

No. 21-11715

**In the United States Court of Appeals
for the Eleventh Circuit**

STATE OF FLORIDA,

Plaintiff-Appellant,

v.

UNITED STATES OF AMERICA,
ET AL.,

Defendants-Appellees.

**APPELLANT'S REPLY IN SUPPORT
OF MOTION FOR EXPEDITED APPEAL**

ON APPEAL FROM THE
UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
CASE No. 8:21-CV-541-CEH-SPF

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CERTIFICATE OF INTERESTED PERSONS AND
CORPORATE DISCLOSURE STATEMENT

Plaintiff-Appellant certifies that the following is a complete list of interested persons:

1. ACLU of Florida, *Proposed Amicus Below*
2. Advocates for Victims of Illegal Alien Crime, *Proposed Amicus Below*
3. American Civil Liberties Union, *Proposed Amicus Below*
4. Bowen, Brigham J., *Attorney for Defendants-Appellees*
5. Boynton, Brian, *Attorney for Defendants-Appellees*
6. Byron III, H. Thomas, *Attorney for Defendants-Appellees*
7. Cholera, Kuntal V., *Attorney for Defendants-Appellees*
8. Dunn, Kristian, *Attorney for Proposed Amicus Below*
9. Flynn, Sean P., *Magistrate Judge*
10. Guard, John, *Attorney for Plaintiff-Appellant*
11. Hilborn, Jason H., *Attorney for Plaintiff-Appellant*
12. Honeywell, Charlene Edwards, *District Judge*
13. Immigration Reform Law Institute, *Proposed Amicus Below*
14. Janda, Sean, *Attorney for Defendants-Appellees*
15. Johnson, Tae, *Defendant-Appellee*
16. Kacou, Amien, *Attorney for Proposed Amicus Below*
17. Kamoutsas, Rachel, *Attorney for Plaintiff-Appellant*

18. Kirschner, Adam D., *Attorney for Defendants-Appellees*
19. Knapp, Michael F., *Attorney for Defendants-Appellees*
20. Mayorkas, Alejandro, *Defendant-Appellee*
21. Miller, Troy, *Defendant-Appellee*
22. Moody, Ashley, *Attorney General of Plaintiff-Appellant*
23. Patel, Anita, *Attorney for Plaintiff-Appellant*
24. Percival, James H., *Attorney for Plaintiff-Appellant*
25. Renaud, Tracy, *Defendant-Appellee*
26. Reuveni, Erez, *Attorney for Defendants-Appellees*
27. Rosen-Shaud, Brian C., *Attorney for Defendants-Appellees*
28. Shih, Michael, *Attorney for Defendants-Appellees*
29. State of Florida, *Plaintiff-Appellant*
30. United States Citizenship & Immigration Services, *Defendant-Appellee*
31. United States Customs & Border Protection, *Defendant-Appellee*
32. United States Department of Homeland Security, *Defendant-Appellee*
33. United States Immigration & Customs Enforcement, *Defendant-Appellee*
34. United States of America, *Defendant-Appellee*
35. Zimolong, Walter Stephen, *Attorney for Proposed Amicus Below*

**APPELLANT’S REPLY IN SUPPORT OF
MOTION FOR EXPEDITED APPEAL**

Florida endeavors not to repeat arguments from its initial Motion but offers the following brief points in this Reply.

First, Defendants do not appear to object to expedited treatment in general. Instead, they say that they—appellate attorneys at the United States Department of Justice—are busy and so should have a mere *two days* shaved off of this Court’s default briefing schedule. *See* Opp. at 1 (asking for 28 days); 11th Cir. R. 31-1(a) (providing for 30 days). That is not a serious counter proposal.

Second, Defendants argue that expedition is not warranted because they intend to moot Florida’s case. Opp. at 10. That is a reason to grant expedition—not deny it. Florida believes it is overwhelmingly likely that any new immigration policies will suffer from the same legal defects as the challenged memos. Regardless, Defendants should not be allowed to play whack-a-mole with states like Florida, who are otherwise powerless to mitigate their irreparable harm due to, among other things, *Arizona v. United States*. *See* 567 U.S. 387, 410 (2012) (holding that states cannot “engage in” their own immigration “enforcement activities”).

Third, Defendants fault Florida for not filing its brief early. Opp. at 6. But it is reasonable for Florida to confirm that its appeal will be expedited for all parties before filing a brief drafted on a significantly shortened timeframe. To do otherwise would be to give Defendants an advantage. And even though Florida asks for 10

days from the granting of its Motion, that is a substantial reduction from the 40 days—which runs from the record being deemed filed—that Florida is entitled to under this Court’s rules. *See* 11th Cir. R. 31-1(a).

Fourth, to the extent this Court is inclined to grant Defendants’ request for 28 days, Florida asks that the Court otherwise expedite the case to ensure Defendants take no extensions and to ensure prompt scheduling of oral argument and an expedited decision.

WHEREFORE, Florida respectfully asks the Court to grant its motion to expedite.

Respectfully submitted.

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CERTIFICATE OF COMPLIANCE

1. This document complies with the type-volume limits of Fed. R. App. P. 27(d)(2) because this document contains 333 words.

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/s/ James H. Percival

JAMES H. PERCIVAL
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 2, 2021, I electronically filed the foregoing with the Clerk of Court by using the Court's CM/ECF system, which will send a notice of electronic filing to all parties in the case.

/s/ James H. Percival

JAMES H. PERCIVAL
Deputy Attorney General