

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

HUNTER DOSTER, et. al.	:	Case No. 22-3497; 22-3702
Plaintiffs/Appellees	:	
v.	:	
HON. FRANK KENDALL, et. al.	:	
Defendants/Appellants	:	

**PLAINTIFFS/APPELLEES REPLY IN SUPPORT OF THEIR MOTION TO  
CONSOLIDATE APPEALS**

Plaintiffs/Appellees, through Counsel, provide this Reply, suggesting consolidation, at least for purposes of argument and submission for decision. Yesterday, a three-judge panel, in a published order, denied the Government’s emergency motion for stay, but established an expedited briefing schedule in *Doster, et. al. v. Kendall, et. al.*, 22-3702 (hereinafter “*Doster II*”). The Panel likewise scheduled oral argument for October 19, 2022.

The Government’s Opposition to Consolidation was largely predicated upon its concerns over expediency and the scheduling in *Doster II*. Well, those concerns have now evaporated in light of the expedited briefing schedule established in that action.

Plaintiffs/Appellees Brief is due in *Doster, et. al. v. Kendall, et. al.*, 22-3497 (hereinafter “*Doster I*”) on September 22, 2022. Assuming the Government

promptly files its Reply, there is no reason that both of these matters cannot be heard for oral argument on October 19, 2022.

At bottom, the Government cannot (and does not) actually dispute that the appeals do not involve common facts. Rather, the Government argues that the issues that the Government raises in the appeals are different. Well, yes and no. *Doster I* involves the appeal of a preliminary injunction for the 18 named Plaintiffs. *Doster II* involves the appeal of a class-wide preliminary injunction for thousands in the class, and the class certification. But there are almost identical facts in both, and there are, and will be, common issues of law.

Irrespective of separate briefing schedules, there is no reason not to consolidate these appeals, especially given the expedited briefing ordered in *Doster II*. These appeals involve common questions of law and fact and should be joined. *Ne. Ohio Coal. for the Homeless v. Blackwell*, 467 F.3d 999 (6th Cir. 2006).

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I have served a copy of the foregoing upon all Counsel of record via  
CM/ECF, this 10th day of September, 2022.

/s/Christopher Wiest  
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