

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

RICHARD ROE, et al.,

Plaintiffs-Appellees,

v.

UNITED STATES DEPARTMENT OF
DEFENSE, et al.,

Defendants-Appellants.

No. 19-1410

**UNOPPOSED MOTION FOR 5-DAY EXTENSION OF TIME IN WHICH
TO FILE THE REPLY BRIEF**

Pursuant to Federal Rule of Appellate Procedure 27, the government respectfully requests a 5-day extension of the time in which to file the reply brief. If this extension is granted, the reply brief will be due Tuesday, August 13, 2019. This motion is unopposed.

1. This is an appeal from a nationwide preliminary injunction that prohibits the Air Force from making or enforcing discharge decisions regarding HIV-positive service members who cannot deploy to the U.S. Central Command's area of responsibility (the Middle East, North Africa,

and Central Asia) without a waiver. Because of the important interests at stake, the government sought to schedule oral argument before briefing was complete. This Court has scheduled oral argument for September 18, 2019.

2. The government's reply brief is currently due on Thursday, August 8, 2019. The government respectfully requests a 5-day extension of time in which to file the reply brief. If that request is granted, the reply brief would be due Tuesday, August 13, 2019. The government requests this relief only if it is consistent with the Court still hearing oral argument on September 18, 2019.

3. An extension is necessary because the attorney who had principal responsibility for this matter, James Xi, has left the Department of Justice, and the senior counsel who took over principal responsibility, Lewis Yelin, has an unexpected family emergency. The undersigned attorney, Joseph Busa, will be taking over principal responsibility for the reply brief. The requested 5-day extension would permit Mr. Busa adequate time to prepare the reply brief, while still leaving more than a month between the

filing of the reply brief and oral argument. Because of the interests at stake in this appeal, the government requests the extension of time in which to file the reply brief only if granting that relief would still permit oral argument to be held on September 18, 2019.

4. We have conferred with counsel for plaintiffs (Geoffrey P. Eaton), and we are authorized to represent that this request is unopposed.

CONCLUSION

For these reasons, the government respectfully requests a 5-day extension of time in which to file the reply brief, to and including August 13, 2019, but only if doing so is consistent with holding oral argument on the currently scheduled day of September 18, 2019.

Respectfully submitted,

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/s/ Joseph F. Busa

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JULY 2019

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g), I certify this motion complies with the requirements of Federal Rule of Appellate Procedure 27(d)(1)(E) because it has been prepared in 14-point Palatino Linotype, a proportionally spaced font, and that it complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A), because it contains 394 words, according to the count of Microsoft Word.

/s/ Joseph F. Busa
JOSEPH F. BUSA

CERTIFICATE OF SERVICE

I hereby certify that on July 26, 2019, I electronically filed the foregoing with the Clerk of the Court by using the appellate CM/ECF system. I certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Joseph F. Busa
JOSEPH F. BUSA