No. 24-704

IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

DEFENSE FOR CHILDREN INTERNATIONAL – PALESTINE; AL-HAQ; AHMED ABU ARTEMA; MOHAMMED AHMED ABU ROKBEH; MOHAMMAD HERZALLAH; AYMAN NIJIM; LAILA ELHADDAD; WAEIL ELBHASSI; BASIM ELKARRA; and DR. OMAR EL-NAJJAR,

Plaintiffs-Appellants,

v.

JOSEPH R. BIDEN, JR., *President of the United States*; ANTONY J. BLINKEN, *Secretary of State*; and LLOYD JAMES AUSTIN III, *Secretary of Defense,* in their official capacities,

Defendants-Appellees.

On Appeal from the United States District Court for the Northern District of California, Case No. 4:23-cv-05829-JSW

BRIEF OF *AMICI CURIAE* FORMER DIPLOMATS, SERVICE-MEMBERS AND INTELLIGENCE OFFICERS IN SUPPORT OF APPELLANTS' PETITION FOR REHEARING *EN BANC*

FILED WITH CONSENT OF ALL PARTIES

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Other Authorities

Rules

STATEMENT OF IDENTITY AND INTEREST OF AMICI CURIAE AND SOURCE OF THEIR AUTHORITY TO FILE

Amici curiae, listed in the Appendix, are former U.S. diplomats, service-members, and intelligence officers. They present their views and experience regarding whether courts may consider the legality of Executive action and the harms that would result to U.S. foreign policy if this Court declines to do so here. Throughout their careers, *amici* have always understood the legality of their actions to be subject to judicial review, and have acted accordingly. The United States' commitment to the rule of law only strengthens U.S. foreign policy.

Amici submit this brief pursuant to Fed. R. App. P. 29(b) and 9th Cir. R. 29–2. All parties have consented to the filing of this brief.

STATEMENT OF AUTHORSHIP

Pursuant to Fed. R. App. P. 29(a)(4)(E), *amici* certify that no party or party's counsel authored this brief in whole or in part and no person – other than *amici curiae* or their counsel –funded the preparation or submission of this brief.

STATEMENT OF THE ISSUE ADDRESSED BY *AMICI CURIAE*

The Panel held that when the Executive is engaged in foreign policy, the Judiciary may not decide whether the Executive's action violates the law. That holding warrants *en banc* review.

The Panel's decision is one of profound importance, doing serious damage to Congress and the Judiciary, the rule of law, and the United States' credibility in the world.

The decision also conflicts with Supreme Court precedent, dating from our nation's early years to the Court's last word on the subject, *Zivotofsky ex rel. Zivotofsky v. Clinton*, 566 U.S. 189 (2012), and with the law of other circuits. Under that precedent, cases that challenge the legality of foreign policy decisions are justiciable, even if they might affect foreign policy. The proper scope of the political question doctrine is an issue requiring national uniformity. 9th Cir. R. 35–1; Fed. R. App. P. 35(a)(1)-(2).

INTRODUCTION AND SUMMARY OF ARGUMENT

U.S. statutes prohibit committing or assisting genocide and mass atrocities, mankind's worst crime. No one disputes that the Executive must follow these laws, including when it is exercising foreign affairs

powers. But the Panel held that Courts may not enforce them. That decision calls for *en banc* review.

First, this case is of profound importance. The Panel's decision to insulate Defendants' conduct from judicial review would not only abdicate the Judiciary's responsibility to enforce the law, it would also permit the Executive to avoid restrictions set by Congress. Expanding the political question doctrine beyond its recognized bounds to permit Executive law-breaking infringes the Constitutional responsibilities and prerogatives of the other *two* co-equal branches.

Moreover, Congress and the Executive have barred support for genocide because they have recognized the United States' implementation of the universal prohibition on genocide is critical to U.S. foreign policy and international peace and security. Allowing Defendants to evade judicial scrutiny over whether their actions violate laws prohibiting support for genocide would undermine official U.S. policy to prevent genocide, the credibility of our commitment to that goal, and thus our ability to continue to exercise leadership on this vital national security issue.

Second, the Panel's holding conflicts with Supreme Court

precedent. The Court has long held that the question of whether Executive conduct violates the law falls squarely within the Judiciary's duty. This is so even if the case implicates foreign affairs. The Court has made clear that while the political question doctrine bars claims that challenge the *wisdom* of foreign policy, because making foreign policy is the political branches' responsibility, courts may hear cases that question the *legality* of foreign policy, because applying the law is a task the Constitution assigns to the courts. Thus, the political question doctrine does not bar cases that challenge Executive action as violating specific, applicable law merely because the case may affect foreign policy. Nothing in this case prevents it from being heard, because it challenges the legality rather than the wisdom of Defendants' acts.

