

No. 19-10754

In the United States Court of Appeals for the Fifth Circuit

RICHARD W. DEOTTE, ON BEHALF OF THEMSELVES AND OTHERS SIMILARLY SITUATED; YVETTE DEOTTE, ON BEHALF OF THEMSELVES AND OTHERS SIMILARLY SITUATED; JOHN KELLEY, ON BEHALF OF THEMSELVES AND OTHERS SIMILARLY SITUATED; ALISON KELLEY, ON BEHALF OF THEMSELVES AND OTHERS SIMILARLY SITUATED; HOTZE HEALTH & WELLNESS CENTER, ON BEHALF OF THEMSELVES AND OTHERS SIMILARLY SITUATED; BRAIDWOOD MANAGEMENT, INCORPORATED,

Plaintiffs-Appellees,

v.

STATE OF NEVADA,

Appellants.

On Appeal from the United States District Court
for the Northern District of Texas, Fort Worth Division
Case No. 4:18-cv-00825-O

**REPLY BRIEF IN SUPPORT OF APPELLEES' MOTION TO
SUSPEND BRIEFING AND STAY THE APPEAL PENDING THE
SUPREME COURT'S RULINGS IN LITTLE SISTERS OF THE
POOR V. PENNSYLVANIA, NO. 19-431, AND TRUMP V.
PENNSYLVANIA, NO. 19-454**

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Because Nevada is unopposed to the appellees' request to suspend briefing and stay the appeal, the appellees' motion should be granted.

The appellees disagree with Nevada's contention that a Supreme Court ruling in favor of the Trump Administration will require vacatur of the district's judgment under *United States v. Munsingwear, Inc.*, 340 U.S. 36, 39-40 (1950). But this issue should not be resolved until after the Supreme Court rules, and the appellees respectfully ask the Court to afford both parties an opportunity to brief the effects of the Supreme Court's ruling before resolving any *Munsingwear* issues.

CONCLUSION

The Court should suspend briefing and stay the appeal pending the Supreme Court's decisions in *Little Sisters of the Poor v. Pennsylvania*, No. 19-431, and *Trump v. Pennsylvania*, No. 19-454.

Respectfully submitted.

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Dated: January 27, 2020

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CERTIFICATE OF SERVICE

I certify that on January 27, 2020, this document was electronically filed with the clerk of the court for the U.S. Court of Appeals for the Fifth Circuit and served through CM/ECF upon:

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CERTIFICATE OF COMPLIANCE
with type-volume limitation, typeface requirements,
and type-style requirements

1. This motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2) because it contains 308 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f).
2. This motion complies with the typeface and type-style requirements of Fed. R. App. P. 27(d)(1)(E), 32(a)(5), and Fed. R. App. P. 32(a)(6) because it uses Equity Text B 14-point type face throughout, and Equity Text B is a proportionally spaced typeface that includes serifs.

Dated: January 27, 2020

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CERTIFICATE OF ELECTRONIC COMPLIANCE

Counsel also certifies that on January 27, 2020, this brief was transmitted to Mr. Lyle W. Cayce, Clerk of the United States Court of Appeals for the Fifth Circuit, via the court's CM/ECF document filing system, <https://ecf.ca5.uscourts.gov/>.

Counsel further certifies that: (1) required privacy redactions have been made, 5th Cir. R. 25.2.13; (2) the electronic submission is an exact copy of the paper document, 5th Cir. R. 25.2.1; and (3) the document has been scanned with the most recent version of VirusTotal and is free of viruses.

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