

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

THOMAS NAVARRO; JAMES GIORGIO;
NINA SHAFFER,

Plaintiffs-Appellants,

v.

UNITED STATES CENTER FOR SAFESPORT;
UNITED STATES OLYMPIC & PARALYMPIC
COMMITTEE; UNITED STATES EQUESTRIAN
FEDERATION, INC.,

Defendants-Appellees.

No. 25-1150

**MOTION BY THE UNITED STATES TO INTERVENE AS OF RIGHT,
FOR LEAVE TO FILE A SEPARATE BRIEF IN INTERVENTION,
AND FOR AN EXTENSION OF TIME IN WHICH TO FILE BRIEF**

The United States of America hereby gives notice that it is exercising its statutory right to intervene under 28 U.S.C. § 2403(a) and respectfully moves for leave to file a separate brief as intervenor-defendant-appellee by no later than June 23, 2025. In support of this motion, counsel state as follows:

1. Plaintiffs-appellants Thomas Navarro et al. (Plaintiffs) brought this action to challenge the validity of disciplinary actions taken against them by the United States Center for SafeSport consistent with relevant provisions of the Ted Stevens Olympic and Amateur Sports Act, 36 U.S.C. § 220501 *et seq.* (Amateur Sports Act). Among other claims, Plaintiffs have argued that the

Amateur Sports Act unconstitutionally delegates governmental authority to a private entity and violates Plaintiffs' rights to due process. After the district court dismissed their suit, Plaintiffs appealed to this Court.

2. Under Federal Rule of Appellate Procedure 44(a), “a[ny] party [that] questions the constitutionality of an Act of Congress in a proceeding in which the United States ... is not a party” must “give written notice to the circuit clerk immediately upon the filing of the record or as soon as the question is raised in the court of appeals.” Fed. R. App. P. 44(a). The Court, in turn, “certif[ies] that fact to the Attorney General.” *Id.*

3. On March 19, 2025, one week prior to filing their opening brief, Plaintiffs gave notice of their intention on appeal to attack the constitutionality of the Amateur Sports Act. This Court then issued its certification to the Attorney General that day.

4. By statute, if the “constitutionality of any Act of Congress ... is drawn in question” in a suit to which the United States is not a party, the Court “shall permit the United States to intervene ... for argument on the question of constitutionality.” 28 U.S.C. § 2403(a). The responsibility for determining whether to exercise this statutory right rests with the Solicitor General. *See* 28 C.F.R. § 0.20(c) (directing Solicitor General to “[d]etermin[e] ... whether the Government will intervene[] in any appellate court”). By letter

of May 27, 2025, the United States informed this Court that the Solicitor General was considering whether to authorize intervention in this appeal.

5. The Solicitor General has now authorized the United States' intervention in this appeal. The United States thus respectfully requests that this Court amend the docket to reflect its participation as an intervenor-defendant-appellee.

6. In addition, the United States respectfully requests that this Court grant leave to file a separate brief as intervenor-defendant-appellee and set a deadline of June 23, 2025, for the filing of such a brief.

7. Leave to file a separate brief is warranted. The government's interest in this case is limited to defending the constitutionality of the Amateur Sports Act, and the United States does not necessarily share any other interest with any party. Moreover, the conduct of litigation on behalf of the United States is statutorily "reserved to officers of the Department of Justice, under the direction of the Attorney General." 28 U.S.C. § 516. This Court has previously granted leave for the United States to file a separate brief as intervenor in such instances, *see, e.g., State of Maryland v. Universal Elections, Inc.*, No. 12-1791 (4th Cir.), and the same course is warranted here.

8. The government also respectfully requests a two-week extension of time, to and including June 23, 2025, in which to file its brief in intervention.

The undersigned counsel are the Department of Justice attorneys with principal responsibility for this matter. Now that intervention has been authorized, counsel require a short amount of additional time to prepare the United States' brief and to consult and coordinate with interested components of the Department of Justice. Undersigned counsel also have primary or supervisory responsibility for other pressing appellate matters, including *Commonwealth of Massachusetts et al. v. National Institutes of Health*, Nos. 25-1343, 25-1344, 25-1345 (1st Cir.) (opening brief and joint appendix filed May 9, 2025); *Strickland v. Moritz*, No. 24-2056 (4th Cir.) (response brief filed May 15, 2025); *American Fed'n of Gov't Employees, AFL-CIO v. United States Office of Personnel Mgmt.*, Nos. 25-1677, 25-2637 (9th Cir.) (supplemental opening brief filed May 22, 2025); and *Vertical Aviation Int'l, Inc. v. FAA*, No. 25-1017 (D.C. Cir.) (response brief filed June 4, 2025).

CONCLUSION

For the foregoing reasons, the United States respectfully requests that it be added as an intervenor-defendant-appellee and granted leave to file a separate brief by no later than June 23, 2025.

Respectfully submitted,

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/s/ Jeffrey E. Sandberg

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June 5, 2025

CERTIFICATE OF COMPLIANCE

I hereby certify that this motion complies with the type-volume limit of Fed. R. App. P. 27(d)(2)(A) because it contains 779 words, according to the count of Microsoft Word. The filing complies with Fed. R. App. P. 27(d)(1)(E) because it has been prepared in 14-point Calisto MT, a proportionally spaced typeface.

/s/ Jeffrey E. Sandberg

Jeffrey E. Sandberg
Counsel for the United States

CERTIFICATE OF SERVICE

I hereby certify that on June 5, 2025, I electronically filed this motion with the Clerk of Court for the United States Court of Appeals for the Fourth Circuit by using the appellate CM/ECF system. The participants in this case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

/s/ Jeffrey E. Sandberg

Jeffrey E. Sandberg
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