ARGUMENT

I. The Panel's decision to insulate Defendants from judicial review is exceptionally important because it undermines Congressional authority and U.S. legitimacy on the world stage.

Congress has spoken through its ratification of the Genocide Convention, passage of the Genocide Implementation Act, and prohibition on foreign aid to countries committing grave human rights abuses. Defendants have allegedly disregarded these legislative

restrictions. Failure by the courts to fulfill their Constitutional duty to enforce the law would allow the Executive to trample Congress's authority. And it would damage our credibility, effectiveness, and leadership role in our fight against genocide, and thus harm our congressionally-sanctioned foreign policy and our national interests.

A. Courts have a responsibility to ensure Executive actions in the foreign affairs realm follow the laws Congress enacted.

The Panel's decision is exceptionally important, because it allows the Executive to flout Congressional authority. "[B]oth Congress and the Executive play" a "premier role" in foreign policy. *Japan Whaling Ass'n v. Am. Cetacean Soc'y*, 478 U.S. 221, 230 (1986). Congress may pass laws addressing foreign affairs, including restricting the Executive's foreign policy discretion. When Congress does so, the Executive must make its foreign policy decisions within the limits of those laws.

The Panel thought that courts must avoid the field of foreign affairs to preserve Executive discretion, but there is little such concern where that discretion has been limited by Congress. "When the President takes measures incompatible with the expressed or implied

will of Congress, his power is at its lowest ebb." *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 637-38 (1952) (Jackson, J., concurring). No one would seriously suggest that the Executive has foreign policy discretion to violate the statutory prohibition on genocide.

Courts cannot "shirk" their responsibility to apply established law "merely because [a] decision may" affect "foreign relations." *Japan Whaling Ass'n*, 478 U.S. at 230. The reason for this is not only that applying the law is the Judiciary's function; it also protects *Congressional* authority from the Executive. *See Youngstown Sheet & Tube Co.*, 343 U.S. at 637-38 (Jackson, J., concurring) (where Executive act is incompatible with Congress' will, "[c]ourts can sustain exclusive presidential control in such a case only by disabling the Congress from acting upon the subject."). The Panel's opinion would allow the Executive to exercise authority it does not have, by usurping power from Congress.

Congress, and the Executive itself, can and have imposed restrictions on the Executive's exercise of its foreign affairs functions, including to prevent genocide and mass atrocities. Shocked and appalled by the Holocaust, the community of nations codified genocide

as "a crime under international law . . . condemned by the civilized world." Convention on the Prevention and Punishment of the Crime of Genocide ("Genocide Convention"), Dec. 9, 1948, 78 U.N.T.S. 277. The prohibition on genocide, which includes a prohibition on complicity in genocide, *id.* art. III(e), and a legal duty to prevent genocide, *id.* art. I, is a peremptory, or *jus cogens*, norm of international law from which no derogation is allowed. The Executive signed and the Senate formally ratified the Convention.

Congress enshrined the prohibition on genocide in U.S. statutory law through the 1987 Genocide Convention Implementation Act, 18 U.S.C. § 1091, and the Elie Wiesel Genocide and Atrocities Prevention Act of 2018, Pub. L. No. 115-441, 132 Stat. 5586 (2019). And the Executive approved; these statutes were signed into law by Presidents Reagan and Trump, respectively. Consistent with our commitment to prevent genocide and our obligations under the Genocide Convention, U.S. law criminalizes genocide. Genocide Convention Implementation Act in 1987, 18 U.S.C. § 1091.

Carrying forward these commitments is not limited to the executive branch; U.S. law commits to a "*Government-wide* strategy to

prevent and respond to the risk of atrocities through diplomacy, foreign assistance and U.S. leadership." Elie Wiesel Genocide and Atrocities Prevention Act of 2018, Pub. L. No. 115-441, 132 Stat. 5586 (2019) (emphasis added).

