

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**FILED**

NOV 22 2017

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JOSEPH M. ARPAIO, Sheriff,

Defendant-Appellant.

No. 17-10448

D.C. No.

2:16-cr-01012-SRB-1

District of Arizona,

Phoenix

ORDER

Before: TASHIMA, W. FLETCHER, and TALLMAN, Circuit Judges.

The motion for leave to participate as amici curae, filed by The Protect Democracy Project, Inc., Free Speech For People, Coalition to Preserve, Protect and Defend, and the Roderick and Solange Macarthur Justice Center, (Docket Entry No. 5) is granted in part and denied in part.

The Clerk shall file the proposed brief of amici curae at Docket Entry No. 5. Amici curae may also file a supplemental brief addressing the merits of this appeal that complies with Federal Rule of Appellate Procedure 29.

The emergency request for the appointment of a special prosecutor under Fed. R. Crim. P. 42(a)(2) to “notice a cross-appeal of the District Court’s Order upholding validity of the Pardon and terminating the contempt prosecution,” contained within the brief at Docket Entry No. 5, is denied.

Within 21 days after the date of this order, appellee United States of

America shall file a statement indicating whether it intends to enter an appearance and file an answering brief in this appeal from the district court's November 19, 2017 order. In appellee United States of America's statement, in the event it is the position of the Department of Justice not to defend the November 19 order, appellee shall also provide its position on whether this court should appoint counsel to represent the government's interests on appeal and defend the district court's order. Appellant and Amici may file an optional reply within 7 days after service of appellee's statement.

The request for the appointment of counsel to "defend the District Court's Order denying [appellant's] request for vacatur," contained within the brief at Docket Entry No. 5, shall be addressed by separate order.

Proceedings are held in abeyance pending further order of this court.