:19 35:21 36:4,6,7 36:8 40:20,21 42:12 48:15 53:25 words 29:24 40:10,19,22 41:1 42:9 work 12:14,15 17:10 world 19:2 worth 11:5 12:1 wouldn't 10:19 15:9 30:24 35:24 51:9 52:19 write 29:20 wrong 4:22 51:23</p> <p style="text-align: center;">X</p> <p>x 1:2,8,10,16</p> <p style="text-align: center;">Y</p> <p>year 30:24 32:13 years 4:13,14 8:11 10:18,25 25:1 27:14 28:5 32:11,14 33:15 38:10 43:17 47:21 48:12,17,24 49:2 58:10,14 York 12:16</p> <p style="text-align: center;">\$</p> <p>\$500 30:24</p> <p style="text-align: center;">1</p> |
|---|--|--|---|--|

| | | | | |
|---|---|--|--|--|
| <p>1 31:14 33:13 43:16 10 10:25 37:3 10-1542 1:5 2:3 3:7 4:4 27:5 10-1543 1:13 2:5 3:10 39:25 10:19 1:22 4:2 11:20 59:6 1182(k) 20:5 1229b 4:11 11:15 1229b(a) 4:22 5:1 1229b(a)(2) 37:1 14 17:9 15 10:25 16:22 16:24 17:2 44:24 45:20 18 1:18 19 16:1 1917 8:22 1967 58:19 1996 12:5 18:1</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2 40:3 42:13 48:21 2012 1:18 212 45:12 212(c) 7:18 8:8 9:15 24:11 26:7 28:13 31:20 32:20 34:2 41:5,14 47:5,21 49:17 53:18 55:21 57:11 27 3:7</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>39 3:10</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>4 3:4 54:24 40 52:13,17</p> <hr/> <p style="text-align: center;">5</p> <hr/> | <p>5 4:12 10:18,25 17:9 33:15,15 34:10 38:10 43:17 48:11 58:10,14 5-year 33:23 43:12 5-year-old 9:17 5-year-olds 9:20 54 3:13</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6 32:10,14 6-month-old 12:17 14:17 15:8</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>7 4:14 8:11 25:1 32:13 47:20 48:16,24 49:2 7-year 7:12,23 23:25 24:6 25:24 37:2 43:12</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>8 4:11 16:21</p> | | | |
|---|---|--|--|--|