

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

No. 10-16645

STATE OF ARIZONA, et al.,

Defendants-Appellants.

**UNITED STATES' OPPOSITION TO
AMICI CURIAE FRIENDLY HOUSE PLAINTIFFS'
MOTION TO PARTICIPATE IN ORAL ARGUMENT**

The United States respectfully opposes the request by *amici curiae Friendly House* Plaintiffs to participate in oral argument on November 1.

The United States has no objection to the participation of the *Friendly House* Plaintiffs as *amici* in this matter; the United States expressly consented to their filing of an *amicus* brief in this Court. Indeed, numerous persons have filed *amicus* briefs on both sides of this appeal, and the United States gave consent to all *amici* on either side that sought its consent to file a brief, and has filed no opposition to any motion to file an *amicus* brief here.

Allowing *amici* to participate at oral argument, however, would necessarily distract from the central issues in this case, and would needlessly consume oral

argument time. If this Court were to grant these *amici*'s motion, it is unclear on what basis similar requests by other *amici* to participate in oral argument could be denied. Given the limited time available for oral argument, oral argument time cannot realistically be divided among the parties and the potentially substantial number of *amici* who might wish to participate in their support.

Considered on its own terms, *amici*'s motion also demonstrates why the request for argument time should be denied. As the motion notes, the district court found that plaintiffs' request for a preliminary injunction against S.B. 1070 was moot in light of the preliminary injunction entered in this case. It is unclear on what basis *amici*'s interest in obtaining an injunction against S.B. 1070 meaningfully differs from the United States's interest in defending the present injunction.

The motion also refers to a possible Fourth Amendment issue that was part of the *Friendly House* case but is not a part of this case. As the motion expressly recognizes, that issue is not present in this appeal, and *amici* disclaim any intention to address the issue if they were to participate in oral argument. *See* Motion at 2 n.2.

CONCLUSION

For the foregoing reasons, *amici Friendly House* Plaintiffs' motion to participate in oral argument should be denied.

Respectfully submitted,

TONY WEST
Assistant Attorney General

DENNIS K. BURKE
United States Attorney

s/ Thomas M. Bondy
MARK B. STERN
THOMAS M. BONDY
MICHAEL P. ABATE
DANIEL TENNY
(202) 514-4825
Attorneys, Appellate Staff
Civil Division, Room 7535
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

OCTOBER 2010

CERTIFICATE OF SERVICE

I hereby certify that I filed the foregoing with the United States Court of Appeals for the Ninth Circuit by using the Court's Appellate CM/ECF system on October 15, 2010. Participants in the case are registered CM/ECF users and service will be accomplished by the appellate CM/ECF system.

s/ Thomas M. Bondy _____
Thomas M. Bondy