Additionally, as part of the United States' commitment to preventing mass atrocity, Congress has imposed numerous restrictions on the Executive's assistance to foreign militaries. For example, Section 502B of the Foreign Assistance Act prohibits security assistance to countries whose governments engage in a "consistent pattern of gross violations of internationally recognized human rights." 22 U.S.C. § 2304(a)(2). Through the "Leahy laws," Congress has also prohibited both the Department of State and Department of Defense from providing security assistance to a unit of a foreign security force where there is "credible information that the unit has committed a gross violation of human rights" or violations of international humanitarian law. 10 U.S.C. § 362; 22 U.S.C. § 2378d.[1] The Executive must act within

[1] And in 2020, Congress closed a loophole that limited the enforceability of these laws regarding certain recipients of U.S. military aid, including Israel, and required the United States to enter into an agreement with Israel under which the State Department must provide a list of units ineligible to receive U.S. military aid. *See* Pub. L. No. 117-103, div. K,

the limits of these laws.

The Judiciary retains a critical oversight role to ensure the Executive meets the obligations and commitments that Congress and the Executive itself have imposed. The Supreme Court has "long held" that even when the President himself "takes official action, the Court has the authority to determine whether he has acted within the law." *Clinton v. Jones*, 520 U.S. 681, 703 (1997) (discussing *Youngstown Sheet & Tube Co.*, 343 U.S. at 587-89). This is simply "an application of the principle established in *Marbury v. Madison*, 1 Cranch 137, 2 L.Ed. 60 (1803), that '[i]t is emphatically the province and duty of the judicial department to say what the law is.'" *Id.* (quoting *Marbury*, 5 U.S. (1 Cranch) at 177).

The Court should grant *en banc* review to determine the vital question of whether the Panel's decision abdicates Judicial responsibility and undermines Congressional authority.

B. Shielding the Executive from judicial oversight when genocide is alleged harms U.S. credibility and risks eroding the international rules-based order.

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title VII, § 7035(b)(6), 136 Stat. 629 (2022); Agreement between the Government of the United States of America and the Government of the State of Israel Concerning Assistance to Security Forces, Dec. 30, 2021, T.I.A.S. 21-1230.1.

The Panel's decision is also exceptionally important, because a refusal by this Court to even consider whether Defendants' acts violate the law prohibiting support for genocide would show that, in the United States, government support for genocide is beyond the law's reach. That might lead other nations to question our commitment to preventing and punishing genocide. Or perhaps worse, it might suggest that our commitment depends on who is committing it. Needless to say, a refusal by this Court to apply the law would seriously erode the United States' moral authority and influence on the international stage, and will have lasting impacts on the effectiveness of U.S. foreign policy, as well as on international peace and security.

The United States has been a world leader in efforts to prevent genocide, and doing so is critical both because it is the right thing to do, and because it is central to our foreign policy. The United States was crucial to the recognition and punishment of genocide as an international crime. After the Holocaust, the United States helped establish the International Military Tribunal at Nuremberg and prosecuted Nazi leaders for crimes against humanity. This was a catalyst for the Genocide Convention. And the United States "helped

shape the [Convention's] final text" and "is one of the only parties to the Genocide Convention to have publicly invoked Article VIII in calling on the United Nations to address genocide in the territory of another Contracting Party." Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (*Ukr. v. Russ.*), Declaration of Intervention of the United States of America ¶ 10 (Sept. 7, 2022).

The United States continues to have a critical role in preventing and punishing genocide all over the world. Since ratifying the Genocide Convention, the United States has formally recognized and condemned eight genocides in countries like Sudan, Myanmar and China. Antony J. Blinken, Secretary of State, Secretary Antony J. Blinken on the Genocide and Crimes Against Humanity in Burma (Mar. 21, 2022). And the United States' recent statements on numerous international criminal tribunals confirm our commitment to punishing mass atrocities and genocide.[2]

[2] *See, e.g.*, Uzra Zeya, Under Secretary for Civilian Security, Democracy, and Human Rights, Remarks to the Assembly of States Parties to the Rome Statute (Dec. 7, 2021) ("The United States' enduring commitment to justice and accountability for atrocity crimes is deeply embedded in our history, our values, and our policy."); Press Statement, U.S.

The Executive and Congress have made clear that enforcement of the prohibition on genocide is a national security priority. For example, in 2011, then-President Obama issued a directive stating that "[p]reventing mass atrocities and genocide is a core national security interest and a core moral responsibility of the United States." Presidential Study Directive on Mass Atrocities, PSD-10 (Aug. 4, 2011); *see also* Executive Order No. 13729, 81 Fed. Reg. 99, 32611 (May 18, 2016); Press Statement, U.S. Department of State, First Trial Judgment by the Special Criminal Court in the Central African Republic (CAR) (Nov. 8, 2022) ("[E]nding impunity is a necessary foundation for peace, prosperity, and rule of law."). The Elie Wiesel Genocide and Atrocities Prevention Act of 2018 likewise recognizes that "[i]t shall be the policy of the United States to [] regard the prevention of atrocities as in its national interest." Pub. L. No. 115-441, 132 Stat.

