

March 13, 2026

VIA ACMS

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

Re: **No. 25-1019, *Ozturk v. Hyde, et al.*, Fed. R. App. P. 28(j) Letter regarding *Petitioner's Removal Proceedings*.**

Dear Ms. Wolfe,

Undersigned counsel for Petitioner-Appellee Rümeysa Öztürk submits this Rule 28(j) letter to advise the Court of a further development in Ms. Öztürk's removal proceedings.

As previously noted to the Court, the Immigration Judge terminated Ms. Öztürk's removal proceedings on January 29, 2026, finding that DHS had not met its burden to establish removability. *See* Dkt. No. 238. On February 24, 2026, Respondent Department of Homeland Security filed a Notice of Appeal of that decision with the Board of Immigration Appeals ("BIA").

On March 9, 2026, the BIA issued a briefing schedule for the appeal. Attached to this letter is a copy of the briefing schedule notice with minimal redactions to protect Ms. Öztürk's privacy. Per this briefing schedule, DHS must file their brief with the BIA by March 30, 2026, and Ms. Öztürk must file any opposition brief by April 20, 2026. The BIA may decide the appeal at any point after briefing is completed.

The BIA may affirm the termination decision or reverse the termination decision. If the BIA reverses the termination decision, it may remand the matter to the immigration court for further proceedings.

The filing of an appeal to the BIA further illustrates that the termination of Ms. Öztürk's removal proceeding does not moot her habeas case. Ms. Öztürk

maintains that this appeal is moot. Br. 18-20. Without habeas jurisdiction and the bail order that is currently in place, the government’s appeal to the BIA would again subject Öztürk to redetention. *See* 8 C.F.R. § 1003.6(a). For that reason, she continues to suffer the threat of continuing “now-or-never” First and Fifth Amendment harms. Br. in Opp. 55-57.

Respectfully,

/s/ Monica H. Allard

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