

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

March 09, 2020

Mr. John J. Dierlam
5802 Redell Road
Baytown, TX 77521

Mr. Lowell V. Sturgill Jr.
U.S. Department of Justice
Civil Division, Appellate Section
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

No. 18-20440 John Dierlam v. Donald Trump, President, et
al
USDC No. 4:16-CV-307

Dear Mr. Sturgill and Mr. Dierlam,

The court has received the government's 28(j) letter (dated January 8, 2020) and Mr. Dierlam's response (dated January 13, 2020), cursorily addressing the effect of our recent decision in *State of Texas v. United States*, 945 F.3d 355 (5th Cir. 2019), on the issues and arguments in this case. A few weeks after these 28(j) letters were filed, the court denied en banc review, and the mandate issued on February 6. Then, on March 2, the Supreme Court granted certiorari.

The Supreme Court also recently granted certiorari in another case, *Little Sisters of the Poor Saints Peter and Paul Home v. Commonwealth of Pennsylvania and State of New Jersey*, No. 19-431 (consolidated with *Trump v. Pennsylvania*, No. 19-454), that involves the interplay between the Affordable Care Act and the Religious Freedom Restoration Act. These consolidated cases will be argued April 29.

While we do not ordinarily hold cases pending Supreme Court review, please advise whether you request a stay of *Dierlam v. Trump* pending the Supreme Court's decisions in the above-mentioned cases and the reasoning underlying your position—plus any additional briefing you deem appropriate.

Please provide letter briefs no later than Monday, March 23, 2020.

Sincerely,

LYLE W. CAYCE, Clerk

Christina Gardner

By: _____
Christina A. Gardner, Deputy Clerk
504-310-7684

cc: Ms. Sharon Swingle

P.S. This letter will serve to advise the parties that the court has invited additional briefing to be filed in this office on or before Monday, March 23, 2020.