Department of State, Opening of Trial of Former Janjaweed Commander for Atrocities in Darfur (Apr. 5, 2022) ("The United States is committed to the principle that those who commit atrocities must be held accountable."); Press Statement, Antony J. Blinken, Secretary of State, Opening of the Trial of Former Séléka Commander for Atrocity Crimes in the Central African Republic (Sept. 27, 2022) ("The United States is committed to promoting accountability for war crimes and human rights violations and the end of impunity").

5586 (2019).

Moreover, as the then-U.S. Department of State Legal Adviser in the George W. Bush Administration stated, "[w]hen we assume international obligations, we take them seriously and seek to meet them, even when doing so is painful. And where international law applies, all branches of the U.S. government, including the judiciary, will enforce it." John B. Bellinger, III, Legal Adviser, U.S. Department of State, Remarks at The Hague: The United States and International Law (June 6, 2007). These were not merely aspirational pronouncements on the United States' ability to abide by its obligations under international law; U.S. courts can and do assess the legality of many actions the political branches take in the realm of foreign policy, including in politically fraught contexts such as the post-9/11 "War on Terror." *See* Pet. at 13.

Even the Executive has affirmed that determining whether Defendants have violated the *jus cogens* legal prohibition on genocide and U.S. law is the role and duty of U.S. courts. In refusing to submit to the jurisdiction of international tribunals, the United States has long argued that such jurisdiction is unnecessary because U.S. courts are

mandated and capable of holding U.S. citizens accountable for violations of international law. *E.g.*, John B. Bellinger, III, Legal Adviser, U.S. Department of State, Remarks at The Hague: The United States and International Law (June 6, 2007) (reassuring international community that, despite its unwillingness to submit to International Criminal Court jurisdiction, the United States "share[s] with the parties to the Statute a commitment to ensuring accountability for genocide" and that the U.S. government, "including the judiciary," will enforce international law). The Panel's decision reneges on that commitment.

A refusal by our courts to hear a case alleging violations of one of the most long-standing and widely accepted norms of international law will signal to the world that we are not in fact capable of ensuring our own compliance with our legal obligations and that any assurances to the contrary cannot be trusted. These profound consequences warrant *en banc* review.

II. The Panel's decision conflicts with Supreme Court precedent and the approach of other circuits on an issue requiring national uniformity.

The Panel thought it would be impermissible to subject the

Executive's foreign policy preference to any judicial review. Order at 9-10. To be sure, "courts do not chart the national security and geopolitical objectives of the United States." *Id.* at 9-10. But neither do they turn a blind eye when the Executive implements policy objectives by violating the law. Over 200 years of Supreme Court precedent makes clear that the political question doctrine does not bar courts from considering whether Executive foreign policy decisions are illegal.

Since the beginning of our Republic, the Supreme Court has heard cases challenging the *legality* of government action, even when it involves foreign affairs. Pet. at 1-2, 12. The Supreme Court reaffirmed this principle in *Zivotofsky ex rel. Zivotofsky v. Clinton*, 566 U.S. 189 (2012), its most recent precedent on the political question doctrine's applicability to Executive decisions that implicate foreign affairs. *Id.* (finding the political question doctrine inapplicable to a claim about State Department policy against following a statute allowing an American born in Jerusalem to list his birth place as Israel). There, the Court held that while courts may not weigh in on the *wisdom* of discretionary foreign policy decisions, they do determine whether the Executive's acts in the foreign policy realm are legal. *Id.* at 196-97, 201.

Given these principles, courts regularly decide legal questions in cases involving U.S. national security, including during war. Pet. at 1-2; *see, e.g.*, *Hamdi v. Rumsfeld*, 542 U.S. 507, 535-37 (2004) (plurality opinion) (noting deference given to military strategy but deciding the adequacy of due process afforded citizens held as enemy combatants, and "reject[ing]" Government's assertion that separation of powers principles mandate heavily circumscribed role for courts in such circumstances).

Courts also find that legal questions with foreign policy implications in cases involving foreign aid are justiciable. *See, e.g.*, *Planned Parenthood Federation, Inc. v. Agency for International Development*, 838 F.2d 649 (2d Cir. 1988); *DKT Memorial Fund, Ltd. v. Agency for International Development*, 810 F.2d 1236 (D.C. Cir. 1987).

