

No. 10-16696

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

KRISTIN PERRY, et al.,
Plaintiffs-Appellees,

v.

ARNOLD SCHWARZENEGGER, et al.,
Defendants,

and

DENNIS HOLLINGSWORTH, et al.,
Defendant-Intervenors-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA, CASE No. 3:09-cv-02292
(HONORABLE VAUGHN R. WALKER)

MOTION FOR LEAVE TO FILE OVERSIZED *AMICUS CURIAE* BRIEF

Gage Raley
4-5-5-E505 Kashiihama, Higashi-ku
Fukuoka-shi 813-0016, Japan
Phone: (202) 695-2415
Email: gageraley@gmail.com

In Pro Se as Amicus Curiae

Dated: October 27, 2011

Gage Raley (“Movant”) respectfully requests that this Court grant permission to file the accompanying *amicus* brief, which exceeds the type-volume limitations set forth in Federal Rule of Appellate Procedure 29(d). In support of this Motion, Movant states as follows:

1. Fed. R. App. P. 29(d) states “[e]xcept by the court’s permission, an *amicus* brief may be no more than one-half the maximum length authorized by these rules for a party’s principal brief.” Fed. R. App. P. 32(7)(B)(i) limits a principal brief to 14,000 words, and half of that total is 7,000.

2. Including headings, footnotes, and quotations, this brief contains 11,420 words, which is between the maximum length for a principal brief and the maximum length for an appellate brief.

3. Movant respectfully submits that an exemption from the word limit is appropriate in this circumstance because the brief presents entirely original facts and arguments, and thus requires more elucidation than would the typical *amicus curiae* which merely supplements facts and arguments provided by a principal brief. An exemption is also warranted in this situation because this is an unusually complex case, as shown by the fact that the principal brief was 30,315 words long.

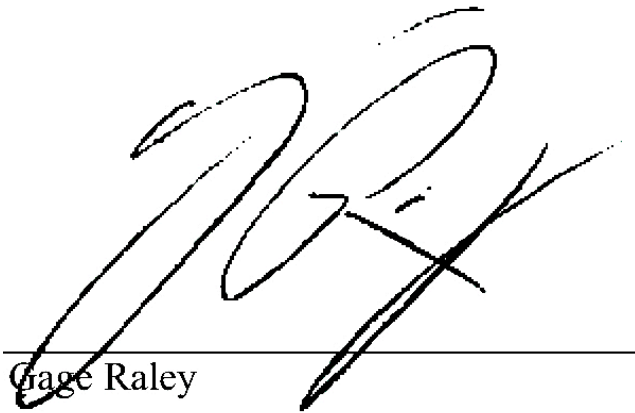
4. Furthermore, fundamental rights review under the Due Process Clause is very evidence-intensive, requiring a court to delve deeply into historical records. This brief supplies important facts and historical sources that are not contained in

either the trial record or the party briefs. An exemption from the type-volume limitation will allow this brief to include addition facts and authorities that will assist this Court in coming to an informed decision on the due process claim.

5. To date, Movant has used his best efforts to shorten the length of this brief, but believes that any further reductions would compromise the brief's analysis of the issues, and also deprive the Court of valuable facts and authorities.

WHEREFORE, Movant respectfully requests that this Court grant leave to file a *amicus* brief in excess of the 7,000 word limit provided by Rule 29(d).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Gage Raley', is written over a horizontal line. The signature is stylized and cursive.

Gage Raley

In Pro Se as Amicus Curiae

Dated: October 27, 2011

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on October 27, 2011.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system. I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

Anita L. Staver
Liberty Counsel
P.O. Box 540774
Orlando, FL 32854

Anthony R. Picarello Jr.
United States Catholic Conference
202-541-3300
3211 Fourth Street, N.E.
Washington, DC 20017

Arthur Bailey Jr.
HAUSFELD LLP
44 Montgomery Street
Suite 3400
San Francisco, CA 94104

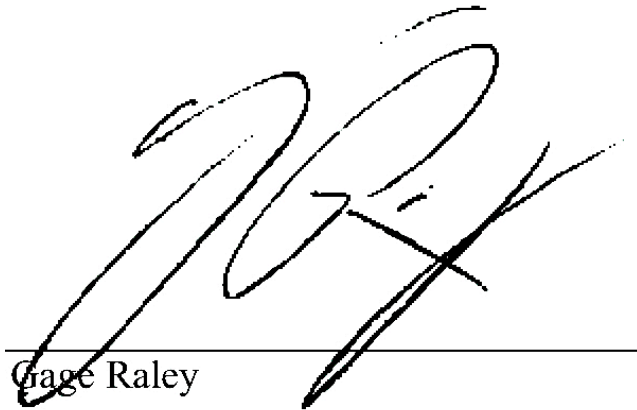
Lincoln C. Oliphant
Columbus School of Law
The Catholic University of America

Washington, DC 20064

Mathew D. Staver
LIBERTY COUNSEL
2nd Floor
1055 Maitland Center Commons
Maitland, FL 32751

Michael F. Moses
United States Catholic Conference
3211 Fourth Street, N.E.
Washington, DC 20017

Thomas Brejcha
Thomas More Society
Suite 440
29 S. La Salle Street
Chicago, IL 60603



A handwritten signature in black ink, appearing to read 'Graeg Raley', is written over a horizontal line. The signature is stylized and cursive.

In Pro Se as Amicus Curiae

Date: October 27, 2011