

WILMERHALE

November 8, 2018

Paul R.Q. Wolfson

Via CM/ECF

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Mr. Mark Langer
Clerk of the Court
United States Court of Appeals for the District of Columbia Circuit
333 Constitution Avenue N.W.
Washington, D.C. 20001

Re: *Doe 2 v. Trump*, No. 18-5257 (D.C. Cir.) (oral argument scheduled December 10, 2018)

Dear Mr. Langer:

I write in response to the government's November 7, 2018 letter. The government offers no basis to alter the already-expedited proceedings before this Court.

First, the government's urgency is belied by its litigation choices. The government abandoned its first appeal in this case. *Doe 1 v. Trump*, No. 17-5267 (D.C. Cir. Jan. 4, 2018). It did not seek a stay in the pending appeal. And it did not seek a stay from the Supreme Court after the Ninth Circuit denied its stay request in *Karnoski v. Trump*, No. 18-35347 (9th Cir.). The government has made no showing of harm that would warrant immediate Supreme Court intervention without a single decision by a court of appeals.

Second, this interlocutory appeal does not squarely present the merits issues on which the government apparently intends to seek certiorari before judgment. The question presented in this appeal is whether the government demonstrated sufficiently changed circumstances to justify dissolving the preliminary injunction while the litigation proceeds on the merits. Review of that narrow question is not a suitable vehicle for the Supreme Court to resolve the broader constitutional issues in this case.

This Court has already expedited the appeal at the government's request and scheduled argument for December 10. The government's intent to seek Supreme Court review before then should not prevent this Court from proceeding as planned.

Respectfully submitted,

/s/ Paul R.Q. Wolfson
Paul R.Q. Wolfson
Counsel for Plaintiffs-Appellees

cc: All counsel by ECF

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of November, 2018, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit using the appellate CM/ECF system. Counsel for all parties to the case are registered CM/ECF users and will be served by the appellate CM/ECF system.

/s/ Paul R.Q. Wolfson
PAUL R.Q. WOLFSON