Departing from this longstanding precedent, the Panel ignored the key distinction between nonjusticiable cases challenging the prudence of discretionary foreign policy judgments and justiciable challenges to actions that violate the law. Instead, it equated Plaintiffs' claim that Defendants are violating the law with a challenge to Defendants' policy judgment on the broader issue of U.S. support of Israel. Indeed, it found

that where "foreign policy decisions [a]re strongly implicated," the doctrine applies despite "allegations that a defendant had violated legal obligations rooted in international law." Order at 12. The Panel's decision thus directly conflicts with the long line of Supreme Court cases culminating in *Zivotofsky*.

It also conflicts with cases from other Circuits which have properly recognized the distinction between policy judgments and legal questions. Pet. at 10, 13-14 (collecting cases); *see, e.g.*, *Al-Tamimi v. Adelson*, 916 F.3d 1, 11-12 (D.C. Cir. 2019) (finding that the question of whether Israeli settlers were committing genocide was justiciable because it "is a purely legal issue"). That a case may involve the conduct of foreign affairs does not prevent courts from determining whether the Executive has "failed to obey the prohibition of a statute or treaty." *El-Shifa Pharmaceutical Industries Co. v. United States*, 607 F.3d 836, 842 (D.C. Cir. 2010) (en banc). These Circuits, unlike the Panel's decision, correctly recognize that the Executive's responsibility to undertake foreign policy does not vitiate the Judiciary's constitutional obligation to apply the law.

En banc review is also warranted because the Panel relied heavily

on and believed it was bound by this Circuit's pre-*Zivotofsky* cases, in particular *Corrie v. Caterpillar*, 503 F.3d 974 (9th Cir. 2007). Order at 12. The Panel adopted an overly broad reading of these cases in ignoring the key distinction between nonjusticiable cases challenging the prudence of discretionary foreign policy judgments and justiciable challenges to policies that violate the law. An *en banc* panel should clarify the scope of these cases and the extent to which they should be followed in light of the Supreme Court's subsequent explanation in *Zivotofsky* of the narrow role for the political question doctrine in cases involving foreign affairs. *See* Pet. at 15-16.

Moreover, the Panel's decision further departs from the precedent of the Supreme Court and other Circuits by suggesting that legal claims based on international law obligations merit different treatment under the political question doctrine than other types of claims. There is no international law exception to *Zivotofsky*; the Supreme Court has repeatedly adjudicated cases challenging Executive foreign policy acts under international law. Pet. at 12. Regardless, here there are statutory questions at issue under U.S. law codifying the prohibition of genocide.

Had the Panel correctly applied *Zivotofsky* – rather than making a

sweeping pronouncement that the claims are nonjusticiable due to their foreign policy nature – it would have found that Plaintiffs' allegations raise purely legal questions about whether Executive conduct violates statutory prohibitions. This case does not challenge the Executive's "security and geopolitical objectives" – *i.e.* the wisdom of U.S. policy – it challenges its alleged violations of the law. Pet. at 15. Thus, Plaintiffs' request that the district court apply clear law to Executive conduct is justiciable.

In short, there is no basis for the Panel's assumption that, whenever the Executive acts in the foreign policy realm, courts lack the power to issue even a declaratory judgment finding that the Executive has violated the law. Pet. at 17. The Judiciary may not shirk its constitutional obligation to ensure that the conduct of foreign affairs conforms to the law. That would ignore Congress's prerogatives to make law, and the Judiciary's responsibility to enforce it.

CONCLUSION

The Panel's decision conflicts with Supreme Court precedent and that of other Circuits, and the issue is of obvious importance. The Court should grant Appellants' petition for *en banc* review.

September 9, 2024

Respectfully submitted,
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[3] John Hudson, *U.S. floods arms into Israel despite mounting alarm over war's conduct*, WASH. POST (Mar. 6, 2024).

* Admitted in CA; supervised by members of the DC bar; Ninth Circuit admission pending.

** Based in CT; admitted in NY; does not practice in DC's courts.

APPENDIX OF AMICI

Wes J. Bryant is a retired master sergeant and senior special operations joint terminal attack controller (JTAC) in the elite special warfare branch of the U.S. Air Force. He was a key member of the special operations response force sent to Baghdad to combat ISIS in 2014 and led the establishment of the first strike cells to take down the ISIS Caliphate. He is coauthor of the book *Hunting the Caliphate: America's War on ISIS and the Dawn of the Strike Cell*.

