

No. 25-966

IN THE
Supreme Court of the United States

DEPARTMENT OF LABOR, ET AL.,

Petitioners,

v.

SUN VALLEY ORCHARDS, LLC,

Respondent.

*On Writ of Certiorari to the
United States Court of Appeals
for the Third Circuit*

**BRIEF OF CONSTITUTIONAL ACCOUNTABILITY
CENTER AS *AMICUS CURIAE* IN
SUPPORT OF PETITIONERS**

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INTEREST OF *AMICUS CURIAE*¹

Constitutional Accountability Center (CAC) is a think tank and public interest law firm dedicated to fulfilling the progressive promise of the Constitution’s text and history. CAC has studied the development and scope of the public rights doctrine and accordingly has an interest in this case.

**INTRODUCTION AND
SUMMARY OF ARGUMENT**

While this Court has held that the Constitution generally prohibits Congress from “withdraw[ing] from judicial cognizance any matter which, from its nature, is the subject of a suit at the common law,” *SEC v. Jarkesy*, 603 U.S. 109, 127 (2024) (quoting *Murray’s Lessee v. Hoboken Land & Improvement Co.*, 59 U.S. 272, 284 (1856) (alteration in original)), it has also long recognized that Congress can assign to administrative agencies determinations involving government “benefits” such as payments to veterans, pensions, and patent rights, *id.* at 130. The government’s authority over these schemes is so “total,” the theory goes, that no “vested right[s]” are involved. *Id.* at 129 (internal quotation marks omitted). Because regulated parties enjoy a privilege, rather than a vested right, agencies do not exercise judicial power when they enforce the terms and conditions on which that privilege was received. *Id.* Thus, Congress’s decision to permit the assessment of “administrative penalties” in cases involving government “benefits” does not violate the Constitution. *Id.* at 129, 130.

¹ No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund its preparation or submission. No person other than *amicus* or its counsel made a monetary contribution to its preparation or submission.

This Court has applied the public rights doctrine in a number of contexts involving benefits or privileges. It has applied it, for example, to noncitizens facing immigration-related penalties, including the “most serious . . . penalty” of deportation, *Bridges v. Wixon*, 326 U.S. 135, 154 (1945), because it has deemed the ability to stay in the country to be a government-granted privilege, rather than a vested right, *see infra* at 10-11. Just as the public rights doctrine applies to immigrants, it should also apply to the employers who exercise the privilege of profiting from those immigrants’ labor.

The Immigration and Nationality Act allows employers to “import an alien as an H-2A worker” if certain conditions are met. 8 U.S.C. § 1188(a)(1). Specifically, prospective employers must “petition” federal immigration authorities for permission to hire H-2A workers, *id.*, with approval of the petition contingent upon the Secretary of Labor’s certification that “there are not sufficient workers who are able, willing, and qualified” to perform the work and that “the employment of the alien . . . will not adversely affect the wages and working conditions of workers in the United States similarly employed,” *id.*

To ensure that these requirements are met, the Department of Labor (DOL) closely supervises the “benefits, wages, and working conditions” that employers offer to H-2A workers. *See* Pet. App. 3a (quoting 20 C.F.R. § 655.122(a)). These conditions are incorporated into a “job order,” which is posted domestically before it is circulated to foreign workers, as well as a work contract. *Id.* This contract can be enforced by DOL, which is authorized to “take such actions, including imposing appropriate penalties . . . as may be necessary to assure employer compliance with terms and conditions of employment under” the H-2A program.

8 U.S.C. § 1188(g)(2). Since the H-2A program’s inception, DOL has used civil monetary penalties to enforce these provisions. *See infra* at 15.

Respondent Sun Valley Orchards is a beneficiary of the government’s H-2A program. In 2015, it secured permission to use H-2A workers to pick asparagus and peppers at its New Jersey farm. Pet. App. 49a-50a. After an investigation into the working conditions at Sun Valley, DOL brought an enforcement action to ensure Sun Valley’s compliance with the H-2A program’s requirements. *Id.* at 52a. After a multiday hearing, DOL found that Sun Valley had committed several violations of the H-2A regulations, including providing substandard housing and transportation, pressuring workers to waive their rights under the H-2A program, and failing to pay workers “the wages that they were contractually promised.” *Id.* at 66a, 6a-7a. After DOL assessed civil monetary penalties and back wages, Sun Valley sought relief in federal court, arguing in part that DOL had adjudicated private rights in violation of Article III of the Constitution. *Id.* at 7a-8a. The court below agreed, holding that this Court’s recent decision in *Jarkesy* “require[s] Article III adjudication here.” *Id.* at 11a.

