



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

September 12, 2019

By ECF

Catherine O'Hagan Wolfe
Clerk of the Court
United States Court of Appeals for the Second Circuit
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

Re: *Washington et al. v. Barr et al.*, No. 18-859

Dear Ms. Wolfe:

Defendants-appellees write respectfully in response to the letter filed by plaintiffs-appellants dated September 10, 2019. ECF No. 115 ("Pl. Ltr.").

Plaintiffs advise the Court that they intend to move for an extension of time until December 31, 2020, to file a petition with the Drug Enforcement Administration ("DEA"). Pl. Ltr. at 1. According to plaintiffs, this additional time is requested to permit them to "commence a new action against the DEA and Attorney General for declaratory relief." Pl. Ltr. at 1. Plaintiffs state that they plan to move for such an extension of this Court's deadline within thirty days. *Id.* at 5. Alternatively, plaintiffs suggest that "the Court could endorse this correspondence to grant the extension without the necessity of a motion." *Id.*

Defendants object to plaintiffs' request that their letter be simply endorsed and the extension granted without further proceedings. Plaintiffs should be required to file a motion, and defendants should be permitted to respond, in compliance with the Federal Rules of Appellate Procedure and this Court's Local Rules. Plaintiffs' request to litigate this matter by correspondence, without giving the government any opportunity to be heard, should be denied.

If and when a request for an extension is properly presented, the government will oppose it. Among other things, plaintiffs' extraordinary request for the Court to continue to hold this matter in abeyance for more than another year should be denied because plaintiffs have not shown that their proposed "new action" would be necessary in order for the DEA to consider a putative petition, nor that the questions they propose would be justiciable by a court in the first instance, nor that such an action would necessarily be resolved in the extended time they request.

Thank you for your consideration of this matter.

Respectfully submitted,

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cc: Counsel of record (via ECF)