

No.

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

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INTERNATIONAL REFUGEE ASSISTANCE PROJECT, *et al.*,

*Petitioners,*

*v.*

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, *et al.*,

*Respondents.*

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**MOTION TO EXPEDITE CONSIDERATION OF THE PETITION FOR  
A WRIT OF CERTIORARI AND TO SET AN EXPEDITED SCHEDULE  
FOR BRIEFING AND ARGUMENT**

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The International Refugee Assistance Project and the other petitioners, pursuant to Supreme Court Rule 21, respectfully move for expedited consideration of the petition for a writ of certiorari, filed today, to review the judgment of the United States Court of Appeals for the Fourth Circuit.

Expedition is necessary to ensure that the Court can consider the petition at its March 2 conference and, if it grants certiorari, align the schedule in this case with briefing and argument in *Hawai'i v. Trump*, No. 17-965. Petitioners therefore request that the government be directed to file a response to the petition by February 28. Petitioners waive the 14-day period in this Court's Rule 15.5 between the filing of a brief in opposition and the distribution of the petition to the Court. If the Court grants the petition, petitioners move for the Court to adopt a briefing schedule that would require petitioners to file their opening brief on the day that Hawai'i's brief is due (March 23), and the government to file a responding brief on the same day it files its reply brief in *Hawai'i*. Petitioners are prepared to waive their reply brief to ensure that the cases are heard together this Term.

This case involves a challenge to Proclamation No. 9645, 82 Fed. Reg. 45,161 (Sept. 27, 2017), the same policy at issue in *Hawai'i*. Although the Court has granted certiorari on the Establishment Clause question in the *Hawai'i* case, the instant case presents the better vehicle for this Court's consideration of the constitutional question because the lower courts in *Hawai'i* only addressed the statutory claims. In this case, by contrast, the Fourth Circuit based its decision entirely on the petitioners' claim that the Proclamation violates the Establishment

Clause, and the district court made extensive factual findings specific to the Proclamation's religious purpose. Moreover, unlike *Hawai'i*, this case squarely presents the question of whether injunctive relief should be limited to individuals with a bona fide relationship to a U.S. person or entity—a question of enormous practical importance, on which the petitioners lost below.

As explained in the petition, granting certiorari in this case will allow the Court both to fully consider the proper scope of injunctive relief, and to ensure that the Court is presented with the best vehicle for resolving the Establishment Clause question. Consolidation will bring finality to the parties and the public by guaranteeing that all questions pertaining to the Proclamation can be resolved this Term. See *United States v. Thomas*, 361 U.S. 950 (1960) (granting certiorari in a second case and consolidating so that “the entire matter [can] be considered at one time”); *Gratz v. Bollinger*, 539 U.S. 244, 260 (2003) (granting certiorari in a second case to consider the challenged policy “in a wider range of circumstances”).

Expedited consideration of the petition for certiorari is necessary to ensure that *IRAP* and *Hawai'i* can be briefed on the same schedule, just as they were last year when challenges to the Proclamation's predecessor ban were before this Court. If the Court grants the petition at its March 2 conference, petitioners are prepared to file their brief at the same time as *Hawai'i*, the government can file its response at the same time it files its reply in *Hawai'i*, and petitioners would waive their reply. The cases can then be argued on the same date and decided simultaneously.

In order to facilitate the Court's consideration of the petition at its March 2 conference, petitioners respectfully request expedited consideration of this motion. To that end, petitioners move for the Court to direct the government to respond to this motion by Monday, February 26. If the motion is granted, petitioners request that the government be directed to file its response to the petition by Wednesday, February 28.

Dated: February 23, 2018

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