

No. 20-1495

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

LEADERS OF A BEAUTIFUL STRUGGLE, *et al.*,

Plaintiffs–Appellants,

v.

BALTIMORE POLICE DEPARTMENT, *et al.*,

Defendants–Appellees.

**On Appeal from the United States District Court
for the District of Maryland at Baltimore**

**PLAINTIFFS–APPELLANTS’ REPLY IN FURTHER SUPPORT OF
THEIR MOTION FOR EXPEDITED ORAL ARGUMENT**

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Plaintiffs–Appellants Leaders of a Beautiful Struggle, Erricka Bridgeford, and Kevin James respectfully submit this brief reply to Defendants’ response to Plaintiffs’ motion for expedited argument in this matter.

First, the fact that Defendants’ opposition appears to be primarily based on merits arguments, *see* ECF No. 32 at 1–2 (discussing standing and the standard of review of the district court’s denial of a preliminary injunction), merely underscores that this matter is ripe for the Court’s resolution as soon as practicable.

Second, while Plaintiffs take seriously Defendants’ competing obligations and the ongoing effects of the coronavirus pandemic (both of which Plaintiffs and their counsel are also confronting), Defendants’ claim that oral argument before September would be “exceptionally difficult,” *id.* at 3, is hard to square with the facts that Defendants’ counsel has already engaged in a nearly three-hour oral argument in this matter before the district court, and recently filed its merits brief in this Court.

Third, Defendants’ claim that the need for expedited review is “illusory” because resolution of the case after the program concludes would still allow Plaintiffs (should they prevail) a “meaningful remedy,” *id.* at 3, is wrong. While Plaintiffs’ appeal may not become entirely moot after Defendants’ planes are grounded due to Defendants’ retention of certain data, the bulk of the constitutional harms at issue in this case are the ones happening every single day via the constant

collection of Plaintiffs' and all Baltimoreans' locations from the sky. *See* ECF No. 28 at 6.

In sum, none of Defendants' arguments on this motion justify running out the clock on their mass surveillance program, the constitutionality of which is under review in this case. Accordingly, Plaintiffs respectfully request that the Court grant their motion and set this appeal for a special remote oral argument session (via either telephone or video conference) as soon as practicable.¹

Respectfully submitted,

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Dated: June 18, 2020

Counsel for Plaintiffs–Appellants

¹ As stated previously, *see* ECF No. 28 at 2 n.1, Plaintiffs' counsel is available for oral argument on any date over the five-week period beginning today (through Friday, July 17), with the exception of June 23 to July 1, when counsel will be participating in an evidentiary hearing in a habeas action in the Western District of New York.

CERTIFICATE OF COMPLIANCE

1. This motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains 367 words.
2. This motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman.

Date: June 18, 2020

/s/ Brett Max Kaufman

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