This is wrong. In *Jarkesy*, this Court held that the Seventh Amendment entitles defendants to a jury trial when the Securities and Exchange Commission (SEC) seeks civil penalties for securities fraud. *See* 603 U.S. at 109. But it also confirmed that the government may, in “some contexts,” “extract civil penalties” in administrative tribunals. *Id.* at 131 n.2. This is such a context.

As this Court explained, administrative adjudication of penalties is constitutional if the agency’s action falls within an area of unique and exclusive government power. *Id.* at 128. Because the political branches

can prohibit action in these areas entirely, “no party ha[s] a ‘vested right’” to act in that area without those branches’ approval. *Id.* at 129 (quoting *Oceanic Steam Nav. Co. v. Stranahan*, 214 U.S. 320, 335 (1909)). Agencies imposing penalties in these areas are not “wholly uncontrolled”—they must exercise their powers “fairly,” and in accordance with due process—but the public rights doctrine applies. *Lloyd Sabaudo Societa Anonima Per Azioni v. Elting*, 287 U.S. 329, 339 (1932).

That is the case here. As Congress made clear when creating the H-2A program, that program distributes valuable government benefits to private employers. Indeed, the law that created the H-2A program also put in place a scheme in which employers were, for the first time, subject to civil and criminal penalties for hiring noncitizen workers without authorization to work in the United States. *See* H.R. Rep. No. 99-682, at 47 (1985) (“[s]ince most undocumented aliens enter this country to find jobs, the Committee believes it is essential to require employers to share the responsibility to address this serious problem”). Congress developed the H-2A program because it understood that agricultural employers were heavily dependent on “undocumented labor” and could suffer under the new sanctions regime. 130 Cong. Rec. 16,339, 16,374 (1984) (Rep. Mazzoli). Lawmakers saw participation in the H-2A program as a “government subsidy” for agricultural employers and required that this subsidy only be distributed when certain conditions were met. *See infra* Section II.

As this history makes clear, the H-2A program is an area in which the government enjoys “total” control. *Jarkesy*, 603 U.S. at 129. No employer has a “vested right” to participate in the program or to profit from H-2A labor. *Id.* Congress can therefore empower

agencies administering this program to pursue civil penalties in administrative settings. *Id.*

Furthermore, the H-2A program resembles the type of voluntary scheme to which the Supreme Court has applied the public rights doctrine in the past. As the Court has explained, where participation in a program is voluntary, there is no “purely ‘private’ right” at issue, and “Article III adjudication” is unnecessary. *Thomas v. Union Carbide Agric. Prods. Co.*, 473 U.S. 568, 589 (1985) (holding that a law requiring pesticide manufacturers to settle valuable claims outside an Article III court was constitutional because no “purely ‘private’ right” was involved). In conferring the public right to participate in the H-2A program, Congress directed the executive to “administer[] a complex regulatory scheme to allocate costs and benefits among voluntary participants.” *Id.* In this context, Congress can permit the assessment of penalties without “providing an Article III adjudication.” *Id.*

To be sure, this Court has said that courts must analyze each invocation of the public rights doctrine with “close attention” to ensure that the exception does not “swallow the rule.” *Jarkesy*, 603 U.S. at 131. But that is not an issue here. The exception has always included decisions involving “public benefits,” *id.* at 130, and decisions made in areas within the government’s exclusive control, *id.*, and it has always applied when participants voluntarily submit to a benefits scheme. Given this, the H-2A program is a paradigmatic example of the type of program to which the public rights doctrine should apply. This Court should reverse.

ARGUMENT**I. Congress Can Assign Adjudication of Claims to Agencies in Areas of Exclusive Government Control Where No Party Has a Vested Right to Participate.**

A. As this Court long ago explained, while “private right[s]” must be adjudicated in “the common law, . . . equity, or admiralty” courts, Congress can provide for “matters . . . involving public rights” to be resolved in other forums. *Murray’s Lessee*, 59 U.S. at 284-85. And as this Court recently reiterated in *Jarkesy*, the public rights doctrine applies when Congress’s power over an area is so exclusive that no vested rights are involved. *See* 603 U.S. at 127-28 (citing *Murray’s Lessee*, 59 U.S. at 284).

