

Case Nos. 26-1294; 26-2302; 26-3344

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FERNANDO GOMEZ RUIZ, et al.,
Plaintiffs-Appellees,

v.

UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, et al.,
Defendants-Appellants,

v.

CORECIVIC, INC.
Intervenor-Appellant.

On Appeal from the United States District Court
Eastern District of California
The Honorable Jennifer L. Thurston, Presiding
Case No. 1:26-cv-02546-JLT-CDB

MOTION TO CONSOLIDATE APPEALS

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MOTION TO CONSOLIDATE APPEALS

Pursuant to Federal Rule of Appellate Procedure 3(b)(2), Plaintiffs-Appellees Fernando Gomez Ruiz, Fernando Viera Reyes, Jose Ruiz Canizales, Yuri Alexander Roque Campos, Sokhean Keo, Gustavo Guevara Alarcon, and Alejandro Mendiola Escutia (collectively, “Plaintiffs”) respectfully request that *Gomez Ruiz et al. v. CoreCivic, Inc., et al.* (No. 26-1294) (“CoreCivic First Appeal”), *Gomez Ruiz et al. v. United States Immigration and Customs Enforcement, et al.* (No. 26-2302) (“Government Appeal”), and *Gomez Ruiz et al. v. United States Immigration and Customs Enforcement, et al.* (No. 26-3344) (“CoreCivic Second Appeal”) be consolidated for all purposes, including briefing and oral argument, because all three appeals arise out of the same district court order and implicate the same legal issues. Plaintiffs further request that they be permitted to file a single answering brief applicable to all three appeals.

BACKGROUND

These three interlocutory appeals all concern the same preliminary injunction, which the district court granted in February 2026. The injunction at issue addresses conditions at California City Detention Facility (“California City”), where approximately 1,600 people are being detained by Defendant-Appellant U.S. Immigration and Customs Enforcement (“ICE” or “the government”). A

private prison company, Intervenor-Appellant CoreCivic, Inc. (“CoreCivic”) operates the facility pursuant to a contract with ICE.

In November 2025, Plaintiffs sued ICE and other relevant government agencies and officials in the Northern District of California seeking, among other things, preliminary injunctive relief concerning the provision of constitutionally adequate health care at the facility. Having received extensive briefing and evidence, the district court held a hearing on the preliminary injunction motion on February 6, 2026, and issued its Order Granting in Part Plaintiffs’ Motions for Preliminary Injunction and Class Certification on February 10 (“PI Order”) (No. 3:25-cv-09757-MMC (“N.D.C.A.”), Dkt. No. 72). Among other things, the PI Order provided for the appointment of an independent, external medical monitor who would visit California City, review medical records, interview patients and staff, and report findings to the court. *Id.* ¶ 2.

On March 3, 2026, CoreCivic sought to intervene in the action for the limited purposes of appealing and seeking a stay of the PI Order (N.D.C.A., Dkt. No. 82) and filed a Notice of Appeal the next day. (N.D.C.A., Dkt. No. 90). The district court later issued its March 27, 2026 Memorandum of Decision setting forth its findings of fact and conclusions of law regarding the PI Order (“Memorandum of Decision”) (N.D.C.A., Dkt. No. 111), as well as its March 30, 2026 Order Appointing Muthusamy Anandkumar as External Monitor (“Monitor

Order”) (N.D.C.A., Dkt. No. 112). The Monitor Order appointed Dr. Anandkumar as the external monitor and set forth additional particulars regarding his appointment.

Also on March 30, the district court transferred the case to the Eastern District of California (N.D.C.A., Dkt. No. 113), and CoreCivic renewed its request to intervene in that court for purposes of staying and appealing the PI Order. (No. 1:26-cv-02546-JLT-CDB (“E.D.C.A.”), Dkt. No. 119). On April 13, the government filed its own Notice of Appeal of the PI Order, the Memorandum of Decision, and the Monitor Order. (E.D.C.A., Dkt. No. 127).¹ In light of the government’s appeal, the district court requested further briefing, and CoreCivic stated that it sought intervention for the purposes of appealing the same three orders as the government. (E.D.C.A., Dkt. No. 135). The district court granted CoreCivic’s motion to intervene for those purposes but denied its motion to stay the relief. (E.D.C.A., Dkt. Nos. 144, 145).² CoreCivic then filed a second Notice of Appeal of the Memorandum of Decision and the Monitor Order on May 26, 2026. (E.D.C.A., Dkt. No. 151).

¹ The government has characterized its appeal as “protective.” (Government Appeal, Dkt. No. 4).

² Plaintiffs disagree that the Monitor Order is appealable under 28 U.S.C. § 1292 and intend to brief that issue before this Court at the appropriate time.

While the district court was adjudicating CoreCivic’s intervention and stay motions, both CoreCivic and the government sought multiple extensions of time to file their opening briefs in their respective appeals. (CoreCivic First Appeal, Dkt. Nos. 6, 8, 12; Government Appeal, Dkt. No. 4). At present, CoreCivic’s opening brief in its first appeal is due June 1, 2026, and the government’s opening brief is due July 13, 2026.

Before CoreCivic filed its second notice of appeal, it had previously indicated its desire to consolidate its first appeal with the government’s appeal. CoreCivic has since indicated that it wishes to consolidate only its First and Second Appeals, while not consolidating those appeals with the government’s appeals. The government has told Plaintiffs that they are considering the issue.

