



U.S. Department of Justice

Office of the Solicitor General

Washington, D.C. 20530

May 21, 2015

Honorable Scott S. Harris
Clerk
Supreme Court of the United States
Washington, D.C. 20543

Re: Zubik v. Burwell, No. 14A1065

Dear Mr. Harris:

This application for a stay or injunction arises out of a challenge to federal laws requiring that health coverage provided by employers and insurers include coverage for contraceptive services. Applicants object to that requirement on religious grounds. Applicants are eligible for regulatory accommodations that would allow them to opt out of providing the required coverage, but they contend that the accommodations themselves violate the Religious Freedom Restoration Act of 1993 (RFRA), 42 U.S.C. 2000bb *et seq.* The Third Circuit rejected applicants' RFRA claim and denied their motion to stay its mandate. Applicants have now applied to this Court for a stay or an injunction pending the filing and disposition of a petition for a writ of certiorari.

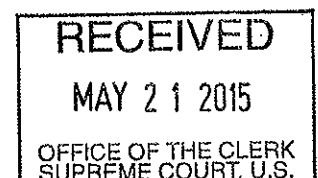
The government filed its memorandum in opposition to the application on April 20, 2015. The memorandum explains (at 15-16) that all of the courts of appeals that have addressed the issue have upheld the accommodations against RFRA challenges. I write to advise the Court of two recent developments in the cited cases. First, the Seventh Circuit issued a new decision affirming the denial of a preliminary injunction in University of Notre Dame v. Burwell, No. 13-3853 (May 19, 2015). This Court had vacated the Seventh Circuit's prior decision and remanded for further consideration in light of Burwell v. Hobby Lobby Stores, Inc., 134 S. Ct. 2751 (2014). Second, the D.C. Circuit denied rehearing en banc in Priests for Life v. HHS, 772 F.3d 229, 246 (D.C. Cir. 2014). See Priests for Life v. HHS, No. 13-5368 (May 20, 2015). Judge Pillard, joined by Judges Rogers and Wilkins, issued a statement concurring in the denial of rehearing en banc. Judges Brown and Kavanaugh issued statements dissenting from the denial of rehearing en banc; Judge Brown's statement was joined by Judge Henderson.

Copies of the decision in Notre Dame and the order and accompanying statements in Priests for Life are enclosed. I would appreciate it if you would distribute this letter and the enclosed opinion and order to the Members of the Court. Thank you for your assistance.

Sincerely,

Donald B. Verrilli, Jr.
Solicitor General

cc: See Attached Service List



SERVICE LIST:

14A1065

ZUBIK, ET AL. V. BURWELL, ET AL.

PAUL M. POHL

JOHN D. GOETZ

LEON F. DEJULIUS, JR.

IRA M. KAROLL

ALISON M. KILMARTIN

MARY PAT STAHLER

JONES DAY

500 GRANT STREET

SUITE 4500

PITTSBURGH, PA 15219

(412)391-3939

PMPOHL@JONESDAY.COM

NOEL J. FRANCISCO

JONES DAY

51 LOUISIANA AVE., NW

WASHINGTON, DC 20001

202-879-3939

NJFRANCISCO@JONESDAY.COM