GEORGETOWN LAW

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

Re: *Donald J. Trump, President of the United States, et al. v. State of Illinois and City of Chicago*, No. 25A443

Dear Mr. Harris:

In my amicus briefs in the above-captioned case, I referred to a 1917 memorandum of the Army Judge Advocate General to which I did not have access at the time I wrote. The principal function of this letter is to provide the Court with access to that memorandum. I also write to correct two minor, historical errors I included in my briefs.

1. On page 18 of my initial brief and on page 16 of my supplemental brief, I referred to a March 12, 1917 memorandum written by the Army Judge Advocate General, which I cited as "JAG Op. 58-100 (Mar. 12, 1917)"—a citation I adopted from the summary of the document in Digest of Opinions of the Judge Advocate General of the Army, 1912-1930, at 14-15 (1932), and in A Digest of Opinions of the Judge Advocate General, et al., from July 1, 1912 to April 1, 1917, at 676 (1917). As I explained in footnote 9 of my supplemental brief, "[b]ecause of the federal government shutdown, amicus has been unable to find an original copy of the March 1917 JAG opinion in the National Archives or other government libraries."

After the reopening of the National Archives, I was able to obtain a copy of the document in question, which I have posted at https://acrobat.adobe.com/id/urn:aaid:sc:US:5833cc0d-3f15-4258-aa79-7ebac50413f3. It is a five-page letter memorandum from Army Judge Advocate General Enoch H. Crowder to the Adjutant General, rather than a self-styled "opinion" of the JAG. I am also informed that "58-100" is not a reference to the memorandum itself, but is instead a topical classification code, akin to the numbers used in the Dewey decimal system, that indicated the topic of the document (in this case, "MILITIA. Calling into service of the United States.") for purposes of proper placement in the Army's internal filing system. Accordingly, a proper citation to the memorandum would be: Letter from the Army Judge Advocate General to the Adjutant General (Mar. 12, 1917) (on file with the Nat'l Archives, Records of the Office of the Judge Advocate General (Army), Record Group 153, General Correspondence 1912-1917, Box 70, Folder 58-100).

The analysis pertinent to the issue now before the Court, with respect to the statutory term "the regular forces," appears on the page marked "6," which is actually the fourth page of the five-page 1917

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memorandum. (My research librarian informs me that the first two numbered pages likely consisted of the "letter from the department commander, Eastern Department" to which JAG Crowder was responding, but that initiating letter does not appear in the file at the Archives.) *See also id.* at 3 (unpaginated) (describing the question to be addressed as "whether, in view of the present strained international relations of the United States, troops of the National Guard of the several States may be called by the President into Federal service to supplement the patently inadequate force of available regular troops in guarding munition plants and important railroad bridges and tunnels on main trunk lines between Boston, New York, Washington, and the West").

2. On pages 11-12 of my initial brief, and on page 14 of my supplemental brief, I accidently omitted a relevant adjective—"military"—in my quotation from Section 4 of the 1908 statute, which added a proviso to Section 5 of the 1903 Dick Act. The correct quotation is:

> *Provided* further, That when the **military** needs of the Federal Government arising from the necessity to execute the laws of the Union, suppress insurrection, or repel invasion, can not be met by the regular forces, the organized militia shall be called into the service of the United States in advance of any volunteer force which it may be determined to raise.

Act of May 27, 1908, ch. 204, § 3, 35 Stat. 399, 400 (emphasis added). I apologize for the omission of the term "military" in the quotations that appeared in my briefs.

3. On page 16 of my initial brief, I referred to Luke Edward Wright as the "Secretary of State" in 1908. That was an inadvertent error. As the citation to Wright's report on that page indicates, Wright was the Secretary of War, not the Secretary of State. I apologize for that error, as well.

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Please distribute this letter to the Court if it is appropriate to do so. Thank you for your attention to this matter.

Sincerely,

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cc:

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