



U.S. Department of Justice
Office of the Solicitor General

Washington, D.C. 20530

November 24, 2015

Honorable Scott S. Harris
Clerk
Supreme Court of the United States
Washington, D.C. 20543

Re: United States et al. v. Texas et al., No. 15-674

Dear Mr. Harris:

The government respectfully opposes state respondents' request for a 30-day extension, to and including January 20, 2016, of the time to file a brief in opposition in the above-captioned case. A filing on the proposed date would preclude the Court, in the absence of unusual expedition, from deciding to hear the case this Term. The government would, however, consent to an 8-day extension, to and including December 29, 2015, provided that the brief in opposition were physically on file with the Court on that date. A filing on that schedule, in conjunction with the government's willingness to forgo its right to file a reply before the case is distributed, would allow the Court to consider the petition at its January 15, 2016 Conference, thereby enabling the case to be decided this Term in the ordinary course if the Court grants review.

The petition in this case seeks review of a preliminary injunction, of nationwide scope, entered against the Secretary of Homeland Security and other federal officials. As detailed in the petition, the injunction prevents the government from taking any steps to further an immigration policy of exceeding importance to federal law enforcement, to the many States that appeared as amici supporting the government in the court of appeals, and to millions of families with longstanding and close connections to this country. The policy was first announced on November 20, 2014, and was enjoined before the principal provisions became effective. If the Court were to grant the petition, but set review for next Term, it is possible that a decision on the merits would not be issued until June 2017, over two-and-a-half years after the policy was first announced. The effect of such a delay would be to prolong for an additional year the disruption of federal immigration policy and the irreparable harm of denial of work authorization and other protections to millions of people who would be eligible for those protections if the policy is upheld.

The government has endeavored to ensure prompt resolution of this case and moved expeditiously at every stage. The initial preliminary-injunction proceedings in district court were completed by February 16, 2015, less than two-and-a-half months after the States' complaint was filed. The government promptly filed motions for a stay of the preliminary injunction in both the district court and the court of appeals, both of which were denied. The government also filed a motion to expedite the appeal, which the court of appeals granted. And the government filed its

petition for a writ of certiorari just 11 days after the court of appeals' decision. We respectfully submit that state respondents do not need a full 60 days—substantially more time than they sought and were granted for their merits brief in the court of appeals—to file their brief in opposition.

State respondents base their extension request solely on the ground that some of their counsel have deadlines in other matters. But under the schedule proposed by the government, counsel of record will have approximately three weeks after his oral argument in this Court to review the draft that his office—or one of the other 25 state offices listed as counsel on state respondents' briefing below—has prepared. That amount of time should be more than sufficient. The issues presented in the petition have already been extensively developed in the briefing and opinions below and are thus familiar to counsel. And because the government has consented to the filing of amicus briefs in support of the petition only if they are filed before December 4, 2015, counsel should receive such briefs 25 days before the brief in opposition would be due.

Particularly given the consequences that would attend delayed consideration of this case, state respondents have not advanced sufficient justification for denying this Court the ability to consider the petition at a time when unexpedited review this Term would still be possible. In opposing state respondents' extension request, the government is seeking nothing more than a schedule that more closely tracks the default schedule set forth in this Court's rules. The exigencies of the situation and the need to preserve the possibility of prompt review make that appropriate, irrespective of the absence of a request that this Court stay the preliminary injunction pending certiorari review. We note, however, that should state respondents' request for a 30-day extension be granted, we anticipate filing a motion for expedition and a May argument session to permit the case to be heard this Term.

Sincerely,

A handwritten signature in blue ink that reads "Donald B. Verrilli, Jr." followed by a stylized flourish.

Donald B. Verrilli, Jr.
Solicitor General

cc: See Attached Service List

15-0674
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