

No. 19A905

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IN THE  
**Supreme Court of the United States**

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CHAD F. WOLF, ET AL.,  
*Applicants,*

v.

COOK COUNTY, ET AL.  
*Respondents.*

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**MOTION TO TEMPORARILY LIFT OR MODIFY THE COURT'S STAY OF  
THE ORDER ISSUED BY THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF ILLINOIS**

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April 17, 2020

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Plaintiffs Cook County, Illinois and the Illinois Coalition for Immigrant and Refugee Rights (“ICIRR”) respectfully request that the Court temporarily lift or modify its stay to halt implementation of the Public Charge Rule in Illinois during the COVID-19 national emergency.<sup>1</sup> In the alternative, Plaintiffs request that the Court clarify that its stay does not preclude the district court from considering whether the new circumstances caused by COVID-19 warrant temporarily halting the Rule in Illinois. To avoid repetitive briefing, Plaintiffs join in full the arguments made in the Motion by Government Plaintiffs to Temporarily Lift or Modify the Court’s Stay of the Orders Issued by the United States District Court for the Southern District of New York, filed on April 13, 2020 by the State of New York et al. in Case No. 19A785 (the “New York Motion”).

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<sup>1</sup> For purposes of this motion, “national emergency” refers to the President’s declaration of a state of national emergency on March 13, 2020. Proclamation No. 9994, 85 Fed. Reg. 15,337 (Mar. 13, 2020); *see generally* 50 U.S.C. § 1601 *et seq.*

## PROCEDURAL HISTORY

In August 2019, the U.S. Department of Homeland Security (“DHS”) issued the Inadmissibility on Public Charge Grounds Rule (the “Rule”) to “redefine[] the term ‘public charge’ to mean an alien who receives one or more designated public benefits for more than 12 months in the aggregate within any 36-month period (such that, for instance, receipt of two benefits in one month counts as two months).” 84 Fed. Reg. 41, 292, 41,295 (Aug. 14, 2019). On October 14, 2019, the district court granted Plaintiffs’ motion for a preliminary injunction and enjoined the Final Rule’s application within Illinois (the “Illinois injunction”). Thereafter, both the district court and the Seventh Circuit denied DHS’s subsequent motions to stay the Illinois injunction pending appeal.

While the parties briefed the merits of the preliminary injunction in the Seventh Circuit,<sup>2</sup> this Court granted DHS’s application for a stay of the District Court for the Southern District of New York’s nationwide injunctions on January 27, 2020, thereby allowing the Final Rule to take effect in every state save Illinois. *Dep’t of Homeland Sec. v. New York*, 140 S. Ct. 599, 599 (2020).<sup>3</sup> On February 13, 2020, DHS returned to this Court to request a stay of the Illinois injunction. The Court granted DHS’s application on February 21, 2020, thereby allowing the Final Rule to go into effect in Illinois. *Wolf v. Cook Cty.*, 140 S. Ct. 681, 681 (2020). In reliance on the

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<sup>2</sup> On February 26, 2020, the Seventh Circuit heard oral argument on Defendants’ appeal of the Illinois injunction. The Seventh Circuit appeal remains pending.

<sup>3</sup> On March 2, 2020, the Second Circuit heard oral argument on Defendants’ appeal of the preliminary injunction order. That appeal remains pending.

Court's stay orders, Defendants began enforcing the Public Charge Rule nationwide on February 24, 2020.

## ARGUMENT

To avoid repetitive briefing, Plaintiffs join in full in the arguments made in the New York Motion. As explained in that motion, COVID-19 is rapidly spreading throughout the United States. Indeed, Illinois is facing thousands of new cases each day.<sup>4</sup> And as detailed in the New York Motion, the virus's rampant spread has already caused, and will continue to cause, severe health and economic harms to the public that were not present when this Court initially considered Defendants' motion to stay the Illinois injunction.<sup>5</sup> These extraordinary harms have shifted the balance of equities in allowing Defendants to enforce the Final Rule while the Seventh Circuit considers Defendants' appeal, thus warranting a temporary lift or modification of the stay.

## CONCLUSION

Plaintiffs request that the Court temporarily lift or modify its stay to halt implementation of the Public Charge Rule in Illinois during the COVID-19 national

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<sup>4</sup> Between April 12, 2020 and April 13, 2020, for example, the number of reported, positive COVID-19 test results in Illinois rose from 20,852 to 22,025. See Ill. Dep't of Pub. Health, *COVID-19 Statistics*, <https://www.dph.illinois.gov/covid19/covid19-statistics> (last updated Apr. 16, 2020). The statewide death toll rose from 720 to 794 in that same timeframe. *Id.*

<sup>5</sup> See, e.g., Appendix to Motion by Government Plaintiffs to Temporarily Lift or Modify the Court's Stay of the Orders Issued by the United States District Court for the Southern District of New York at 199–204, *Dep't of Homeland Sec. v. New York*, No. 19A785 (U.S. Apr. 13, 2020) (Declaration of Lawrence L. Benito, Executive Director, Illinois Coalition for Immigrant and Refugee Rights, Chicago, IL).

emergency. Alternatively, the Court should clarify that its stay does not preclude the district court below from considering whether changed circumstances caused by COVID-19 warrant temporary relief from the Final Rule in Illinois.

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