

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-2598

CORECIVIC, INC.,
Plaintiff-Appellee,

v.

GOVERNOR OF NEW JERSEY, et al.,
Defendants-Appellants

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW JERSEY (No. 3:23-cv-00967)

**PLAINTIFF-APPELLEE CORECIVIC, INC.'S UNOPPOSED MOTION
FOR LEAVE TO PERMIT NONCOMPLIANT FILING (EXCESS WORDS)**

SCHLAM STONE & DOLAN LLP

David J. Goldsmith
Bradley D. Simon
Thomas A. Kissane
26 Broadway, 19th Fl.
New York, NY 10004
(212) 344-5400
dgoldsmith@schlamstone.com

Attorneys for Plaintiff-Appellee CoreCivic, Inc.

Appellee CoreCivic, Inc. (“CoreCivic”) by its undersigned counsel, respectfully moves the Court pursuant to Fed. R. App. P. 27(a) and L.A.R. 27 for permission to file an opposition brief that exceeds the word limit imposed by Fed. R. App. P. 32(a)(7).

In support of this motion, CoreCivic states:

1. Defendants/Appellants, Philip D. Murphy in his official capacity as Governor of the State of New Jersey and Matthew J. Platkin in his official capacity as Attorney General of the State of New Jersey, appeal from the August 29, 2023 decision and accompanying order of the Hon. Robert Kirsch, which granted summary judgment to CoreCivic on Counts One and Two of its Amended Complaint, declared AB 5207 unconstitutional as applied against CoreCivic with respect to its contract with the United States government to operate immigration detention facilities in New Jersey, and permanently enjoined Defendants/Appellants from enforcing AB 5207 against CoreCivic with respect to CoreCivic’s negotiating or contracting with the United States government to operate immigration detention facilities in New Jersey.

2. Appellants' principal brief, filed January 4, 2024, contained 12,981 words and cited no fewer than 47 cases, 11 statutory provisions and 24 regulations, executive orders and other authorities in addressing issues of intergovernmental immunity and federal preemption of state law.

3. On January 10, 2024, various States and the District of Columbia filed an amicus brief of 4,334 words, Pax Christi USA filed an amicus brief of 6,174 words, and various organizations, including the American Civil Liberties Union, filed an amicus brief of 6,242 words, each in support in support of Appellants' position. Each of these amicus briefs contained its own discussion of the case law. In addition, the amicus briefs, in the aggregate, contain no less than 80 citations to what their respective tables of contents identify as "other authorities."

4. Appellants' principal brief and the foregoing amicus briefs aggregate to 29,731 words.

5. Absent leave under Fed. R. App. P. 27(a), Fed. R. App. P. 32(a)(7)(A) limits CoreCivic to 13,000 words for its principal brief.

6. CoreCivic therefore respectfully seeks permission to file a brief that exceeds the limit of Fed. R. App. P. 32(a)(7)(A) by up to 5,000, and thus seeks permission to file an opposition of brief of up to 18,000 words.

7. CoreCivic's opposition brief is currently due February 20, 2024. As the Court's January 9, 2012 Standing Order recommends, CoreCivic is seeking

relief in advance of that filing date. Counsel recognize that the Court's January 9, 2012 Standing Order disfavors overlength briefs, and we respectfully assure the Court that the proposed increase is necessary to ensure that CoreCivic has sufficient space for adequate treatment of the issues.

8. Counsel for CoreCivic has consulted with Nathan I. Levy, counsel for Appellants, who has confirmed that Appellants takes no position regarding the relief sought herein.

WHEREFORE, CoreCivic respectfully request that this Court grant its unopposed motion to file a principal brief of up to 18,000 words in opposition to the appeal.

Respectfully submitted,

SCHLAM STONE & DOLAN LLP



Thomas A. Kissane
26 Broadway, 19th Fl.
New York, NY 10004
(212) 344-5400
tkissane@schlamstone.com

Attorneys for Appellee CoreCivic, Inc.

January 25, 2024

CERTIFICATE OF COMPLIANCE

This document complies with the 5200-word limit prescribed by Fed.R.App.P. 27(d)(2)(A) for motions. This document contains 494 words exclusive of caption, signature block and certifications.

/s/ Thomas A. Kissane

CERTIFICATE OF SERVICE

I certify that on this date I filed the foregoing Motion via this Court's CM/ECF system, which will automatically serve it upon the parties of record.

/s/ Thomas A. Kissane

Date: January 25, 2024