ARGUMENT

Consolidation is appropriate because these three appeals all arise from the same district court order and implicate the same legal issues. *See, e.g., California v. Mesa*, 813 F.2d 960, 961 n.1 (9th Cir. 1987) (consolidating two separate cases on appeal because “they raise the same legal issues”); *Wilson v. Credithrift of Am., Inc., No. 3*, 659 F.2d 122, 123 n.1 (9th Cir. 1981) (consolidating separate appeals “aris[ing] from the same district and involv[ing] substantially similar legal issues . . . so as to be disposed of in [a] single opinion”). Federal Rule of Appellate Procedure 3(b)(2), which allows this Court to join or consolidate separately filed

notices of appeals, was adopted to “encourage consolidation of appeals whenever feasible.” *See* 1967 Advisory Committee Notes to FRAP 3(b). The Court may thus consolidate closely related appeals that arise from the same district court proceeding or involve similar issues of law or fact. *See, e.g., Orr v. Plumb*, 884 F.3d 923, 926 (9th Cir. 2018). Where, for example, a party and limited intervenor both appeal the same district court order, consolidation is appropriate. *See, e.g., Snoqualmie Indian Tribe v. Washington*, 8 F.4th 853, 860 (9th Cir. 2021).

Such is the case here. The government appeals the PI Order, Memorandum of Decision, and Monitor Order (E.D.C.A., Dkt. No. 127) and has explained that the main issues on appeal include whether the district court appropriately applied the legal standard for granting preliminary injunctive relief in its PI Order, and whether the preliminary injunction violates Federal Rule of Civil Procedure 65. (Government Appeal, Dkt. No. 3). CoreCivic appeals the same three orders (E.D.C.A., Dkt. Nos. 90, 151; CoreCivic First Appeal, Dkt. No. 3) and raises the same legal issues. (*See* E.D.C.A., Dkt. No. 135, at 14, 17). Because these appeals arise from the same district court proceeding and involve the same legal issues, consolidation is warranted to promote judicial economy and to avoid conflicting decisions and the potential for injustice to the parties.

Before Plaintiffs filed this motion to consolidate, they sought CoreCivic’s position, as required under Circuit Rule 27-1. CoreCivic has stated that it wishes to

consolidate only two of the three pending and related appeals (namely the two it has filed), noting that the government has characterized its appeal as “protective” and has not yet indicated whether it will pursue its appeal or when such decision will be made. *See* E.D.C.A., Dkt. Nos. 131, 132, 133. But protective or not, the government’s appeal has been docketed, and Plaintiffs remain obligated to defend against both the government’s and CoreCivic’s appeal(s). In addition, whether the government’s appeal is protective has no bearing on whether it concerns the same orders and issues as the other, related appeals. Indeed, this Court and other circuit courts of appeal routinely consolidate protective notices of appeal with other appeals. *See, e.g., Warfield v. Alaniz*, 569 F.3d 1015, 1019 (9th Cir. 2009) (consolidating an appeal with a protective cross appeal); *United States v. Imperial Irrigation Dist.*, 559 F.2d 509, 520 (9th Cir. 1977) (consolidating protective appeal filed by intervenor with other related appeals), *rev’d and vacated on unrelated grounds sub nom. Bryant v. Yellen*, 477 U.S. 352 (1980); *Mass. Lobstermen’s Ass’n, Inc. v. Menashes*, 127 F.4th 398, 402 (1st Cir. 2025) (consolidating intervenors’ appeals with a protective notice of appeal that the government had filed while awaiting the Solicitor General to decide whether to prosecute the appeal); *Winston Network, Inc. v. Ind. Harbor Belt R.R. Co.*, 944 F.2d 1351, 1353 (7th Cir. 1991) (“[T]he resulting appeals, cross-appeals, and protective appeals have been consolidated for more efficient review.”).

CONCLUSION

For the foregoing reasons, this Court should consolidate *Gomez Ruiz, et al. v. CoreCivic, Inc., et al.* (No. 26-1294), *Gomez Ruiz, et al. v. U.S. Immigration and Customs Enforcement, et al.* (No. 26-2302), and *Gomez Ruiz, et al. v. U.S. Immigration and Customs Enforcement, et al.* (No. 26-3344). Plaintiffs respectfully propose that the consolidated appeals proceed on a unified briefing schedule using the later of the deadlines set in the Government Appeal or those to be set in the CoreCivic Second Appeal. If the consolidated appeals proceed on the Government Appeal schedule, the government and CoreCivic's opening briefs would be due July 13, 2026, and prior to any potential extensions of time, Plaintiffs' answering brief would be due August 10, 2026, and any reply briefs would be due August 31, 2026.

DATED: May 26, 2026

/s/ Steven P. Ragland

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CERTIFICATE OF COMPLIANCE

This motion complies with the type-volume limitations of Federal Rule of Appellate Procedure 27(d)(2)(A) and Ninth Circuit Rule 27-1 because it contains 1,485 words.

This motion complies with the typeface and typestyle requirements of Federal Rule of Appellate Procedure 27(d)(1)(E) because it has been prepared in a proportionally spaced typeface using Microsoft Word in Times New Roman 14-point font.

/s/ Steven P. Ragland

Steven P. Ragland

CERTIFICATE OF SERVICE

I hereby certify that on May 26, 2026, 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.

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.

/s/ Steven P. Ragland

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