

Case Summary: *Noem v. Perdomo*, No. 25A169 (U.S. Sept. 8, 2025)

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(The views expressed are those of the author and do not necessarily represent the position of the Clemson Law Review or its leadership.)

In early June 2025, the Department of Homeland Security implemented “Operation at Large” in the Central District of California. Federal immigration officers conducted enforcement operations throughout the District in search of removable noncitizens working and residing in the area. Five individuals and three labor and community associations “filed [a] putative class action against Secretary of Homeland Security Kristi Noem and other senior federal immigration enforcement officials.”¹ The plaintiffs argued that senior federal officials directed a pattern of seizures without individual reasonable suspicion, relying instead on four enumerated factors: “apparent race or ethnicity, speaking Spanish or speaking English with an accent, presence at a particular location, and the type of work one does.”² They further claimed “that these four factors, even when taken together, cannot support reasonable suspicion of unlawful activity absent more specific information about the person being stopped or the location being searched.”³

A federal district court judge in the Central District of California issued a

¹ *Noem v. Perdomo*, No. 25A169, slip op. at 4 (Sotomayor, J., dissenting) (U.S. Sept. 8, 2025).

² *Id.* at 4—5.

³ *Id.* at 5.

Temporary Restraining Order (TRO) “enjoin[ing] U.S. immigration officers from making investigative stops in the Los Angeles area when the stops are based on” the four factors mentioned above “or [a] combination of [these] factors.”⁴ On appeal for a stay, the Ninth Circuit upheld the TRO but narrowed it slightly due to vague language in the District Court's opinion.⁵ In response, through Secretary of Homeland Security Kristi Noem, the government filed an emergency application to the Supreme Court of the United States to stay the order of the District Court upheld by the Ninth Circuit.

The Supreme Court granted the government's request for a stay of the TRO. This decision was made on the Supreme Court's emergency docket, and a majority opinion was not provided. However, Justice Kavanaugh's offered a comprehensive concurring opinion, and his opinion will be used in this case summary to explain the decision of the Court. In Justice Kavanaugh's view, the plaintiffs lacked Article III standing because past unlawful stops do not prove an imminent threat of future unlawful stops.⁶ Justice Kavanaugh argued that the respondents had no basis for alleging that immigration officers “will unlawfully stop *them* in the future based on the prohibited factors. . .”⁷

⁴ *Noem v. Perdomo*, No. 25A169, slip op. at 2 (Kavanaugh, J., concurring) (U.S. Sept. 8, 2025).

⁵ *Id.* at 7 & n. 5 (Sotomayor, J., dissenting) (“The Ninth Circuit granted a stay only as to the phrase, ‘except as permitted by law,’ which it found to be impermissibly vague.”).

⁶ *Id.* at 4 (Kavanaugh, J., concurring) (“[U]nder this Court's decision in *Los Angeles v. Lyons*, 461 U. S. 95 (1983), plaintiffs likely lack Article III standing to seek a broad injunction restricting immigration officers from making these investigative stops. In *Lyons*, the Court held that standing to obtain future injunctive relief does not exist merely because plaintiffs experienced past harm and fear its recurrence.”).

⁷ *Id.* at 4 (emphasis in original).

Furthermore, Justice Kavanaugh contended that “the Government ha[d] a fair prospect of succeeding on the Fourth Amendment issue.”⁸ In his view, imposing categorical rules artificially limits inferences of reasonable suspicion, and the order wrongly held that the four factors, both individually and in combination, can never amount to reasonable suspicion.⁹

Moreover, Justice Kavanaugh also argued that the order of the District Court inflicted irreparable harm on the government and public by thwarting the enforcement of immigration laws in a critically important region.¹⁰ Thus, the balance of the equities weighed in the government’s favor, and a stay was warranted.

Justice Sotomayor wrote a dissenting opinion, joined by Justices Kagan and Jackson. She argued that the request for a stay was a “grave misuse of [the] emergency docket.”¹¹ Citing *Reid v Georgia*, she claimed that “a set of facts cannot constitute reasonable suspicion if it ‘describes a very large category of presumably innocent people.’”¹² Accordingly, in Justice Sotomayor’s view, the Fourth Amendment prohibits detaining individuals based on a set of facts that describe a

⁸ *Id.* at 5.

⁹ *Id.* at 6 (“Under this Court’s precedents, not to mention common sense, those circumstances taken together can constitute at least reasonable suspicion of illegal presence in the United States. Importantly, reasonable suspicion means only that immigration officers may briefly stop the individual and inquire about immigration status. If the person is a U. S. citizen or otherwise lawfully in the United States, that individual will be free to go after the brief encounter. Only if the person is illegally in the United States may the stop lead to further immigration proceedings.”).

¹⁰ *Id.* at 8 (“In any event, the balance of harms and equities in this case tips in favor of the Government. The interests of individuals who are illegally in the country in avoiding being stopped by law enforcement for questioning is ultimately an interest in evading the law. That is not an especially weighty legal interest.”).

¹¹ *Id.* at 2 (Sotomayor, J., dissenting).

¹² *Id.* at 9 (citing *Reid v. Georgia*, 448 U. S. 438, 441 (1980) (per curiam)).

significant percentage of the population in the Central District of California. She cited the District Court’s opinion, which stated that the four enumerated factors are “no more indicative of illegal presence in the country than of legal presence.”¹³ Justice Sotomayor also referenced *United States v. Cortez*, which held that officers “must have a particularized and objective basis for suspecting the particular person stopped of criminal activity.”¹⁴

As the influx of noncitizens has exponentially increased in recent years, and the political debate surrounding this issue becomes more polarized, *Noem v Perdomo* may become a crucial precedent in future immigration cases. Courts might look to the four factors offered by the government in *Noem* determine what qualifies as reasonable suspicion. The Court’s decision to stay the TRO will make it less difficult for the federal government to detain individuals that it suspects of violating immigration law, but this may in turn increase the possibility of error in immigration enforcement. While the outcome of this case eases the duties of government officials, many important constitutional questions in the immigration field remain unresolved.

¹³ *Id.* at 10.

¹⁴ *Id.* at 10 (citing *United States v. Cortez*, 449 U. S. 411, 417–418 (1981)).