In *Jarkesy*, this Court considered a Seventh Amendment challenge to a provision permitting the SEC to seek civil penalties before administrative law judges. *Id.* at 120-21. It first asked whether the SEC’s action “implicate[d] the Seventh Amendment,” or, in other words, if the SEC’s claim was “legal in nature.” *Id.* at 121-26. Answering this question required consideration of both “the cause of action and the remedy it provides,” with the remedy the more important factor. *Id.* at 123. Although this Court recognized that “monetary relief can be legal or equitable,” it concluded that the SEC’s penalty was “designed to punish or deter the wrongdoer” rather than to “restore the status quo” and thus was the “type of remedy at common law” to which the Seventh Amendment applied. *Id.* at 123 (internal citation omitted). The “close relationship” between the SEC’s claims and common-law fraud supported this conclusion. *Id.* at 125.

This Court then considered whether the SEC’s action fell within “a class of cases concerning what we

have called ‘public rights,’” a category the Court “first recognized” in *Murray’s Lessee*. *Id.* at 128. As the Court explained, matters implicating these public rights can constitutionally be adjudicated by administrative agencies. *Id.* at 130 (discussing cases involving immigration, foreign commerce, relations with Indian tribes, and the administration of public lands, in which the government sought legal remedies, including monetary penalties, in administrative settings).

Under this Court’s precedents, the public rights doctrine applies when the political branches have “traditionally held exclusive power over [a] field,” such that they could prohibit action in the field entirely. *See id.* (citing *Ex parte Bakelite Corp.*, 279 U.S. 438, 458 (1929)); *see also id.* at 128 (adjudications “historically . . . determined exclusively by the executive and legislative branches” (quoting *Stern v. Marshall*, 564 U.S. 462, 493 (2011) (brackets omitted))). Congress can give agencies the power to adjudicate actions in these areas, even when those actions are “presented in such form that the judicial power [i]s capable of acting on them.” *Id.* (quoting *Murray’s Lessee*, 59 U.S. at 284).

In *Bakelite Corp.*, for instance, this Court upheld a law that authorized the president to impose tariffs on goods imported by “unfair methods of competition.” 279 U.S. at 446 (internal citation omitted). As the Court emphasized in *Jarkesy*, the political branches’ power over imports was so total that “the law even authorized [the president] to ‘exclude[] foreign goods entirely’” if the unfairness were extreme. 603 U.S. at 130 (quoting *Bakelite*, 279 U.S. at 446 (second alteration in original)). The breadth of that authority illustrated that the “political branches had traditionally held exclusive power over [the] field and had exercised it,” so the public rights doctrine applied. *Id.*; *see generally Crowell v. Benson*, 285 U.S. 22, 50 (1932) (explaining

that matters completely within “congressional control” do not “require judicial determination”); *Oil States Energy Servs., LLC v. Greene’s Energy Grp., LLC*, 584 U.S. 325, 334-36 (2018) (emphasizing the complete authority of “the executive or legislative departments” over patents (quoting *Crowell*, 285 U.S. at 50)).

Put another way, the public rights doctrine applies when Congress’s power in an area is “so total that no party ha[s] a ‘vested right’” to act in that area without the government’s approval. 603 U.S. at 129 (quoting *Oceanic Steam*, 214 U.S. at 335). In *Oceanic Steam*, this Court upheld a statute permitting administrative officials to impose monetary penalties for violations of a prohibition against bringing certain noncitizens into the United States. 214 U.S. at 332. Because Congress had “absolute power . . . over the right to bring aliens into the United States,” it could impose conditions or restrictions on the exercise of that right and permit administrative officers to enforce those restrictions. *Id.* at 339-42. As this Court recounted in *Jarkesy*, its holding in *Oceanic Steam* that administrative penalties could be assessed without a jury rested on the fact that “no party had a ‘vested right’ to import anything into the country.” 603 U.S. at 129.

