

No. 25-807

*In the United States Court of Appeals
for the Ninth Circuit*

STATE OF WASHINGTON *et al.*,
PLAINTIFFS-APPELLEES,

v.

DONALD J. TRUMP, *et al.*,
DEFENDANTS-APPELLANTS.

ON APPEAL FROM THE U.S. DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON, No. 2:25-cv-127

**UNOPPOSED MOTION OF MEMBERS OF CONGRESS FOR
LEAVE TO SUBMIT BRIEF *AMICI CURIAE*
IN SUPPORT OF DEFENDANTS-APPELLANTS' EMERGENCY
MOTION TO STAY**

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RULE 26.1 CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure, *Amici Curiae* state they are natural persons and therefore have neither any parent corporations nor any shares that could be owned by any publicly held corporation.

MOTION

Amici Curiae Members of Congress move for leave to file an *amicus* brief in support of Defendants-Appellants' emergency motion for a partial stay. In support of this motion, *Amici* state:

Amici are 18 members of Congress who serve on the Committee on the Judiciary of the U.S. House of Representatives. Chairman Jim Jordan leads this coalition and is joined by Reps. Andy Biggs, Chip Roy, Brandon Gill, Troy Nehls, Lance Gooden, Victoria Spartz, Mark Harris, Scott Fitzgerald, Robert Onder, Harriet Hageman, Tom McClintock, Wesley Hunt, Glenn Grothman, Ben Cline, Russell Fry, Michael Baumgartner, and Brad Knott.

Amici have a strong interest in the outcome of this case because Congress, as a co-equal branch of government, has an interest in the courts upholding the Constitution.

The nationwide preliminary injunction issued by the District Court should be narrowed for the reasons in Defendants-Appellants' emergency stay motion. The District Court also erred on the merits, and *Amici* provide the attached brief to lay out the historical record regarding the meaning of "subject to the jurisdiction thereof" in Section One of the Fourteenth Amendment. Specifically, the historical record confirms that the Fourteenth Amendment does not confer citizenship on the children of aliens unlawfully present in the United States. Because of this, "[a]n alien who seeks political rights as a member of this Nation can rightfully obtain them only upon terms and conditions specified by Congress," *United States v. Ginsberg*, 243 U.S. 472, 474 (1917), but Congress has never granted citizenship to the children of aliens unlawfully present, *see also* 8 U.S.C. § 1408.

Accordingly, the other branches are forbidden from conferring such citizenship on their own, a limitation that the challenged Executive Order ensures is followed within the executive branch. *See also INS v. Pangilinan*, 486 U.S. 875, 885 (1988) ("Neither by application of the doctrine of estoppel, nor by invocation of equitable powers, nor by any

other means does a court have the power to confer citizenship in violation of these limitations.”).

There is no express word limit for an *amicus* brief at this stage of proceedings. *Amici* respectfully request leave to file the attached brief at its existing length. With a few changes, it reflects the brief that the District Court accepted for filing in the proceedings below.

No party opposes this relief.

Respectfully submitted,

/s/ R. Trent McCotter

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CERTIFICATE OF COMPLIANCE

I certify that this motion complies with the typeface requirements of Rule 32(a)(5) and the typestyle requirements of Rule 32(a)(6) because this brief was prepared in 14-point Century Schoolbook, a proportionally spaced typeface, using Microsoft Word. Fed. R. App. P. 29(a), 32(g)(1). This motion complies with the type-volume limitation of Rule 27(d) and Ninth Circuit Rule 27-1 because it contains 382 words, excluding the parts exempted under Rule 32(f), and is three pages.

/s/ R. Trent McCotter

CERTIFICATE OF SERVICE

I hereby certify that on this date, an electronic copy of the foregoing motion was filed with the Clerk of Court for the United States Court of Appeals for the Ninth Circuit using the ACMS filing system and that service will be accomplished using the ACMS system.

/s/ R. Trent McCotter