

No. 19-2222

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

CASA DE MARYLAND, INC., *et al.*,

Plaintiffs-Appellees,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, *et al.*,

Defendants-Appellants.

On Appeal from the United States District Court
for the District of Maryland

MOTION TO POSTPONE ORAL ARGUMENT

JEFFREY BOSSERT CLARK
Acting Assistant Attorney General

ROBERT K. HUR
United States Attorney

DANIEL TENNY
GERARD SINZDAK
JOSHUA DOS SANTOS
*Attorneys, Appellate Staff
Civil Division, Room 7215
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530
(202) 514-1838*

We respectfully request that this Court’s oral argument, tentatively scheduled for the Court’s argument session of January 22-29, 2021, be postponed. Counsel for plaintiffs have informed us that plaintiffs oppose this request and intend to file a written opposition.

On August 5, 2020, this Court vacated a preliminary injunction against a Department of Homeland Security rule, Inadmissibility on Public Charge Grounds, 84 Fed. Reg. 41,292 (Aug. 14, 2019). On September 14, plaintiffs sought rehearing en banc, urging among other things that this Court’s reasoning “conflicts with Second and Seventh Circuit decisions addressing the same issue, *New York v. U.S. Dep’t of Homeland Sec.*, 969 F.3d 42 (2d Cir. 2020); *Cook Cty. v. Wolf*, 962 F.3d 208 (7th Cir. 2020).” Pet. 2. This Court granted rehearing en banc, and has tentatively scheduled oral argument for the session scheduled for January 22-January 29, 2021.

The government has filed petitions for writs of certiorari in the *New York* and *Cook County* cases. *See Department of Homeland Sec. v. New York*, No. 20-449 (S. Ct.); *Wolf v. Cook County*, No. 20-450 (S. Ct.). The responses were filed in each case on December 9, 2020. In each case, the respondents had sought a further extension of time to file a response. The government opposed delay on the ground that the filing of a response by December 9 would allow the Supreme Court to consider the matter at its conference of January 8, 2021, and to decide the issue this term if the Court grants review. On November 27, 2020, the Supreme Court denied the extensions.

If the Supreme Court grants review, there would be no need for this Court and the parties to expend further resources and effort on this case, since the Supreme Court's decision would likely be dispositive of the identical issues presented here. And because the Supreme Court is expected to consider those petitions in January 2021, if it grants further review, it likely would hear argument and issue a final decision before adjourning for the summer. It would therefore be prudent to hold this case until the Supreme Court decides whether to grant certiorari in *New York* or *Cook County* and, if it does, until it resolves those cases on the merits. We therefore respectfully request that oral argument be postponed, with the parties to file motions to govern further proceedings within 30 days after the Supreme Court acts on the government's petition in *New York* or *Cook County*.

Respectfully submitted,

JEFFREY BOSSERT CLARK
Acting Assistant Attorney General

ROBERT K. HUR
United States Attorney

s/ Daniel Tenny

DANIEL TENNY
GERARD SINZDAK
JOSHUA DOS SANTOS
*Attorneys, Appellate Staff
Civil Division, Room 7215
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530
(202) 514-1838
daniel.tenny@usdoj.gov*

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CERTIFICATE OF COMPLIANCE

This motion complies with the type-volume limit of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 410 words. This motion also complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5)-(6) because it was prepared using Microsoft Word 2016 in Garamond 14-point font, a proportionally spaced typeface.

s/ Daniel Tenny

DANIEL TENNY

CERTIFICATE OF SERVICE

I hereby certify that on December 10, 2020, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Second Circuit by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

s/ Daniel Tenny

DANIEL TENNY