



INSTITUTE FOR CONSTITUTIONAL ADVOCACY AND PROTECTION
GEORGETOWN UNIVERSITY LAW CENTER

February 18, 2020

VIA CM/ECF

Patricia S. Connor, Clerk
U.S. Court of Appeals for the Fourth Circuit
1100 East Main Street, Suite 501
Richmond, VA 23219

Re: CASA de Maryland, Inc. v. Trump
No. 19-2222

Dear Ms. Connor:

Pursuant to Federal Rule of Appellate Procedure 28(j), Appellees call the Court’s attention to new authority and information learned after the filing of their brief in this case. First, two articles published in the Immigration and Naturalization Service’s *Monthly Review* in 1949 and 1950 confirm that *Matter of B-*, 3 I. & N. Dec. 323 (BIA and AG 1948), did not alter the longstanding interpretation of “public charge.” *See* Exs. A & B. These articles undermine Appellants’ reliance on *Matter of B-* for the proposition that the term “public charge” does not mean primarily dependent on the government for subsistence. *See* Br. 30–31; Reply 11–12.

Second, the U.S. Citizenship and Immigration Services (USCIS) recently issued updated guidance concerning the Public Charge Rule in the USCIS Policy Manual in advance of the Rule’s implementation on February 24, 2020. *See* Ex. C. In at least two respects, the Manual demonstrates that the Rule’s scope is far broader than the longstanding definition of the term “public charge.” Unlike the Rule, the Manual specifies that applying for lawful-permanent-resident (LPR) status is itself a negative factor in the Rule’s totality-of-the-circumstances test. USCIS Policy Manual vol. 8, pt. G, ch.12.A. The Manual also requires noncitizens undergoing public-charge determinations to demonstrate “clearly and beyond doubt” that they are unlikely at any point in the future to exceed the Rule’s threshold for what constitutes a public charge. USCIS Policy Manual vol. 8, pt. G, ch. 2.B. Thus, every applicant for adjustment of status will have an automatic strike against them in a public-charge determination that will be difficult to overcome by countervailing positive factors. These and other aspects of the Manual reinforce the conclusion that the Rule is contrary to the Immigration and Nationality Act.

Sincerely,

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Cc: All counsel of record (via CM/ECF)