

No. 14-35555

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

ANNA J. SMITH,

Plaintiff–Appellant,

v.

BARACK OBAMA, *et al.*,

Defendant–Appellees.

On Appeal from the United States District Court
for the District of Idaho, Boise
No. 2:13-cv-00257-BLW
The Honorable B. Lynn Winmill, Chief District Judge

MOTION TO AMEND SCHEDULE FOR SUPPLEMENTAL BRIEFING

On June 3, 2015, this Court ordered both parties to submit supplemental briefs by June 19 addressing the effect on this litigation of the USA FREEDOM Act of 2015, Pub. L. 114-23, ___ Stat. ___ (2015). Plaintiff–Appellant Anna Smith respectfully moves the Court to modify its order to permit her to file her brief on June 24, five days after the government’s brief is due. The government has informed Ms. Smith that it takes no position on this request.

Staggered briefing is appropriate here because Ms. Smith’s response to the Court’s questions will turn on the representations the government makes in its

submission. The Court asked the parties to address whether the lawsuit is moot given that “section 215 . . . has ceased to have effect,” and whether Ms. Smith’s request for a purge of her call records from the government’s database is also moot. The appeal, however, does not include a challenge to section 215, but rather to the mass surveillance program that was operated under its purported authority. Whether the matter is moot will thus depend on, among other things, how the government chooses to conduct the program going forward, and how it intends to treat records previously collected, given the recent enactment of the USA FREEDOM Act. At present, that information resides solely with the government, and Ms. Smith cannot accurately assess the mootness questions until the government’s intentions are presented.

DATED: June 10, 2015

Respectfully submitted,

By: /s/ Peter Smith
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on June 10, 2015.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

DATED: June 10, 2015

Respectfully submitted,

By: /s/ Peter Smith
Peter J. Smith IV
LUKINS & ANNIS, P.S.

Counsel for Plaintiff-Appellant
ANNA J. SMITH