Relatedly, this Court has upheld Congress’s “power to condition issuance of registrations or licenses” on participation in a scheme in which rights are adjudicated outside of Article III. *Union Carbide*, 473 U.S. at 589. In *Union Carbide*, the Court held that a law requiring pesticide manufacturers to settle valuable claims outside an Article III court was constitutional because it involved not a “purely ‘private’ right,” but instead a regulatory program in which manufacturers voluntarily participated. *Id.* There, the Court considered a statute that required manufacturers to submit research data to the Environmental Protection

Agency concerning a pesticide’s environmental effects before receiving a license to sell the pesticide. *Id.* at 571. The Act allowed subsequent registrants to rely on scientific data submitted by previous registrants after compensating those registrants for the use of their data. *Id.* at 573. If the companies were unable to agree on compensation, the dispute would be arbitrated by the agency with limited judicial review. *Id.* at 574.

As the Court later explained, the producers in *Union Carbide* received a “valuable Government benefit”—a “license to sell dangerous chemicals”—in exchange for their participation in the arbitration program. *Horne v. Dep’t of Agric.*, 576 U.S. 350, 366 (2015) (internal quotation marks omitted); *see id.* (distinguishing a license to sell pesticides, a “special governmental benefit,” from the general sale of “produce in interstate commerce”). Because Congress used registrants’ data to administer a public program in which manufacturers voluntarily participated, the registrants’ right to compensation for the data was not a “purely ‘private’ right.” *Union Carbide*, 473 U.S. at 589; *see generally* Caleb Nelson, *Adjudication in the Political Branches*, 107 Colum. L. Rev. 559, 607, 579-80 (2007) (explaining that the right to compensation in *Union Carbide* was, “in nineteenth-century terms,” a “mere privilege” and that privileges do not generate “vested rights”); John Harrison, *Public Rights, Private Privileges, and Article III*, 54 Ga. L. Rev. 143, 198 (2019) (positing that the distribution of privileges or licenses puts the government “in the position of an owner, with a right to exclude and a power to give permission”). The fact that the scheme involved voluntary beneficiaries, rather than “unwilling defendant[s],” meant that private rights were not involved and reduced the danger of encroachment on the Article

III judicial power to “a minimum.” *Union Carbide*, 473 U.S. at 591.

B. The “vested rights” approach explains why this Court has held that certain matters involving immigration have been understood to fall within the public rights doctrine. *Jarkesy*, 603 U.S. at 129-30; Pet’rs Br. 29-30. In *Chae Chan Ping*, for example, immigration officials prohibited a Chinese noncitizen from returning to the United States, even though he had a “certificate of reentry” from the government, because Congress had passed an Act prohibiting the return of resident Chinese immigrants and voiding the certificates. *Chae Chan Ping v. United States*, 130 U.S. 581, 598-99 (1889). Ping argued that the certificate amounted to a “right[] vested in [him] under the laws of Congress” that could not be abrogated by legislation. *Id.* at 600. This Court disagreed, concluding that the certificate was not a vested right, but a license or “benefit” that Congress could revoke without “judicial determination.” *Id.* at 609-10.

Several decades later, this Court extended this logic to deportation, concluding in *Fong Yue Ting* that because a noncitizen’s “reception into the territory is matter of pure permission,” Congress could authorize deportation without resorting to the “judicial department.” *Fong Yue Ting v. United States*, 149 U.S. 698, 708 (1893); *id.* at 730-31 (adding that the “right of trial by jury” had “no application” in a deportation proceeding). The dissenting justices disagreed with the Court’s characterization of deportation because they concluded that a noncitizen’s “right to remain” was a vested right whose termination was “necessarily the subject of judicial cognizance.” *Id.* at 762 (Fuller, J., dissenting); see Adam B. Cox, *The Invention of Immigration Exceptionalism*, 134 *Yale L.J.* 329, 357 (2024) (in immigration cases, “the crucial question was

whether the interests at stake would be deemed by the Court to be privileges or vested private rights”).

