

IN THE SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
MOTION FILED

OCT 23 2009

William K. Suter,
Clerk

No. 08-1498

ERIC H. HOLDER, JR., ATTORNEY GENERAL, ET AL., PETITIONERS

v.

HUMANITARIAN LAW PROJECT, ET AL.

No. 09-89

HUMANITARIAN LAW PROJECT, ET AL., PETITIONERS

v.

ERIC H. HOLDER, JR., ATTORNEY GENERAL, ET AL.

ON WRITS OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JOINT MOTION TO AMEND BRIEFING SCHEDULE AND EXPAND WORD LIMITS

Pursuant to Rules 25.4, 27.3, 28.2, and 33.1(d) of the Rules of this Court, the parties respectfully seek a modification of the briefing schedule and word limits to permit these consolidated cases to be addressed in a single set of briefs.

On September 30, 2009, the Court granted the petitions for a writ of certiorari and consolidated the above-captioned cases. In

No. 08-1498, the United States is the petitioner, and the non-governmental parties (who were plaintiffs in the district court) are the respondents. In No. 09-89, the same non-governmental parties are the petitioners, and the United States is the respondent. The consolidated cases involve two questions presented that concern four related statutory terms. The court of appeals upheld those terms in part and invalidated them in part. Because the statutory terms under review are related, and because the non-governmental parties advance the same constitutional challenges to all of those terms, the parties submit that the issues are most appropriately addressed in the same brief rather than separate briefs.

Although the parties would be entitled to file separate opening, response, and reply briefs in the two cases (for a total of six briefs and up to 75,000 words), they jointly propose a four-brief schedule that would permit both cases to be addressed in a single set of briefs. Accordingly, the parties jointly request that the Court establish a briefing schedule that would permit such a consolidation of briefing. The result will be a more coherent and concise presentation to the Court on the questions presented; under this joint request, the total word limit would be only 60,000 words, substantially less than if the parties proceed with six briefs in the two cases.

Under the proposed schedule, the private parties would proceed as the "petitioners" in the consolidated cases and would file a single, consolidated opening brief in both cases. Petitioners would file their opening brief and the joint appendix on November 16, 2009. Petitioners request a word limit for that brief of 18,000 words.

The United States would proceed as the "respondent" in the consolidated cases and would file a single, consolidated opening brief in both cases. The United States requests an extension until December 22, 2009, to file that consolidated brief and further requests a word limit of 18,000 words.

Petitioners then would file a consolidated reply brief. Petitioners request a word limit for that brief of 12,000 words. Under this Court's Rule 25.3, if the extension requested above is granted, petitioners' consolidated reply brief would be due January 21, 2009.

Finally, the United States would file a consolidated reply brief. The United States requests a word limit for that brief of 12,000 words. The United States' consolidated reply brief would be due February 12, 2009, earlier than required by this Court's Rule 25.3.

Under the proposed schedule, amicus briefs in support of petitioners or of neither party would be due November 23, 2009. Amicus briefs in support of respondent would be due December 29,

2009. The parties request that, if this joint motion is granted, the Court indicate the consolidated briefing schedule on its docket so that any amici will be aware of the filing deadlines.

For the foregoing reasons, the requisite good cause appearing, the Court should modify the briefing schedule and word limits as requested.

David Cole | CWTS

DAVID COLE
600 New Jersey Ave., N.W.
Washington, DC 20001
Counsel of Record
for Humanitarian
Law Project

Respectfully submitted.

Elena Kagan | CWTS

ELENA KAGAN
Solicitor General
Counsel of Record
for the United States

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