

February 27, 2025

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

Re: *Scott Bessent v. Hampton Dellinger*, No. 24A790

Dear Mr. Harris,

I write on behalf of Special Counsel Hampton Dellinger in response to the letter submitted last night by the Acting Solicitor General.

On February 21, 2025, this Court issued an order holding in abeyance—through February 26, 2025—the government’s application to vacate the district court’s temporary restraining order (TRO). In the five-day period from February 21 to February 25, pursuant to a district court order that consolidated consideration of interim relief with a final resolution of the merits of the case, the parties briefed cross-motions for summary judgment. In that expedited briefing, both parties presented arguments that had not been raised or fully developed at the TRO stage. Yesterday, February 26, the district court heard argument for two hours. After that hearing, the district court issued a short order extending the TRO for three additional days. In its order, the district court expressly recognized the importance of an expeditious resolution to facilitate appellate review, while also emphasizing the significance of the constitutional questions presented and its duty to afford appropriate consideration to the parties’ arguments in preparing a written opinion.

Under these circumstances, the Special Counsel has no objection to this Court holding the government’s application in abeyance for three more days. Once the district court resolves the merits of this case through summary judgment, as can be expected by March 1, the TRO will immediately dissolve and the government’s application to vacate the TRO will become moot. At that point, whichever party has suffered an adverse result in the district court will remain free to exercise appropriate appellate options—presumably starting in the D.C. Circuit Court of Appeals.

In its letter, the government advances arguments concerning an administrative action that Special Counsel Dellinger recently filed before the Merit Systems Protection Board (MSPB). The government does so despite failing to brief this issue to the district court (apart from a single unreasoned sentence in a footnote in its summary judgment reply brief)—and despite failing to

make any mention of this matter before the district court at the lengthy oral argument that occurred just yesterday. To be clear, the government nowhere asserts that the Special Counsel's action was in any respect legally unsupported. Regardless, the government misdescribes what occurred: it was the MSPB, not the Special Counsel, that "halt[ed]" certain personnel actions, Letter at 2, and it is the MSPB (not the Special Counsel) that will render any further decisions and issue any binding orders within the Executive Branch's internal administrative process concerning the propriety of those personnel actions. As the Special Counsel is fully prepared to explain when the government properly raises this issue within the litigation, there is no merit to the government's assertion that this administrative action supports its position. To the contrary, a more accurate understanding of that process confirms the Special Counsel's position concerning his for-cause removal protection.

That said, the government's attempt to raise these issues for the first time in this posture—and to object to a different TRO issued by a different judge in a different case—is a distraction. Had the government consulted with Special Counsel Dellinger before filing its letter (which it did not do), the government would have known that the Special Counsel does not object to its request to hold the application in abeyance for three additional days, which is the proper course of action.

I would appreciate it if you could circulate this letter to the Members of the Court.

Sincerely

A handwritten signature in black ink, appearing to read "Joshua Matz", written in a cursive style.

Joshua Matz

cc: See Attached Service List

**SCOTT BESSENT
HAMPTON DELLINGER**

Sarah M. Harris
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530
202-514-2000
Sarah.Harris@usdoj.gov

Jeffrey Paul DeSousa
Florida Office of the Attorney General
107 W. Gaines Street
Tallahassee, FL 32399
508-801-8425
jeffrey.desousa@myfloridalegal.com

Gregory Dolin
New Civil Liberties Alliance
4250 N. Fairfax Drive
Suite 300
Arlington, VA 22203
202-413-4177
Greg.Dolin@ncla.legal

Jon M. Greenbaum
Justice Legal Strategies PLLC
1455 Pennsylvania Avenue NW
Suite 400
Washington, DC 20004
202-601-8678
jgreenbaum@justicels.com

Steven A. Hirsch
Keker, Van Nest & Peters, LLP
633 Battery Street
San Francisco, CA 94111
415-391-5400
shirsch@keker.com