As this Court explained in *Oceanic Steam*, Congress can use “reasonable money penalties” on noncitizens and those who “import[]” them to “secure the efficient performance” of the immigration laws, because those laws concern privileges, rather than vested rights. 214 U.S. at 331, 337-39. As in other areas involving privileges, including tariffs, taxation, and the importation of foreign merchandise, it was “within the competency of Congress” to permit administrative penalties. *Id.* at 339 (referencing *Passavant v. United States*, 148 U.S. 214 (1893); *Origet v. Hedden*, 155 U.S. 228 (1894); and *Murray’s Lessee*, 18 U.S. at 272); Harrison, *supra*, at 181-83 (describing *Oceanic Steam* in relationship to the government’s power to place conditions on parties who accept private privileges). Although Congress could not permit administrative adjudication of a “criminal offense” in the immigration context—this would usurp the “judicial[] function” of “punishment”—it could “inflict[] . . . a penalty” to “aid in carrying out the policy of Congress” in an area in which it had absolute power. 214 U.S. at 337 (distinguishing *Wong Wing v. United States*, 163 U.S. 228, 347 (1896)).

* * *

In sum, Congress can allow executive adjudication when its power over an area is so exclusive that no vested rights are involved, including when it administers a program in which privileges are distributed to voluntary participants. Congress produced just such a program when it created the H-2A program, as the next Section explains.

II. The H-2A Program Exists in an Area Where Government Control Is So Total that There Is No Vested Right to Participate.

As the history of the H-2A program makes clear, the administration of the program is an area in which the “political branches” have “exclusive” power, *Jarkesy*, 603 U.S. at 130, and employers have no “vested right,” *id.* at 129 (internal quotation marks omitted), to employ H-2A workers.

Congress created the modern H-2A visa regime in the Immigration Reform and Control Act of 1986 (IRCA). *See* Pub. L. No. 99-603, § 301, 100 Stat. 3359, 3411. That Act allowed prospective employers to “petition to import an . . . H-2A worker” subject to the Attorney General’s approval. *Id.* It instructed that the Attorney General could approve the petition only if the Secretary of Labor certified that certain conditions were met, namely that “there are not sufficient workers who are able, willing, and qualified, and who will be available” for the work and that the employment of noncitizen workers “will not adversely affect the wages and working conditions of workers in the United States similarly employed.” *Id.* at 3411.

Before IRCA, immigration law permitted the entry of nonimmigrants who “com[e] temporarily to the United States to perform . . . temporary services or labor, if unemployed persons capable of performing such service or labor cannot be found in this country,” and left the decision to grant or deny a nonimmigration visa petition solely within the discretion of the Attorney General. *See* Immigration and Naturalization Act of 1952, Pub. L. No. 414, ch. 477, § 101(a)(15)(H)(ii), 66 Stat. 163, 168; Pet’rs Br. 6-7. Under this regime, the ability to employ temporary workers was a benefit to which no employer was entitled. *See, e.g., Elton*

Orchards, Inc. v. Brennan, 508 F.2d 493, 498-99 (1st Cir. 1974).

When creating the modern H-2A program in IRCA, Congress reiterated that participation in the program was a benefit to be distributed at the government's discretion. IRCA required the Attorney General to approve H-2A worker petitions *only* upon DOL's certification of certain factors, reflecting the "Congressional policy" that noncitizens "not be admitted [as H-2A workers] *unless*" certain conditions were met. 100 Stat. at 3413; *see* H.R. Rep. No. 99-682, at 51 (1985) ("The essential objective of the [previously existing H-2] program, which the bill does not change, is to permit employers to utilize temporary foreign workers if domestic workers cannot be found . . ."). Furthermore, IRCA authorized, for the first time, civil and criminal penalties for employers of undocumented noncitizens. *See* Rep. Daniel Lungren, *The Immigration Reform and Control Act of 1986*, 24 San Diego L. Rev. 277, 291-94 (1987). Participants in the H-2A visa program not only gained the privilege of employing workers who would otherwise be subject to deportation; they were now exempt from the threat of civil and criminal sanctions.

