

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ADIL RIKABI, et al.,

Plaintiffs-Appellants,

v.

ALBERTO R. GONZALES, et al.,

Defendants-Appellees.

No. 07-35150

MOTION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE*
AMERICAN CIVIL LIBERTIES UNION, AMERICAN CIVIL
LIBERTIES UNION OF WASHINGTON, AND NYU CENTER FOR
HUMAN RIGHTS AND GLOBAL JUSTICE IN SUPPORT OF
PLAINTIFFS-APPELLANTS

The American Civil Liberties Union, the American Civil Liberties Union of Washington, and the Center for Human Rights and Global Justice at the New York University School of Law respectfully request leave to file a brief as *amici curiae*, supporting the position of the Plaintiffs-Appellants. The proposed brief is lodged herewith. The motion is based on the following grounds:

1. Counsel for both Plaintiffs-Appellants and Defendants-Appellees consent to the filing of the proposed brief of *amici curiae*.

2. *Amici curiae* file the instant motion and lodge the accompanying proposed brief within the time limits set forth in Fed. R. App. P. 29(e).

3. The American Civil Liberties Union (“ACLU”) is a nationwide, non-partisan organization of approximately 500,000 members dedicated to enforcing the fundamental rights of the Constitution and laws of the United States. The Immigrants’ Rights Project of the ACLU engages in a nationwide program of litigation, advocacy and public education to enforce and protect the constitutional and civil rights of immigrants. The Immigrants’ Rights Project has a particular interest in the issue of naturalization delays, as it has been or is currently serving as co-counsel in proposed class action lawsuits seeking systemic injunctive relief against CIS: *Zhang, et al. v. Gonzales, et al.*, No. 07-CV-503-SBA (N.D. Cal.), which is currently pending, and *Aziz, et al. v. Gonzales, et al.*, No. CV-06-4791-PA (C.D. Cal.), which was voluntarily dismissed pursuant to a settlement and stipulation.

4. The American Civil Liberties Union of Washington (“ACLU-WA”) is a statewide, nonpartisan, nonprofit organization of over 20,000 members, dedicated to the preservation of civil liberties and civil rights. In particular, the ACLU-WA engages in litigation and advocacy to ensure

immigrants' rights and fair access to opportunity. It strongly supports the principles of due process and equal protection under the law and their application to all people within Washington, both citizens and non-citizens.

5. The Center for Human Rights and Global Justice (CHRGJ) at New York University School of Law undertakes legal research, advocacy, and litigation projects aimed at defending and promoting international human rights. Together with its International Human Rights Clinic, CHRGJ has researched and documented the disproportionate impact of counterterrorism policies on particular communities in the United States and abroad. CHRGJ has a particular interest and expertise in the subject of naturalizations delays; in April 2007 the Center published a 63-page report titled *Americans on Hold: Profiling, Citizenship, and the "War on Terror,"* which alleges the use of discriminatory profiling in the FBI name check process inherent to naturalization applications, and documents the impact of these delays on the lives of affected individuals and families.

6. *Amici* American Civil Liberties Union and American Civil Liberties Union of Washington have received numerous inquiries from the public seeking assistance with long delays in the government's processing of naturalization applications. Those delays, and the federal courts' authority to grant relief from them, are at issue in the instant case.

7. In the proposed brief, *amici curiae* explain that the delays suffered by the Plaintiffs-Appellees are part of a systemic, nationwide crisis in the naturalization process. *Amici curiae* discuss the statutory and regulatory framework for judicial action on naturalization delays and the legislative history of those statutes. *Amici curiae* also set forth the causes of the systemic delays. The brief includes relevant background information not addressed in the opening brief of Plaintiffs-Appellants.

CONCLUSION

For the foregoing reasons, *amici curiae* respectfully request that the Court grant them leave to file the proposed brief lodged herewith.

Respectfully submitted,

Dated: June 12, 2007

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CERTIFICATE OF SERVICE

I, Derrick Wortes, declare as follows:

I am employed in the office of a member of the bar of this Court at whose direction the following service was made. I am over the age of eighteen years and am not a party to the within action.

On this day, I served one copy of the foregoing Motion for Leave to File Brief of *Amici Curiae* American Civil Liberties Union, American Civil Liberties Union of Washington, and NYU Center for Human Rights and Global Justice in Support of Plaintiffs–Appellants by U.S. mail, first-class, postage pre-paid addressed to the following:

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Dated: June 12, 2007
San Francisco, California


Derrick Wortes