

Case No. 10-2102

**IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

JOHN DOE,

Plaintiff-Appellee,

v.

CITY OF ALBUQUERQUE,

Defendant-Appellant,

**On Appeal from the United States District Court
for the District of New Mexico
The Honorable M. Christina Armijo
United States District Judge
Case No. 08-CV-1041 MCA/LFG**

**APPELLEE JOHN DOE'S MOTION FOR RELEASE OF ORAL
ARGUMENT RECORDING**

Before **BRISCOE**, Chief Judge, **EBEL** and **O'BRIEN**, Circuit Judges.

**ROTHSTEIN, DONATELLI, HUGHES,
DAHLSTROM, SCHOENBURG
& BIENVENU, LLP**

Richard W. Hughes, Esq.
Brendan K. Egan, Esq.
1215 Paseo de Peralta
Santa Fe, NM 87501
(505) 988-8004

ACLU of NEW MEXICO

Laura Schauer Ives, Esq.
Managing Attorney
P.O. Box 566
Albuquerque, NM
(505) 243-0046

SANDERS & WESTBROOK, PC

Maureen A. Sanders, Esq.
Co-Legal Director ACLU of New Mexico
102 Granite Avenue, NW
Albuquerque, NM 87102
(505) 243-2243

OF COUNSEL

**APPELLEE JOHN DOE'S MOTION FOR RELEASE OF ORAL
ARGUMENT RECORDING**

Pursuant to Tenth Circuit Local Rule 34.1(E)(1), and for purposes related to this Court's Order of October 20, 2011 requesting supplemental briefing, Appellee John Doe respectfully moves this Court for the release of the oral argument audio recordings. Oral argument in this matter was held on January 19, 2011 before the Honorable Chief Judge Briscoe, and the Honorable Circuit Judges Ebel and O'Brien.

Appellee moves this Court for the release of the audio recording of the oral argument to identify any potentially relevant issues discussed during oral argument that may relate to pertinent issues for Appellee's forthcoming Supplemental Brief, as requested by this Court and due on November 29, 2011. Depending on the content of the oral argument recordings, Appellee may reference and/or quote relevant portions, if any at all.

Counsel for Appellant City of Albuquerque, Gregory S. Wheeler, concurs in this motion.

WHEREFORE Appellee John Doe respectfully moves this Court for the release of the complete audio recording of the oral argument in the instant appeal, held on January 19, 2011. Appellee John Doe further requests that, if the Court is so inclined to release the audio recordings from oral argument, that it do so before

the deadline (November 29, 2011) for both parties to file their respective Supplemental Brief.

Respectfully submitted,

ROTHSTEIN, DONATELLI, HUGHES,
DAHLSTROM, SCHOENBURG &
BIENVENU, LLP

/s/ Brendan K. Egan 11.1.11

Richard W. Hughes
Brendan K. Egan
1215 Paseo de Peralta
Post Office Box 8180
Santa Fe, NM 87504-8180
(505) 988-8004

AMERICAN CIVIL LIBERTIES UNION OF
NEW MEXICO

Laura Schauer Ives
Managing Attorney
P.O. Box 566
Albuquerque, NM 87103
(505) 243-0046

SANDERS & WESTBROOK, PC

Maureen A. Sanders
Co-Legal Director ACLU of New Mexico
102 Granite Avenue, NW
Albuquerque, NM 87102
(505) 243-2243

OF COUNSEL

Attorneys for Plaintiff-Appellee

**CERTIFICATE OF COMPLIANCE WITH FEDERAL RULE OF
APPELLATE PROCEDURE 32**

As required by Federal Rule of Appellate Procedure 32(a)(5)(A) and (7)(C), I certify that this brief is proportionally spaced, has a typeface of 14 points, and contains 223 words. I relied on my word processor, WordPerfect X4, to obtain the count. I certify that the information contained in this certification is true and correct to the best of my knowledge and belief formed after a reasonable inquiry.

/s/ Submitted Electronically 11/1/2011

Brendan K. Egan

CERTIFICATE OF DIGITAL SUBMISSION

I hereby certify that all required privacy redactions have been made and, with the exception of those redactions, every document submitted in Digital Form or scanned PDF format is an exact copy of the written document filed with the Clerk. I also certify that the digital submissions have been scanned on November 1, 2011 for viruses with the most recent version of a commercial virus scanning program Malwarebytes' Anti-Malware Version 5990 and, according to the program, are free of viruses.

/s/ Submitted Electronically 11/1/2011

Brendan K. Egan

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 1, 2011, I filed the foregoing pleading electronically through the CM/ECF system and caused the following parties and/or counsel to be served electronically through the CM/ECF system. I also certify that on November 2, 2011, I mailed three (3) bound copies of the foregoing pleading by U.S. Mail, postage prepaid, to the Tenth Circuit Court of Appeals, and one (1) bound copy has been mailed by U.S. Mail, postage prepaid, to the following parties:

Gregory S. Wheeler &
Peter H. Pierotti
Assistant Albuquerque City Attorneys
P.O. Box 2248
Albuquerque, NM 87103

Attorneys for Defendant-Appellant

/s/ Submitted Electronically 11/1/2011
Brendan K. Egan