

No. 17-1351

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

INTERNATIONAL REFUGEE ASSISTANCE PROJECT, et al.
Plaintiffs-Appellees,

v.

DONALD J. TRUMP, et al.
Defendants-Appellants

On Appeal from an Order of the United States District Court
for the District of Maryland (Chuang, J.)
Civil Action No. TDC-17-0361

**MOTION FOR LEAVE TO FILE BRIEF OF T.A.
AS AMICUS CURIAE IN OPPOSITION TO APPELLANTS' MOTION FOR
A STAY PENDING EXPEDITED APPEAL**

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Date: March 31, 2017

**MOTION FOR LEAVE TO FILE BRIEF OF T.A.
AS *AMICUS CURIAE* IN OPPOSITION TO APPELLANTS’ MOTION FOR
A STAY PENDING EXPEDITED APPEAL**

Pursuant to Rule 29 of the Federal Rules of Appellate Procedure, *amicus curiae* T.A.,¹ by and through undersigned counsel, respectfully moves for leave to file a 2,563-word *amicus curiae* brief in opposition to Appellants’ Motion for a Stay Pending Expedited Appeal. *Amicus* states as follows:

1. T.A. is a Muslim and United States citizen who was raised in Yemen. T.A.’s father and many members of T.A.’s extended family hold Yemeni passports and reside abroad. T.A. is affected by the Amended Executive Order issued on March 6, 2017, entitled “Protecting the Nation from Foreign Terrorist Entry into the United States” (the “Amended Executive Order”). Under the Amended Order, much of T.A.’s extended family—including his father, aunts, uncles, and cousins—are barred from entering the United States. Accordingly, T.A. has a direct interest in the outcome of this case.

¹ This brief uses initials, rather than T.A.’s full name, to reduce the risk of potential reprisals to T.A. or his family members. *Doe v. Pub. Citizen*, 749 F.3d 246, 273 (4th Cir. 2014) (use of pseudonym may be appropriate, even for a party, when “identification poses a risk of retaliatory physical or mental harm to the requesting party or even more critically, to innocent non-parties”) (quoting *James v. Jacobson*, 6 F.3d 233, 238 (4th Cir. 1993)).

2. T.A. was granted leave and filed an *amicus* brief in the District of Hawaii in *Hawaii v. Trump*, No. 1:17-CV-00050 (D. Haw. Mar. 13, 2017), ECF. No. 169. District Judge Derrick K. Watson cited T.A.'s brief in his Memorandum Opinion, dated March 15, 2017, restraining enforcement of Sections 2 and 6 of the Amended Order. *Hawaii v. Trump*, No. 1:17-CV-00050 (D. Haw. Mar. 15, 2017) ECF. No. 219, at *37 n.16, *42.

3. The proposed *amicus* brief, filed herewith, is helpful to the Court. It shows how lack of irreparable injury to national security during the expedited appeal before this Court provides one dispositive ground for denying the Government's motion to stay the District Court's preliminary injunction. In particular, the proposed *amicus* brief shows how the un rebutted evidence establishes the absence of any harm from a continuation of the current, successful vetting procedures of the United States during the brief period that the expedited appeal will be pending before this Court.

4. All parties have consented to T.A.'s filing of the proposed *amicus* brief.

5. The proposed *amicus* brief contains 2,563 words. Neither the Federal Rules of Appellate Procedure nor the Local Rules for the Fourth Circuit address the length of an *amicus* brief filed in opposition to a motion for a stay. One analogue is the 2,600-word limit for *amicus* briefs filed concerning petitions for panel rehearing.

2,600 words is also half of the 5,200 words permitted for the Government's Motion to Stay.

CONCLUSION

Amicus respectfully requests that the Court grant this motion for leave to file, and accept for filing, the *amicus curiae* brief attached as Exhibit A.

Dated: March 31, 2017

Respectfully submitted,

/s/ Richard D. Bernstein

Richard D. Bernstein

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Counsel for Amicus Curiae T.A.

CERTIFICATE OF CONFERENCE

The undersigned counsel conferred with counsel for the parties in this case, all of whom consent to the filing of the proposed amicus brief.

Executed March 31, 2017.

s/ Richard D. Bernstein

Richard D. Bernstein

*Attorney for Amicus Curiae
T.A.*

CERTIFICATE OF SERVICE

I certify that on this 31st day of March 2017, I served the foregoing Motion for Leave to File Brief of T.A. as *Amicus Curiae* in Support of Appellees via the Court's ECF system upon all counsel.

s/ Richard D. Bernstein

Richard D. Bernstein

*Attorney for Amicus Curiae
T.A.*

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(a)(7)(C), the undersigned counsel certifies that this motion:

(i) complies with the typeface requirements of Rule 32(a)(5) and the type style requirements of Rule 32(a)(6) because it has been prepared using Microsoft Office Word and is set in Times New Roman font in a size equivalent to 14 points or larger and,

(ii) complies with the length requirement of Rule 27(d)(2) because it is 2,563 words.

Dated: March 31, 2017

/s/ Richard D. Bernstein
Richard D. Bernstein
WILLKIE FARR & GALLAGHER LLP