

RECEIVED

AUG - 2 2019

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIADuane Morley Cox
1199 Cliffside Dr.
Logan, Utah 84321
801-755-3578**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

+++++	
East Bay Sanctuary Covenant, et. al.	+
	+
Plaintiffs	+
	+
William Barr, Attorney General, in his	+
Official Capacity, et. al.	+
	+
Defendants	+
+++++	

Case No. **19-4073 JST**Motion For Leave To File Amicus Brief
For
Dismissal For Lack Of Jurisdiction

NOW COMES, Duane Morley Cox, Pro Se, and files this Motion For Leave To File
Amicus Brief in support of Defendants.

Nature Of Movant's Interest

Movant is a private citizen who is concerned with the negative impact of the flood of migrants and drugs crossing the southern border into the United States, and the ever escalating financial and other costs resulting therefrom which endanger citizens with crimes and burdens local, state and the federal government with unnecessary costs of health care, education, law enforcement etc to accommodate these migrants who for the most part ignore their Immigration Hearings with an approximate 90+% denial rate, followed by the additional enforcement costs of having to remove these migrants who receive deportation orders, with an estimated \$116 Billion a year cost to the American taxpayers for the 12.5 million illegal migrants and their 4.2 million children - thereby diminishing the benefits to citizens from the taxes paid while our National Debt soars above 22 Trillion dollars. And Movant has an interest where MS 13 Gang Members

have entered the United States illegally, and threaten the lives of citizens as evidenced by the alleged seven grisly killings over the past two years by the Los Angeles based MS 13 gang members. This Complaint would defeat the Administrations efforts to reduce these conditions.

Movant's legal interest is based upon his belief that this Court has no Jurisdiction to hear this complaint based upon the Supreme Court's decision in **Nixon v. Fitzgerald**, 457 U.S. 731.

Party Supported

This Amicus Brief will be in support of Defendants.

Reason Brief Is Desirable

Movant's Brief is desirable because the Constitutional Right and Obligation of the President to protect and defend the Country is involved, and the U.S. Supreme Court with citation to **Gonzales**, 550 U.S. 124 has held that a:

“Court retains an independent constitutional duty to review the factual findings where constitutional rights are at stake.” **Whole Woman's Health v. Hellerstedt**, 579 U.S. ____ (2018) {Opinion @ III, Next To Last Para.]

Further, Plaintiff's reliance upon 28 U.S.C. § 1331 to establish Jurisdiction by this Court is inadequate where the U.S. Supreme Court has held:

“a court, before exercising jurisdiction, must balance the constitutional weight of the interest to be served [by the complaint] against the dangers of intrusion on the authority and functions of the Executive Branch.” **Nixon v. Fitzgerald**, 457 U.S. 731 (1982) (citing **Nixon v. Administrator of General Services**, 433 U.S. 425, 443 (1977))

Why Movant's Position Is Not Adequately Represented

Movant is unaware of the pleading of this Jurisdictional issue in any of the many law suits which have been filed to obstruct the Executive Branch from performing its Constitutional duties, or of any instance where a Court has “*Sua Sponte*” invoked this precedent even though the comparative analysis “must” be performed before a Court can accept jurisdiction. Thus, this case

appears to be a “Case Of First Impression”.

Why The Matters Asserted Are Relevant

The matters asserted are of critical importance because:

“The Federal Rules Of Civil Procedure state that ... a “final judgement should grant the relief to which each party is entitled, even if the party has not demanded that relief in its pleadings.” Rule 54c” **Whole Woman’s Health v. Hellerstedt**, 579 U.S. ____ (2018) [Opinion @ II, A, Last Para.]

Thus pursuant to this U.S. Supreme Court precedent, this case must not even be heard because the Plaintiff’s make no effort in their Complaint to show that the “benefit to be derived” from their Complaint is greater than the “dangers of intrusion on the authority and functions of the Executive Branch”.

The Position Of Each Party

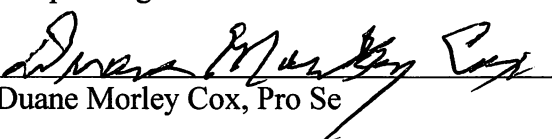
Movant has not contacted the parties in this matter. Movant believes that this is not necessary at this point because the Court has a duty to hear Constitutional issues and the parallel duty to make sure that the Parties obtain the relief to which they are entitled pursuant to Rule 54c. Thus where Movant brings this issue to the attention of the Court, it would appear to Movant that it must be heard no matter the desires of either party.

Oral Arguments

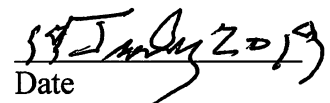
Movant, Duane Morley Cox, does not seek to participate in Oral Arguments on the merits, but may seek to participate in Hearings on the issue of Jurisdiction.

Proposed Order

A proposed Order by the Court allowing Duane Morley Cox to file an Amicus Brief in this pending matter is attached.


Duane Morley Cox, Pro Se

Pg 3


Date

Certificate Of Service

I, Duane Morley Cox, Pro Se, does hereby swear that on 19 July 2019, that I did serve true and correct copies of the attached Motion For Leave To File Amicus Brief For Dismissal For Lack Of Jurisdiction to the below listed parties by first class mail, postage prepaid.

Clerk (Original)
United States District Court
Northern District of California
450 Golden State Ave.
San Francisco, California 94120-3489

William Barr, et. al.
U.S. Department of Justice
950 Pennsylvania Ave, NW
Washington D.C. 20530-0001

Lee Gelernt et. al.
ACLU FOUNDATION
IMMIGRANTS' RIGHTS Project
125 Broad Street, 1th Floor
New York, NY ~~1004~~ 10004

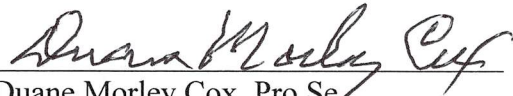
Katrina Eilander. al.
ACLU FOUNDATION
IMMIGRANTS' RIGHTS PROJECT
39 Drumm Street
San Francisco, California 94111

Melissa Crow
Southern Poverty Law Center
1101 17th Street, NW Suite 705
Washington DC 20036

Mary Bauer
Southern Poverty Law Center
1100 Preston Ave.
Charlottesville VA 22903

Baher Azmy, et. al.
Cewnter For Constitutional Rights
666 Broadway, 7th Floor
New York, NY 10012

Christine P. Sun, et. al.
ACLU, Foundation Of Northern Calif Inc
39 Drumm Street
San Francisco Calif. 94111


Duane Morley Cox, Pro Se

19 July 2019
Date