

[ORAL ARGUMENT NOT YET SCHEDULED]

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

P.J.E.S., a minor child, by and through his father and next friend, Mario Escobar Francisco, on behalf of himself and others similarly situated,

Plaintiffs-Appellees,

v.

ALEJANDRO MAYORKAS, Secretary of Homeland Security, *et al.*,

Defendants-Appellants.

No. 20-5357

JOINT MOTION TO HOLD BRIEFING SCHEDULE IN ABEYANCE

Pursuant to Federal Rule of Appellate Procedure 27, Plaintiffs-Appellees and Defendants-Appellants jointly move this Court to hold the briefing schedule in above-captioned matter in abeyance until further notice from the parties.

1. On January 29, 2021, this Court set a briefing schedule in this appeal with Appellants' Opening Brief due February 18, 2021; Appellees' Answering Brief due March 11, 2021; and Appellants' Reply Brief due March 25, 2021. That order stated that "[e]xtensions of these deadlines will not be granted absent extraordinary circumstances." In the same order, this Court granted Appellants' motion for a stay

of the district court's preliminary injunction. Appellants filed their Opening Brief on February 18, 2021.

2. Appellants' Opening Brief noted that the U.S. Centers for Disease Control and Prevention ("CDC") "recently issued a notice of its decision to temporarily except from expulsion unaccompanied noncitizen children encountered in the United States, pending its forthcoming public-health reassessment." Doc. No. 1886403 at 37. Accordingly, members of the class at issue in this case are not presently subject to the expulsions challenged in this case.

3. The parties have also begun to explore whether it may be possible to resolve or narrow the dispute at issue in this case. The parties believe the most reasonable and efficient course of action is to temporarily hold in abeyance further proceedings in this appeal to allow such discussions to occur.

4. The parties submit that the recent CDC notice and the parties' discussions present extraordinary circumstances warranting abeyance of the briefing schedule.

5. The parties have agreed that either party may move to terminate the abeyance by filing a motion seeking such relief.

6. The parties acknowledge and agree that this Court's stay of the district court's preliminary injunction will remain in place pending this Court's resolution of this appeal, including during the requested abeyance of the briefing schedule.

7. The parties have also jointly moved to hold further district court proceedings in this case in abeyance until March 23, 2021, *see P.J.E.S. v. Mayorcas*, Civil Docket No. 1:20-cv-02245-EGS-GMH (D.D.C.), Dkt. 105 (Feb. 24, 2021), which the district court granted. Likewise, in *Huisha-Huisha v. Mayorcas*, Civil Docket No. 1:21-cv-00100-EGS (D.D.C.), Dkt. 87 (Feb. 23, 2021), the parties have jointly moved to hold further proceedings in abeyance until March 23, 2021, which the district court also granted. In *Huisha-Huisha*, different plaintiffs (represented by the same counsel as represent Appellees in this appeal) also challenge the CDC's expulsions under 42 U.S.C. § 265.

CONCLUSION

For the foregoing reasons, this Court should grant the parties' joint motion to holding the briefing schedule in this case in abeyance until further notice from the parties.

Respectfully submitted,

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(by consent)

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CERTIFICATE OF COMPLIANCE

I hereby certify that this motion satisfies the type-volume limitation in Rule 27(d)(2)(A) because it contains 448 words. This motion also complies with the typeface and type-style requirements of Rule 32(a)(5) and Rule 32(a)(6) because it was prepared using Microsoft Word 2016 in Garamond 14-point font, a proportionally spaced typeface.

/s/ Joshua Waldman

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CERTIFICATE OF SERVICE

I hereby certify that on March 1, 2021, I electronically filed the foregoing motion with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

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