

ORAL ARGUMENT HELD ON JANUARY 24, 2020

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

NATIONAL WOMEN'S LAW CENTER et al.,

Plaintiffs-Appellees,

v.

OFFICE OF MANAGEMENT & BUDGET

et al.,

Defendants-Appellants.

No. 19-5130

MOTION TO GOVERN FURTHER PROCEEDINGS

Pursuant to the government's letter of February 12, 2020, the government respectfully files this motion to govern further proceedings. The parties agree that, in light of the district court's order holding that the government has fully satisfied its obligations as mandated by the court's orders, the case is now moot. The parties propose a schedule for further motions to address whether the district court's opinion and orders should be vacated as a result.

1. Plaintiffs-appellees challenge the decision of the Office of Management and Budget (OMB) to stay and reconsider a collection of pay information proposed by the Equal Employment Opportunity Commission (EEOC) and approved by OMB pursuant to its authority under the Paperwork Reduction Act. On March 4, 2019, the

district court granted summary judgment for plaintiffs and vacated OMB's stay. On April 25, 2019, the court entered a further order directing EEOC to collect the information at issue by September 30, 2019, and to continue to collect information after that deadline until such time as EEOC obtained responses from a percentage of employers to be specified by the district court.

2. The government appealed, and this Court heard oral argument on January 24, 2020.

3. On February 10, 2020, the district court entered an order stating that "the EEO-1 Component 2 data collection is complete" and that "Defendants have no remaining obligations pursuant to the Court's April 25, 2019 Order or the Court's March 4, 2019 Order granting Plaintiffs' motion for summary judgment." Dkt. No. 102, at 2.

4. The parties agree that the district court's February 10 order renders the case moot. The government believes that the mootness of this case on appeal means that the district court's opinion and orders should be vacated under *United States v. Munsingwear*, 340 U.S. 36 (1950), but plaintiffs do not agree that vacatur is warranted. The parties propose filing motions addressing that question on the following schedule:

Government's motion to vacate due May 4, 2020

Plaintiffs' opposition due June 1, 2020

Government's reply due June 15, 2020

5. Counsel for plaintiffs have authorized us to state that plaintiffs agree that the case is moot, and that they consent to the schedule proposed above.

Respectfully submitted,

DANIEL TENNY

s/ Lindsey Powell

LINDSEY POWELL

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APRIL 2020

CERTIFICATE OF COMPLIANCE

I hereby certify that this motion complies with the type-volume limitation set forth in Federal Rule of Appellate Procedure 27(d)(2)(A) because it uses a proportionately spaced, 14-point font and contains 370 words according to the count of this office's word-processing program.

s/ Lindsey Powell

LINDSEY POWELL

CERTIFICATE OF SERVICE

I hereby certify that on April 13, 2020, I electronically filed the foregoing motion with the Clerk of the Court by using the appellate CM/ECF system. I further certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

s/ Lindsey Powell

LINDSEY POWELL