

10-16645

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**The United States of America,**  
Plaintiff-Appellee,

vs.

**The State of Arizona; and Janice K.  
Brewer, Governor of the State of  
Arizona, in her official capacity,**

Defendants-Appellants.

On Appeal from the United States  
District Court for the District of Arizona,  
Phoenix Division Case No. CV 10-1413-  
PHX-SRB, The Honorable Susan R.  
Bolton, District Judge

**MOTION BY COCHISE COUNTY SHERIFF LARRY A. DEVER  
FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF IN SUPPORT OF  
APPELLANTS STATE OF ARIZONA AND JANICE K. BREWER,  
GOVERNOR OF THE STATE OF ARIZONA**

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Movant Larry A. Dever, Cochise County Sheriff, in his official capacity, pursuant to Rule 29(a) of the Federal Rules of Appellate Procedure, respectfully moves the Court for leave to participate as *amicus curiae* and file the accompanying brief in support of the Appellants.

Sheriff Dever has an interest in supporting Appellants' in this matter due to the vast illegal immigration problems that plague Arizona. Sheriff Dever's ability to enforce the "Support Our Law Enforcement and Safe Neighborhoods Act," ("SB 1070") in Cochise County has been jeopardized by the district court's decision to enjoin key provisions of the SB 1070.

Sheriff Dever is the Sheriff of Cochise County, Arizona. Cochise County shares its entire southern border with Mexico. Cochise County lies in the southeast corner of Arizona and shares 83.5 miles of international border with Mexico. Thirty of those statutory miles are private property. The remainder of the boundary is property owned by the State of Arizona (State Trust Land), and the U.S. Government (Forest Service, Bureau of Land Management, Park Service and U.S. Fish and Wildlife.). There are two Ports of Entry (Douglas and Naco.) The remainder is defined by metal fence, vehicle barriers and barbed wire. Cochise County is part of the Tucson Sector of the Border Patrol which is the busiest sector in the country, accounting for almost half of all the marijuana seized and illegal aliens apprehended in the entire nation. While this area is one of the primary

smuggling corridors, most of the contraband and aliens move through Cochise County on their way to the major transportation hub cities of Tucson and Phoenix.

Sheriff Dever was elected to his first term as Cochise County Sheriff in 1996 and is currently serving his fourth term as Cochise County Sheriff. Sheriff Dever sits on the National Sheriff Association's ("NSA") Board of Directors, and serves as Chairman of the NSA's Border Issues Subcommittee. Sheriff Dever is also a Past President of the Arizona Sheriff's Association. Additionally, Sheriff Dever is a member of the U.S. Attorney's Law Enforcement Coordinating Committee, the Arizona Border Sheriff's Alliance, the Border States Sheriff's Association, the Western States Sheriff's Association, the International Association of Chiefs of Police and the National Association of Search and Rescue.

Sheriff Dever is intimately familiar with the law enforcement procedures related to illegal immigration and the law enforcement procedures that will be followed if SB 1070 is implemented and enforced.

Sheriff Dever's *Amicus Curiae* Brief is desirable to the Court because it will demonstrate the statutory construction errors made by the district court in interpreting Section 2B of SB 1070. Additionally, Sheriff Dever's *Amicus Curiae* Brief will show that Section 2B is constitutional, and therefore, the district court erred in finding that Section 2B is likely preempted. Furthermore, the matters contained in Sheriff Dever's brief are relevant to the disposition of the case

because it will demonstrate the errors made by the district court in enjoining key provisions of SB 1070 and why the District Court's ruling must be reversed.

For the foregoing reasons, Sheriff Dever respectfully requests that this Court grant the present Motion, allow Sheriff Dever to participate as an *amicus curiae* and consider the accompanying *Amicus Curiae* Brief.

RESPECTFULLY SUBMITTED this 2<sup>nd</sup> day of September, 2010.

**ROSE LAW GROUP, PC**

*s/Brian M. Bergin*

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## CERTIFICATE OF SERVICE

I hereby certify that on September 2, 2010, the foregoing was electronically filed with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

I s/Brian M. Bergin  
Attorneys for *Amicus Curiae* Larry A.  
Dever, Cochise County Sheriff, in his  
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