



U.S. Department of Justice

Office of the Solicitor General

Washington, D.C. 20530

September 11, 2019

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

Re: Barr, et al. v. East Bay Sanctuary Covenant, et al., No. 19A230

Dear Mr. Harris:

On August 26, 2019, the government filed an application for a stay of an injunction issued by the district court on July 24, 2019, pending the government's appeal of the injunction to the Ninth Circuit and, if necessary, pending further proceedings in this Court. See Stay Appl. 1-40. On September 9, 2019, the district court issued an order restoring the nationwide scope of its injunction. Yesterday, the government filed a supplemental brief explaining that the government's application for a stay of the July 24, 2019 injunction remains ripe and requesting in the interim an administrative stay of the district court's September 9, 2019 order. See Gov't Supp Br. 1-11.

After the government filed its supplemental brief yesterday, the Ninth Circuit issued an order administratively staying the district court's September 9, 2019 order. A copy of that order is attached. The Ninth Circuit's order makes it unnecessary at this time for this Court to consider the government's request for an administrative stay of the September 9, 2019 order, but does not affect the government's application for a stay of the July 24, 2019 injunction. The Ninth Circuit's order restores the state of affairs that existed when the government filed its stay application. That application remains ready for this Court's resolution regardless of whether, after briefing is completed next week, the Ninth Circuit panel considering the underlying appeal ultimately decides that the injunction should be nationwide or circuitwide. Indeed, the additional proceedings in the lower courts—which have resulted in the rule's implementation, cessation, and implementation again in the Fifth and Tenth Circuits—highlight the harms to the Executive Branch of relief that extends beyond the parties to the case.

I would appreciate it if you could distribute this letter and the attachment to the Members of the Court. Thank you for your cooperation.

Sincerely,

Noel J. Francisco
Solicitor General

cc: See Attached Service List

SERVICE LIST:

19A230 BARR V. EAST BAY SANCTUARY COVENANT, ET AL.

LEE GELERT
AMERICAN CIVIL LIBERTIES UNION
125 BROAD ST.
18TH FLOOR
NEW YORK, NY 10004-2400
212-549-2616
LGELERT@ACLU.ORG

KATRINA LEIGH EILAND
ACLU FOUNDATION IMMIGRANTS'
RIGHTS PROJECT
39 DRUMM STREET
SAN FRANCISCO, CA 94111
415-343-0770
KEILAND@ACLU.ORG

LAWRENCE J. JOSEPH
LAW OFFICE OF LAWRENCE J. JOSEPH
1250 CONNECTICUT AVENUE, NW
SUITE 700-1A
WASHINGTON, DC 20036
202-355-9452
LJOSEPH@LARRYJOSEPH.COM

RUSTY DUANE CRANDELL
OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA
2005 N. CENTRAL AVENUE
PHOENIX, AZ 85004
602-542-8540
RUSTY.CRANDELL@AZAG.GOV

KAREN MUSALO
CENTER FOR GENDER & REFUGEE
STUDIES
200 MCALLISTER STREET
SAN FRANCISCO, CA 94102
415-565-4877
MUSALOK@UCHASTINGS.EDU

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

SEP 10 2019

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

EAST BAY SANCTUARY COVENANT;
et al.,

Plaintiffs-Appellees,

v.

WILLIAM P. BARR, Attorney General; et
al.,

Defendants-Appellants.

No. 19-16487

D.C. No. 4:19-cv-04073-JST
Northern District of California,
San Francisco

ORDER

The court has received appellants' "Renewed Emergency Motion under Circuit Rule 27-3 for Administrative Stay and Motion for Stay Pending Appeal." The motion is referred to the panel assigned to decide the merits of this appeal.

Appellants' request for an administrative stay is granted. The district court's September 9, 2019 order is stayed pending further order of the court.

Appellants' request for a decision on the emergency motion for a stay pending appeal by Friday, September 13, 2019 is denied.

The opposition to the emergency motion for a stay pending appeal is due on Monday, September 16, 2019. The reply in support of the motion is due on Thursday, September 19, 2019.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT