

2021 WL 1226734

Only the Westlaw citation is currently available.
United States Court of Appeals, Ninth Circuit.

Parto KAVOOSIAN; et al., Plaintiffs-Appellants,
v.

Antony J. BLINKEN, in his official capacity as
Secretary of State; et al., Defendants-Appellees.

No. 20-55325

FILED February 9, 2021

D.C. No. 8:19-cv-01417-JVS-DFM, Central District of
California, Santa Ana

Attorneys and Law Firms

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Press, Esquire, Trial, DOJ - U.S. Department of Justice,
Washington, DC, Aaron Robert Kollitz, Assistant U.S.,
USLA - Office of the U.S. Attorney, Los Angeles, CA,
for Defendants-Appellees Antony J. Blinken, in His
Official Capacity as Secretary of State, Joel D. Nantais, in
His Official Capacity as Passport And Visa Examiner of
U.S. Department of State, Erin R. Hoffman, in Official
Capacity as Member of U.S. Department of State's PP
9645 Brain Trust, Dean M. Kaplan, in Official Capacity
as Member of U.S. Department of State's PP 9645 Brain
Trust, Daniel E. Mickelson, in Official Capacity as
Member of U.S. Department of State's PP 9645 Brain
Trust, Alejandro N. Mayorkas, Acting Secretary of the
Department of Homeland Security, U.S. Department of
Homeland Security.

Joseph Anton Darrow, Esquire, Trial, DOJ - U.S.
Department of Justice, Washington, DC, Aaron Robert
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Attorney, Los Angeles, CA, for Defendant-Appellee
United States Department of State.

ORDER

*1 The panel directs the Clerk of Court to enter the
following order:

Plaintiffs-Appellants, a group of United States citizens
and lawful permanent residents and their Iranian national
visa applicant relatives, appeal the district court's
dismissal of their complaint for failure to state a claim on
which relief can be granted. Fed. R. Civ. P. 12(b)(6).
Because this case is moot, we dismiss the appeal.

Article III of the Constitution requires a case to present an
actual controversy which is "extant at all stages of review,
not merely at the time the complaint is filed." *Hamamoto*
v. Ige, 881 F.3d 719, 722 (9th Cir. 2018) (citation
omitted). "An appeal is moot if there exists no present
controversy as to which effective relief can be granted."
W. Coast Seafood Processors Ass'n v. Nat. Res. Def.
Council, Inc., 643 F.3d 701, 704 (9th Cir. 2011) (internal
quotation marks and citation omitted).

Plaintiffs-Appellants' operative complaint seeks
declaratory and injunctive relief regarding the
enforcement of Presidential Proclamation 9645 ("PP
9645"), which created "enhanced vetting" and waiver
procedures for visa applicants from certain countries,
including Iran. Proclamation No. 9645, 82 Fed. Reg.
45161 (Sept. 24, 2017). PP 9645 has since been revoked.
Proclamation No. 10141, 86 Fed. Reg. 7005 (Jan. 20,
2021). Accordingly, Plaintiffs-Appellants' appeal presents
no active controversy as to which this court could grant
relief. Plaintiffs-Appellants' argument that this case is
capable of repetition yet evades review is conclusory, as
they provide no evidence of a "reasonable expectation"
that they will confront this controversy again. *See W.*
Coast Seafood, 643 F.3d at 704. Indeed, the Proclamation
which rescinded PP 9645 now directs visa processing to
resume in a manner similar to that which
Plaintiffs-Appellants seek in their operative complaint. 86
Fed. Reg. 7005.

DISMISSED. Each party to bear its own costs.

All Citations

Not Reported in Fed. Rptr., 2021 WL 1226734

Footnotes

- * Antony J. Blinken is substituted for his predecessor, Michael R. Pompeo, as Secretary of State. Alejandro N. Mayorkas is substituted for his predecessor, Kevin K. McAleenan, as Secretary of the Department of Homeland Security. *See* Fed. R. App. P. 43(c)(2).
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