The sanctions program—the "centerpiece" of IRCA, *id.* at 291—underscored that the H-2A program was, essentially, a benefits scheme. Under the program, sanctions would deter unauthorized immigration by subjecting employers who hired undocumented workers to criminal and civil penalties. H.R. Rep. No. 99-682, at 46 (1985); S. Rep. No. 99-132, at 19 (1985) (describing a desire to "remov[e] the economic incentive which draws [undocumented] aliens to the United States as well as the incentive for employers to exploit this source of labor"). At the same time, legislators recognized that the agricultural industry was "heavily

dependent on an illegal workforce,” Lungren, *supra*, at 295, and that sanctions would deprive the industry of this “supply of labor,” 130 Cong. Rec. 16,374 (1984) (Rep. Mazzoli). The H-2A program was necessary to help agricultural employers “adjust[] to the reduced availability of illegal foreign workers” in light of the employer-sanctions regime. S. Rep. No. 99-132, at 2 (1985); 130 Cong. Rec. 16,359 (1984) (Rep. Lungren) (describing the fear that sanctions might “put those in the agricultural sector of our economy . . . out of business”); *id.* at 16396 (Rep. McCandless) (“If we are going to impose sanctions on employers, we must provide them with a source”). It was a form of “government subsid[y]” to agricultural employers, *see H-2 Program and Nonimmigrants: Hearing before the S. Subcomm. Immigr. & Refugee Pol. of the Jud. Comm., 97th Cong., 1st Sess.* 262 (1982) (Sen. Simpson describing the view that the program provides a “subsidy to employers who hire foreign workers”), albeit a subsidy that lawmakers viewed as necessary for the “growers who provide the [country’s] food and fiber,” 130 Cong. Rec. 16,374 (1984) (Rep. Mazzoli).

By receiving the privilege of “import[ing] temporary workers” under the H-2A program, employers accepted certain countervailing “responsibilities.” H.R. Rep. No. 99-1000, at 94 (1986) (Conf. Rep.); H.R. Rep. No. 99-682, at 83 (1985) (describing “obligations mandated by participation in the H-2A program”). IRCA required employers to recruit domestic workers before turning to the H-2A program and to offer wages and working conditions that would not adversely affect domestic workers. *See* IRCA § 403, 100 Stat. at 3442.

To ensure that employers fulfilled their obligations, Congress authorized DOL to “monitor[] the terms and conditions under which” H-2A workers were employed and to “take such actions, including

imposing appropriate penalties and seeking appropriate injunctive relief . . . as may be necessary to assure employer compliance” with those terms and conditions. *Id.* § 301, 100 Stat. at 3416. These requirements were crucial to ensuring the “essential feature of the . . . program”: “the requirement that efforts be made to find domestic workers before admitting workers from abroad.” H.R. Rep. No. 99-682, at 80 (1985); Lungren, *supra*, at 295 (describing the need for “protection of domestic workers from displacement”).

After IRCA’s passage, DOL issued regulations allowing the enforcement of civil monetary penalties to secure “all contractual obligations provisions applicable to the employment of H-2A workers under the INA.” 52 Fed. Reg. 20524, 20527 (1987); *id.* at 20525 (describing the intention to “increase [DOL’s] effort regarding enforcement of labor standards with respect to the H-2A programs”); *id.* at 20531 (allowing DOL to “institute appropriate administrative proceedings, including . . . the assessment of a civil monetary penalty against any person for a violation of the H-2A work contract obligations of the Act”). DOL’s ability to impose these penalties would ensure that employers who voluntarily chose to participate in the H-2A program complied with its requirements, thereby preventing the admission of “temporary alien workers . . . [from producing] a lowering of the wages, terms, and conditions of domestic workers,” *id.* at 20508.

III. The Public Rights Doctrine Applies to DOL’s Imposition of Penalties to Implement the H-2A Program.

A. As this history makes clear, the public rights doctrine applies here. The federal government has complete authority to determine who receives the benefits of participating in the H-2A program. Indeed, the political branches are “even authorized . . . to

‘exclude[]’ [employers] . . . entirely,” *Jarkesy*, 603 U.S. at 130 (quoting *Bakelite*, 279 U.S. at 446), by prohibiting them from employing H-2A workers if certain conditions are not met.

