

UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT

ORAL ARGUMENT SCHEDULED FOR NOVEMBER 10, 2011

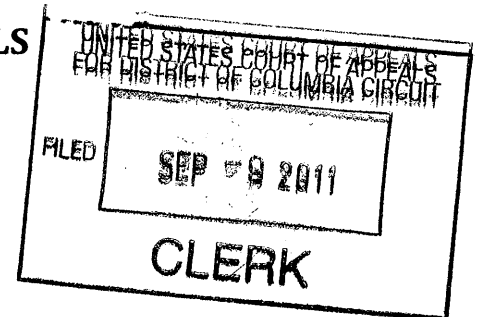
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No. 11-5092

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UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA CIRCUIT



MORRIS D. DAVIS,

Plaintiff-Appellee,

v.

JAMES H. BILLINGTON, Librarian of Congress
in his official capacity,

Defendant,

DANIEL P. MULHOLLAN in his individual capacity,

Defendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
No. 1:10-cv-00036-RBW
(Reggie B. Walton, J.)

**Motion of Dr. Louis Fisher and Mr. Morton Rosenberg
For Leave to File *Amici Curiae* Brief in Support of Plaintiff-
Appellee**

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Silver Spring, MD 20902
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Morton Rosenberg
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Submitted *pro se*.

September 9, 2011

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

(A) Parties.

Col. Morris D. Davis is the Plaintiff-Appellee in this matter. The Defendant-Appellant is Daniel P. Mulhollan. Dr. James H. Billington is a Defendant in the case before the district court; he was sued in his official capacity, and he is not a party to this appeal.

(B) Ruling Under Review.

The ruling under review is an Order denying Defendant-Appellant Mulhollan's motion to dismiss based on qualified immunity, which was issued by District Judge Reggie B. Walton on March 30, 2011 and entered as Docket Number 34. A Memorandum Opinion explaining the Order was issued the same day and entered as Docket Number 35. It is available at No. 1:10-cv-00036-RBW, 2011 WL 1237919 (D.D.C. Mar. 30, 2011).

(C) Related Cases

This case has not previously been before this Court or any other court. I am not aware of any related cases.



Louis Fisher
Morton Rosenberg

Dr. Louis Fisher and Mr. Morton Rosenberg respectfully request leave, pursuant to Federal Rules of Appellate Procedure 27 and 29(b) and D.C. Circuit Rule 27, to file an Amici Brief in Support of Plaintiff-Appellee. A copy of the proposed Amici Brief is attached. Plaintiff-Appellee has consented to the filing of this amici brief. Defendant-Appellant has stated that he does not take a position on our request to file this brief.

Dr. Fisher worked for Congressional Research Service from September 1970 to March 2006, serving as Senior Specialist in Separation of powers. He then served as Specialist in Constitutional Law with the Law Library of Congress from March 2006 to August 2010. Dr. Fisher has published twenty books and over 400 articles in law reviews, political science journals, encyclopedias, and other publications. He has testified before congressional committees 50 times on a range of constitutional issues. Many of his articles, books, and congressional testimony are available on his personal webpage, <http://www.loufisher.org>. He has received a number of book awards and scholarly honors.

Mr. Rosenberg worked for Congressional Research Service from December 1972 to August 2008 and served as Specialist in American Public Law. Mr. Rosenberg has published widely in law reviews and testifies frequently before congressional committees on legal and constitutional matters. His monograph, *When Congress Comes Calling: A Primer on the Principles, Practices, and*

Pragmatics of Legislative Inquiry, was published by The Constitution Project in 2009. In 2005, he received the Mary C. Lawton Award for Outstanding Public Service by the American Bar Association Section of Administrative Law and Regulatory Practice.

As grounds for this motion, we state the following:

1. As former longtime senior CRS analysts, we are interested in this case.

For that reason, we submitted separate declarations in the Morris D. Davis case in district court in 2010. Because the actions taken against Col. Davis by CRS Director Daniel P. Mulhollan may potentially damage the integrity and competence of the agency and weaken the institutional strength of Congress, we believe that this brief will provide an important context and background on CRS practices and policies.

2. Throughout our careers at the Library of Congress, we regularly expressed views on public policy questions in CRS memos and outside publications, often taking positions on controversial areas of public policy while contributing professional assistance to lawmakers and congressional staff.

For the foregoing reasons, the motion should be granted.

Dated: September 9, 2011



Louis Fisher
Morton Rosenberg

CERTIFICATE OF SERVICE

We hereby certify that on September 9, 2011, we filed and served via first-class U.S. mail our Motion for Leave to file an Amici Brief in Support of Plaintiff-Appellee, to be served upon the following counsel of record:

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