

No. 19-15716

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

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CORPORATE DISCLOSURE STATEMENT

Appellees are non-profit entities that do not have parent corporations. No publicly held corporation owns 10 percent or more of any stake or stock in Appellees.

By: /s/ Judy Rabinovitz
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The government's emergency request for an administrative stay pending resolution of its motion for a stay pending appeal should be denied. Plaintiff-Appellees are six non-profit immigrant legal services organizations, together with eleven individual asylum seekers who have been returned to Mexico, where they have already suffered physical and verbal assaults and are at grave risk of further violence. The district court issued a preliminary injunction on April 8 after concluding that the government's new policy of forcing asylum seekers to wait in Mexico pending their removal proceedings in the United States was likely unlawful in multiple respects and resulted in irreparable harm to the Plaintiffs. Plaintiffs respectfully request that the Court deny the request for an administrative stay and set a briefing schedule on the government's motion for a stay pending appeal that would permit Plaintiffs until 9 a.m.

Court. Yet the government waited until late last night, more than three days after the district court issued its decision and less than 20 hours prior to the effective date set by the district court, to file its stay motion, thereby ensuring that the motion could not be fully briefed prior to the time the injunction is scheduled to go into effect. The government should not be allowed to manufacture the need for an emergency administrative stay by failing to timely file a stay request.

Moreover, the government's claims of irreparable harm and the need for an administrative stay are seriously undermined by the fact that it has reportedly already voluntarily stopped returning migrants to Mexico since the issuance of the district court's decision on Monday, April 8, 2019. *See, e.g.*, Robert Moore, "DHS lawyers signal agency will not send migrants back to Mexico, abiding by court ruling," *Washington Post*, April 10, 2019 (citing statement by assistant chief counsel for DHS that asylum seeker would not be returned to Mexico earlier this week, as result of court order).¹ If compliance with the injunction were going to be so disastrous for the government that it needs an emergency administrative stay, it does not make sense that the government would voluntarily put the policy on hold before being compelled to do so.

¹ Available at <https://www.washingtonpost.com/immigration/dhs-lawyers-signal-agency-will-not-send-migrants-back-to-mexico-abiding-by-court-ruling/2019/04/10/9643b220-5bd5-11e9-a00e->

These two aspects of the government's conduct – its delay in submitting its stay motion and its decision to voluntarily stop returns to Mexico even prior to the injunction taking effect – strongly undermine any claim that an emergency stay is necessary to prevent the government from suffering irreparable injury.

Furthermore, the case for a stay is especially weak in light of the “unprecedented” nature of the new policy that is being enjoined, *see* Stay Mot. Ex. B. at 14, as well as the fact that the enjoined policy has been in place less than three months – only since January 28, 2019, and only in limited locations. Stay Mot. Ex. A at 4-5. Thus, as in *East Bay Sanctuary*, the district court's temporary freeze of the challenged policy “ressof-3.8(g)cyua

for an immediate administrative stay. Should the Court conclude that a response is needed, Plaintiffs respectfully request that they be permitted to file an opposition to the motion to stay by 9 a.m. on April 16, 2019.

Dated: April 12, 2019

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2019, I electronically filed the foregoing with the Clerk for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. All participants in this case are registered CM/ECF users and will be served by the appellate CM/ECF system. There are no unregistered participants.

/s/