Put another way, the public rights doctrine applies because Congress’s power over H-2A admissions is “so total that no party ha[s] a ‘vested right’” to act in that area without Congress’s approval. *Id.* at 129 (quoting *Oceanic Steam*, 214 U.S. at 335). Respondents have no vested right to “import” H-2A workers, 8 U.S.C. § 1188(a)(1)(A)-(B), just as shippers have no vested right to “bring[] into the United States” noncitizens “afflicted with ‘loathsome or dangerous contagious diseases,’” *Oceanic Steam*, 214 U.S. at 332, and merchants have no vested right to “import anything into the country,” *Jarkesy*, 603 U.S. at 129; *cf. Learning Res., Inc. v. Trump*, 146 S. Ct. 628, 685-86 (2026) (Thomas, J., dissenting) (“[a] person had no core private right to import goods at the founding”). Indeed, an employer’s use of H-2A labor is always subject to DOL’s revocation of the labor certification, which would terminate employees’ H-2A status and require them to stop working and leave the United States, *see* Pet’rs Br. 10 (citing 20 C.F.R. § 655.181(a)(2), and 8 C.F.R. § 214.2(h)(11)(iv)); *see also Oil States*, 584 U.S. at 339 n.4 (emphasizing that “the Government continues to possess some measure of control over the right” (internal citation omitted)).

Given the government’s “total” authority over the distribution of guestworker labor, it can certainly dictate “the terms upon which a right to [employ H-2A workers] may be exercised.” *Oceanic Steam*, 214 U.S. at 335 (internal citations omitted). As the Court explained in *Jarkesy*, when the government exercises this type of “total” or “plenary” authority, it can impose fines and administrative penalties without a jury, 603

U.S. at 129; *Oceanic Steam*, 214 U.S. at 337; *Passavant*, 148 U.S. at 222 (permitting imposition of an “additional duty or penalty” relating to the determination of the value of imported goods).

B. Despite all this, the court below held that DOL’s enforcement action does not implicate the public rights doctrine. It distinguished *Oceanic Steam* and other cases involving the public rights doctrine because, in its view, DOL’s penalties relate to domestic national policy goals, rather than “the admission and exclusion of aliens.” Pet. App. 15a. This misreads *Oceanic Steam*, which held that Congress can authorize administrative penalties in any area in which it exercises exclusive control, no matter the legislative goals motivating that authorization.

In *Oceanic Steam*, this Court explained that Congress could authorize the imposition of penalties without “invoking the judicial power” as to any matter “exclusively within its control.” *Oceanic Steam*, 214 U.S. at 339. It quoted at length from *Buttfield v. Stranahan*, 192 U.S. 470 (1904), a case involving the enforcement of embargo statutes, to explain that when Congress exercised its power over foreign commerce, which was so “complete” “that no individual ha[d] a vested right to trade with foreign nations,” it had the power to “determine . . . the terms upon which a right to import may be exercised.” *Oceanic Steam*, 214 U.S. at 334-35 (quoting *Buttfield*, 192 U. S. at 493). As this Court explained in *Jarkesy*, the opinion in *Oceanic Steam* drew upon a long history of applying the public rights doctrine to administrative penalties and fines authorized by Congress’s power over “imported merchandise,” “tariff[s],” and any area in which Congress had the “complete . . . right to control.” *Jarkesy*, 603 U.S. at 129 n.1 (alteration in original) (internal citation omitted). Indeed, that history explains why this

Court distinguished the immigration penalties at issue in *Oceanic Steam* from the “securities markets or interstate commerce more broadly.” *Id.* Because the government exercises complete control over the H-2A program, *see supra* at 15-17, the court below was wrong to distinguish *Oceanic Steam*.

Furthermore, the court below focused on the government’s policy interests—rather than the presence of public rights—when analyzing whether the public rights doctrine applied. *See* Pet. App. 17a (emphasizing that DOL’s enforcement actions “mainly concern the federal government’s local interest in domestic wages”). But the public rights doctrine applies whenever the government imposes penalties in areas where its power is “so total that no party ha[s] a ‘vested right’” to act, *Jarkesy*, 603 U.S. at 129 (quoting *Oceanic Steam*, 214 U.S. at 335), no matter the interest motivating the government’s action. Indeed, many of the government’s actions in matters that clearly involve public rights could be said to be motivated, as here, by the desire to protect domestic wages. *See, e.g., Chae Chan Ping*, 130 U.S. at 595, 600 (statute prohibiting entry of noncitizen laborers from China was motivated in part by “competition” with American workers and did not impair noncitizens’ vested rights). The existence of that policy motivation has no bearing on the applicability of the public rights doctrine.

