

No. 14-16840

IN THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

KAMALA D. HARRIS,
in her official capacity as the Attorney General of California,
Defendant-Appellant,

vs.

JEFF SILVESTER, et. al.,
Plaintiffs-Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
Case No.: 1:11-CV-02137-AWI-SKO
(Hon. Anthony W. Ishii, Presiding)

**OBJECTION AND OPPOSITION TO APPELLANTS'
STREAMLINED REQUEST FOR EXTENSION OF TIME TO
FILE OPENING BRIEF**

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OBJECTION AND/OR OPPOSITION TO EXTENSION OF TIME

Plaintiff-Appellees hereby object to, and oppose Defendant-Appellant KAMALA HARRIS's request for an extension of time to file their Opening Brief. The proposed new due date is March 25, 2015.¹

This objection and/or opposition is based on readily ascertainable facts from the Court's own record in this case. Defendant-Appellant has already filed an: URGENT MOTION TO STAY ENFORCEMENT OF JUDGMENT. [DktEntry 15] That motion for stay was opposed by the Plaintiff-Appellees. [DktEntry 17]

That opposition was based on the trial court's finding that fundamental constitutional rights were being violated by California's policies and that immediate enforcement of the remedy ordered by the trial court was important to insure the integrity of those rights.

The motions panel that heard HARRIS's application granted the motion for stay in an order filed January 12, 2015. However that same panel specifically made an order that: “ *The briefing schedule established previously remains in effect.*” [DktEntry 20] This is a

¹ As this document was being prepared for filing, the notice that HARRIS's streamline request had been granted was received at 2:05:44 on February 3, 2015. This action by the Court does not change the nature of Plaintiff-Appellees' objection and/or opposition.

clear and unequivocal indication from the Court that delays should not be tolerated without good cause.

Defendant-Appellees' request for an extension of time to file their opening brief is a *de facto* attempt to have this Court reconsider its order without good cause for that reconsideration, nor good cause for any further the delay in this matter.

The judgment in this case was filed in August of 2014. It has been on this Court's Appellate Docket since September of 2014. The State of California commands vast legal resources when it deems a matter urgent. They have tendered no "good cause" for delaying a case that impacts fundamental rights.

The streamlined request for an extension of time by the Defendant-Appellants should be denied in accordance with this Court's January 12, 2015 order that the previous briefing schedule should remain in effect.

Respectfully Submitted on February 3, 2015,

/s/ Donald Kilmer, Attorney for Appellees.

CERTIFICATE OF SERVICE

On February 3, 2015, I served the foregoing **OBJECTION AND OPPOSITION TO APPELLANTS' STREAMLINED REQUEST FOR EXTENSION OF TIME TO FILE OPENING BRIEF** by electronically filing it with the Court's ECF/CM system, which generated a Notice of Filing and effects service upon counsel for all parties in the case.

I declare under penalty of perjury that the foregoing is true and correct. Executed February 3, 2015 in San Jose, California.

/s/ Donald Kilmer

Attorney of Record for Appellees