

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FERNANDO GOMEZ RUIZ, <i>et al.</i> ,	}	Nos. 26-1294, 26-2302, 26-3344
Plaintiffs-Appellees,		D.C. No. 3:25-cv-09757-MMC
v.		Northern District of California
UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, <i>et al.</i> ,		RESPONSE TO MOTION TO CONSOLIDATE APPEALS
Defendants-Appellants,		
v.		
CORECIVIC, INC.,		
Intervenor-Appellant.		

Defendants-Appellants United States Immigration and Customs Enforcement, United States Department of Homeland Security, Sergio Albarran, Todd M. Lyons, and Markwayne Mullin¹ (collectively, the “Government”), respectfully oppose the consolidation of the Government’s appeal (No. 26-2302) with those of Intervenor-Appellant CoreCivic, Inc. (“CoreCivic”) (Nos. 26-1294 & 26-3344) for the reasons set forth in CoreCivic’s response to the motion to

¹ Pursuant to Federal Rule of Appellate Procedure 43(c)(2), Secretary of Homeland Security Markwayne Mullin is automatically substituted for former Secretary Kristi Noem.

consolidate appeals, as further set forth below. *See* Dkt. Nos. 15 (No. 26-1294), 7 (No. 26-2302), & 4 (No. 26-3344).

The Government’s appeal is protective in accordance with Justice Manual § 2-2.132 (“If the time for appeal or cross-appeal is about to expire . . . and the United States Attorney has not received notice from the appropriate division of the Department as to whether an appeal is to be taken, a ‘protective’ notice of appeal should be filed in order to preserve the Government’s right to appeal.”). The decision “whether, and to what extent, appeals will be taken by the Government to all appellate courts” is made by the Solicitor General. 28 C.F.R. § 0.20(b). This process remains ongoing. Accordingly, the Government agrees with CoreCivic that consolidating the Government’s appeal with CoreCivic’s appeals will prolong resolution of CoreCivic’s challenge while the Government awaits notice as to whether to proceed with its appeal, and will also cause unnecessary delay if the Government decides not to proceed with its appeal, and thus opposes the motion to consolidate its appeal with CoreCivic’s appeals for those reasons.

DATED: June 5, 2026

Respectfully submitted,

CRAIG H. MISSAKIAN
United States Attorney

/s/ Savith Iyengar
SAVITH IYENGAR
Assistant United States Attorney

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v.		Northern District of California
UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, <i>et al.</i> ,		DECLARATION OF SAVITH IYENGAR
Defendants-Appellants,		
v.		
CORECIVIC, INC.,		
Intervenor-Appellant.		

I, Savith Iyengar, state as follows:

1. I am the attorney of record for the Government in this matter. This declaration is submitted in support of the Government's response to the motion to consolidate appeals. I have personal knowledge of the matters set forth below, and if called upon, could and would competently testify thereto.

2. On April 13, 2026, the Government filed a protective notice of appeal of the district court's orders granting a preliminary injunction. The Government thereafter requested, and the Court granted, a 60-day extension of time to file its

preliminary injunction opening brief, up to and including July 13, 2026, because the process to determine whether an appeal is appropriate remained ongoing. Dkt. Nos. 4 & 5 (No. 26-2302). This process remains ongoing.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my personal knowledge.

Dated: June 5, 2026

/s/ Savith Iyengar
SAVITH IYENGAR
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on June 5, 2026, I electronically filed the foregoing document 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/ Savith Iyengar
SAVITH IYENGAR
Assistant United States Attorney