C. The court below also reasoned that the public rights doctrine does not apply because DOL’s action was “framed . . . in contractual terms,” and thus was similar to a “traditional action[] at common law tried by the courts at Westminster.” Pet. App. 12a-13a. This, too, is wrong.

As an initial matter, the court below did not explain why it should matter that DOL’s enforcement action was framed “in contractual terms.” *Id.* at 12a.

And its conclusion that it did matter collapses two distinct components of this Court’s test in *Jarkesy*. There, this Court separately analyzed whether the SEC’s claims were “legal in nature,” *Jarkesy*, 603 U.S. at 122, and whether the case fell “within the [public rights] exception,” *id.* at 127. Indeed, the question whether the claim is “legal in nature” is only relevant if the public rights doctrine does not apply. *Id.* at 126-27.

Further, the contract at issue is no ordinary contract—it is the “specific contract under which [H-2A workers] were admitted to this country.” H.R. Rep. No. 99-1000, at 94 (1986) (Conf. Rep.) (noting that agricultural workers had rights by virtue of the “specific contract under which they were admitted to this country” and that “contracts entered into shall not violate any provisions of the INA authorizing the H-2 program or any regulations issued pursuant to [it]”). As the court below acknowledged, an employer can obtain permission to import H-2A workers only after the government approves of its “agreement with its employees.” Pet. App. 11a.

For this reason, DOL’s action is not a traditional breach-of-contract proceeding brought to enforce an agreement between worker and employer. The action is instead brought to ensure that employers have met the conditions of their participation in the H-2A program. In other words, enforcing the terms of this contract allows the government to achieve the stated purpose of the H-2A program: to protect the jobs of United States citizens. See 20 C.F.R. § 655.0 (“[t]his part and its subparts shall be construed to effectuate the purpose of the INA that U.S. workers rather than aliens be employed wherever possible”); see *Garcia-Celestino v. Ruiz Harvesting, Inc.*, 843 F.3d 1276, 1285 (11th Cir. 2016) (“By requiring that the employer provide these

baseline benefits, the regulations ensure that foreign workers will not appear more attractive to the employer than domestic workers” (internal quotation marks omitted)).

The procedures affecting the contract make that fact clear. After prospective employers disclose the material terms and conditions of the employment contract to DOL, regulations require state workforce agencies to offer the position to domestic workers on the same terms. *See* 20 C.F.R. § 655.103; *id.* § 655.121. Agricultural employers cannot receive permission to employ H-2A workers if one of these agencies refers any U.S. worker for the job, unless such workers are rejected for a “for a lawful, job-related reason.” *Id.* § 655.161. And even after permission is granted, contracts remain subject to revocation by DOL. *See supra* at 16. Furthermore, many employers of H-2A workers are, by entering into the H-2A program, also obligated to provide employment to any qualified, eligible U.S. worker who applies to the employer until 50 percent of the contract period has elapsed, *id.* § 655.135(d)—meaning that the terms of the contract are, essentially, applicable to prospective U.S. workers as well.

Ultimately, DOL’s enforcement action flows from Congress’s power to “impose particular restrictions” on the exercise of a privilege, just like the imposition of a “penalty” for violation of one of those restrictions does. *Oceanic Steam*, 214 U.S. at 340. No matter the presence of “contractual terms,” Pet. App. 12a, DOL’s proceeding vindicates “the public’s paramount interest” in seeing that the benefits granted in the H-2A program are “kept within their legitimate scope,” *Oil States*, 584 U.S. at 336-37 (internal citation omitted). It therefore falls within the public rights doctrine.

* * *

The distribution of privileges and benefits is “committed exclusively to Congress.” *Lloyd Sabaudo*, 287 U.S. at 334. For this reason, Congress can “impose appropriate obligations” on the recipients of these benefits, “sanction the[] enforcement [of these obligations] by reasonable money penalties, and . . . choose the administrative rather than the judicial method” of imposing those penalties. *Id.* at 334-35. Sun Valley’s employment of H-2A workers is a privilege—a “valuable Government benefit,” rather than a vested right, *Horne*, 576 U.S. at 366 (citation omitted)—and DOL can impose reasonable monetary penalties when the terms of exercising that privilege are violated.

CONCLUSION

For the foregoing reasons, the judgment of the court of appeals should be reversed.

Respectfully submitted,

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