

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

United States of America,

Plaintiff-Appellee,

v.

State of Arizona and Janice K. Brewer,
Governor of The State of Arizona, In
Her Official Capacity,

Defendants-Appellants.

Case No. 10-16645

Appeal from the United States
District Court for the District of
Arizona

No. CV 10-1413-PHX-SRB

**MOTION PURSUANT TO CIRCUIT RULES 27-12 AND 34-3
TO EXPEDITE BRIEFING AND HEARING SCHEDULE FOR
PRELIMINARY INJUNCTION APPEAL**

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Arizona, and the State of Arizona

Pursuant to Ninth Circuit Rules 27-12 and 34-3, Defendants-Appellants move the Court for an order expediting the briefing and hearing schedule for this preliminary injunction appeal. The U.S. District Court for the District of Arizona has issued a preliminary injunction enjoining certain provisions of the “Support Our Law Enforcement and Safe Neighborhoods Act,” as amended (“SB 1070” or the “Act”), which would have become effective today, July 29, 2010. The sole issue for this Court to consider on appeal is “whether the district court relied on an erroneous legal premise or abused its discretion.” *Gregorio v. Wilson*, 54 F.3d 599, 600 (9th Cir. 1995). Defendants-Appellants propose the following briefing and hearing schedule for this appeal:

- Opening Brief due August 12, 2010
- Response Brief due August 26, 2010
- Reply Brief due September 2, 2010
- Oral Argument, week of September 13, 2010

GROUND FOR MOTION

This appeal involves an issue of significant importance—the State of Arizona’s right to implement a law its Legislature enacted to address the irreparable harm Arizona is suffering as a result of unchecked unlawful immigration. Governor Brewer signed SB 1070 into law on April 30, 2010. On July 6, 2010, Plaintiff-Appellee commenced the underlying action challenging the

constitutionality of SB 1070 and filed and served its 53-page Motion for Preliminary Injunction and Motion for Issuance of an Expedited Briefing Schedule. *See* Minute Entry, dated July 7, 2010, attached as Exhibit A. The district court granted Plaintiff-Appellee's request for an expedited briefing schedule on its Motion for Preliminary Injunction, requiring Defendants-Appellants to file their response by 5:00 p.m. on July 20, 2010 and setting the hearing for July 22, 2010. *See id.* On July 28, 2010, the district court entered its Order granting in part and denying in part Plaintiff-Appellee's Motion for a Preliminary Injunction and enjoining the enforcement of Sections 3 and 6 of SB 1070 and portions of Sections 2 and 5. *See* July 28, 2010 Order, attached as Exhibit B.

Good cause exists to expedite this appeal under Ninth Circuit Rules 27-12 and 34-3 and 28 U.S.C. § 1657 because it is an appeal of a preliminary injunction enjoining several key provisions of SB 1070 that the Arizona Legislature determined were critical to address serious criminal, environmental, and economic problems Arizona has been suffering as a consequence of illegal immigration and the lack of effective enforcement activity by the federal government. An expedited briefing schedule will not unreasonably burden the parties because it is consistent with the expedited briefing schedule Plaintiff-Appellee received for the initial ruling on its Motion for Preliminary Injunction, the issues on appeal are narrower than those the district court addressed and have largely been briefed by the parties,

and the parties are well represented with sufficient counsel to brief the issues under the schedule Defendants-Appellants have proposed.

STATUS OF TRANSCRIPT

The district court has held hearings on three lawsuits challenging the constitutionality of SB 1070. Defendants-Appellants currently have uncertified copies of the transcripts for all hearings and are in the process of obtaining the certified copies.

OPPOSING COUNSEL'S POSITION

Counsel for Plaintiff-Appellee agrees that the appeal should proceed on an expedited schedule but has stated that the schedule set forth in Ninth Circuit Rule 3-3(b) should apply.

CONCLUSION

Good cause exists to expedite Defendants-Appellants' appeal of the preliminary injunction the district court issued enjoining the enforcement of certain provisions of SB 1070. The expedited schedule is consistent with the expedited briefing schedule Plaintiff-Appellee received at the district court level and the proposed schedule is both reasonable and critical given the importance of the issues presented and the fact that the citizens of Arizona are suffering irreparable harm in terms of their health, safety, and welfare every day that the injunction remains in force.

RESPECTFULLY SUBMITTED this 29th day of July, 2010.

SNELL & WILMER L.L.P.

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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of July, 2010, I electronically filed the foregoing MOTION PURSUANT TO CIRCUIT RULES 27-12 AND 34-3 TO EXPEDITE BRIEFING AND HEARING SCHEDULE FOR PRELIMINARY INJUNCTION APPEAL 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 counsel who are registered CM/ECF users will be served by the Appellate CM/ECF System.

s/ Joseph G. Adams

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