Mike Ferner served as a Navy corpsman at Great Lakes Naval Hospital during the Vietnam War, providing care to G.I.s who arrived on frequent medevac flights. He is a Special Projects Director for Veterans for Peace.

Chas W. Freeman, Jr., served as a diplomat in the Departments of State and Defense for 30 years, including as U.S. Ambassador to Saudi Arabia during the Persian Gulf War.

Dennis Fritz retired from the Air Force as a Command Chief Master Sergeant (E9). While on active duty, he served as the principal senior advisor to four-star Commanders at Pacific Air Forces and Air Force Space Command and as Senior Enlisted Advisor to the

Commander of NORAD. After active-duty service, from July 2005-November 2008, he served in the Office of the Under Secretary of Defense for Policy as a contracted staff member and later as a contracted Program Manager of the Department of Defense's Wounded Warrior Recovery Coordination Program.

Josephine Guilbeau served in the military for 17 years, first as a combat medic and then as an officer from 2013-2023. She is a former U.S. Army Captain and Military Intelligence Officer, with several assignments that relate to the ongoing wars in the Middle East.

Matthew Hoh served as a Marine Corps officer from 1998-2008. He is a disabled combat veteran of the Iraq War, serving from 2004-2005 with a State Department reconstruction and governance team and then from 2006-2007 as a Marine Corps company commander. When not deployed, he worked on Afghanistan and Iraq war policy at the Pentagon and State Department from 2002-2008. He later served as a political officer with the State Department in Afghanistan.

John Brady Kiesling was a State Department Foreign Service Officer from 1983-2003. He is the author of *Diplomacy Lessons: Realism for an Unloved Superpower*.

Karen Kwiatkowski, Ph.D., served in the U.S. Air Force, retiring as a Lieutenant Colonel. She served at the National Security Agency and at the Pentagon as an analyst on Africa policy and in the Pentagon's Near East and South Asia directorate (NESA).

Harrison Mann, Major, is a former U.S. Army Middle East Foreign Area Officer who served as executive officer for the Defense Intelligence Agency's Middle East crisis group from October 2023-April 2024.

Jack F. Matlock, Jr. was a career Foreign Service Officer and served as U.S. Ambassador to the U.S.S.R. from 1987-1991.

Alberto Mora served from 2001-2006 as General Counsel of the Department of the Navy.

Elizabeth Murray is the former Deputy National Intelligence Officer for the Near East, National Intelligence Council (ret.) and a former political/media intelligence analyst, CIA (ret.).

Josh Paul served as a Director in the State Department Bureau of Political-Military Affairs for over 11 years. He previously worked for the U.S. Departments of Defense and State in Iraq, and in the Office of the Secretary of Defense.

Todd E. Pierce, MAJ, JA, U.S. Army (ret.), served as a Marine Corps Rifleman, U.S. Army Sr. PsyOps NCO, and Army JAG Officer, including as Operational Law Attorney Advisor to Commander on Law of War and Rule of Law issues, and a Military Commissions Defense Attorney defending International and Constitutional Law standards.

Hala Rharrit was a career American diplomat from 2006-2024. As a political officer, she served throughout the Middle East and has deep regional expertise. Her last role, before her resignation, was Spokesperson for the State Department in the Arab world based at the U.S. Consulate in Dubai, UAE.

Coleen Rowley, FBI Special Agent (ret.), served as FBI Special Agent from 1981-2004 and as Minneapolis Division Legal Counsel for 13 years.

Annelle Sheline served for a year as a foreign affairs officer in the Bureau of Democracy, Human Rights, and Labor's office of Near East Affairs. She has a PhD in political science, specialized in the Middle East.

Lawrence B. Wilkerson, Colonel, U.S. Army (ret.), served as former Special Assistant to the Chairman of the U.S. Joint Chiefs of

Staff (1989-1993), General Colin Powell, and as former Chief of Staff to Secretary of State Powell (2001-2005).

Ann Wright served 29 years in the U.S. Army, including as a member of the U.S. Army International Claims Commission-Grenada 1984, and retired as a Colonel. She also was a U.S. diplomat for 16 years, serving at U.S. Embassies in Nicaragua, Grenada, Somalia, Uzbekistan, Kyrgyzstan, Sierra Leone, Micronesia, Afghanistan, and Mongolia, the last four as Deputy Chief of Mission (Deputy Ambassador). She was Chief of the Justice Division, United Nations Operation Somalia UNOSOM 1993-1994. In 2023, she was an Expert Witness at the U.N. Security Council committee hearing on Weapons Transfers.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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