

Dear Ms. Bindler:

I ask that you file a copy of this email – with my email address redacted – as my further response to the petition for mandamus.

I apologize for responding in the form of an email. As I explained in my prior response, I am working at home today because of the need to care for one of my children. I am also dealing with a number of emergencies, including a lockdown at the Minneapolis courthouse because of protest activity, the defiance of several court orders by ICE, and the illegal detention of many detainees by ICE (including, yesterday, a two-year old). And I have been given a little over an hour to submit this additional response.

I will respond briefly as follows:

(1) I do not doubt that I have the legal authority to consider the application and decide for myself whether to issue the five warrants. As I have described, however, I do have doubt about whether and how I should exercise that authority. I have now heard from all of the Chief Judges of the Eighth Circuit – and many of them have checked with their colleagues and staff – and no one is aware of a single instance in the long history of the Eighth Circuit in which a district judge did what the government asks me to do: review a magistrate’s decision to deny an arrest warrant.

(2) I have not “refused” to make a decision about whether to issue the warrants. I have told the government that I will make a decision on Tuesday, after I meet with my colleagues.

(3) The government lumps all eight protestors together and says things that are true of some but not all of them. Two of the five protestors were not protestors at all; instead, they were a journalist and his producer. There is no evidence that those two engaged in any criminal behavior or conspired to do so.

(4) The government’s arguments about the urgency of its request makes no sense. As the government says, “dozens” of protestors invaded Cities Church on Sunday. The leaders of that group have been arrested, and everyone knows that they have been arrested. The government says that there are plans to disrupt Cities Church again on Sunday. Of course, the best way to protect Cities Church is to protect Cities Church; we have thousands of law-enforcement officers in town, and presumably a few of them could be stationed outside of Cities Church on Sunday. The government does not explain why the arrests of five more people – one of whom is a journalist and the other

his producer – would make Cities Church any safer, especially because that would still leave “dozens” of those who invaded the church on Sunday free to do it again.

(5) I move that the Eighth Circuit unseal the petition for mandamus filed by the government (I have no objection to the exhibits remaining sealed) and my two responses. In my opinion, there is a strong public interest in those filings – especially in light of some of the public statements that the government has made about this situation and my colleagues – and there is nothing about those filings that would overcome that strong public interest.

Thank you for considering this response. And, again, please accept my apology for send this response via email.

Respectfully submitted,

Patrick Schiltz



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