



U.S. Department of Justice

Office of the Solicitor General

The Solicitor General

Washington, D.C. 20530

January 26, 2023

Honorable Scott S. Harris
Clerk
Supreme Court of the United States
Washington, D.C. 20543

Re: Jean Francois Pugin v. Merrick B. Garland, No. 22-23
Merrick B. Garland v. Fernando Cordero-Garcia, No. 22-331

Dear Mr. Harris:

We write on behalf of the Attorney General (respondent in No. 22-23 and petitioner in No. 22-331) to propose a coordinated briefing schedule for these cases. Jean Francois Pugin (petitioner in No. 22-23) and Fernando Cordero-Garcia (respondent in No. 22-331) consent to this proposal.

On January 13, 2023, this Court granted the petitions for writs of certiorari in these cases limited to the following question: To qualify as “an offense relating to obstruction of justice,” 8 U.S.C. 1101(a)(43)(S), must a predicate offense require a nexus with a pending or ongoing investigation or judicial proceeding? The Court also consolidated the cases for briefing and argument.

To coordinate the briefing schedules and minimize duplicative briefing, we respectfully request (1) that the briefing in No. 22-23 be realigned, so that the Attorney General is treated as petitioner and Pugin is treated as respondent for purposes of the schedule set forth in this Court’s Rules 25.1, 25.2, and 25.3; (2) that the Attorney General be allowed, in lieu of filing separate opening and reply briefs on the merits in No. 22-23 and No. 22-331, to file a single consolidated opening brief, limited to 17,000 words, and a single consolidated reply brief, limited to 9,000 words; and (3) that Pugin and Cordero-Garcia be allowed to file separate briefs on the merits in conformity with this Court’s Rule 33.1(g)(vi). We further propose that any briefs of amici curiae in support of the Attorney General be filed within 7 days after the consolidated opening brief of the Attorney General is filed, and that any briefs of amici curiae in support of Pugin or Cordero-Garcia be filed within 7 days after the brief for the party supported is filed.

This Court has on occasion realigned briefing to ensure that the same party need not file briefs on both the petitioner’s and respondent’s deadlines in two overlapping cases. See, e.g., *Axon Enter., Inc. v. FTC*, No. 21-86, and *SEC v. Cochran*, No. 21-1239 (realigning the briefing so that the federal parties filed on the respondents’ deadlines in both cases). In addition, this Court has on multiple occasions granted leave to a party to file a consolidated brief across two overlapping cases. See, e.g., *Biden v. Nebraska*, No. 22-506, and *Department of Educ. v. Brown*, No. 22-535 (granting petitioners leave to file a single consolidated opening brief of up to 17,000 words and a single consolidated reply brief of up to 9,000 words); *Merrill v. Milligan*, No. 21-1086, and *Merrill*

v. *Caster*, No. 21-1087 (granting appellants and petitioners leave to file a single consolidated opening brief of up to 18,000 words and a single consolidated reply brief of up to 10,000 words).

Sincerely,

Elizabeth B. Prelogar
Solicitor General

cc: See Attached Service List

22-0023

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