

No. 16-11241

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

TEXAS HEALTH AND HUMAN SERVICES COMMISSION,
Plaintiff-Appellant

v.

UNITED STATES OF AMERICA, UNITED STATES DEPARTMENT OF
STATE, JOHN KERRY in his Official Capacity as SECRETARY OF STATE,
UNITED STATES DEPARTMENT OF HEALTH & HUMAN SERVICES,
SYLVIA BURWELL, in her Official Capacity as SECRETARY OF HEALTH
AND HUMAN SERVICES, OFFICE OF REFUGEE RESETTLEMENT,
ROBERT CAREY, in his Official Capacity as Director of the OFFICE OF
REFUGEE RESETTLEMENT, and INTERNATIONAL RESCUE COMMITTEE,
INC.,
Defendants-Appellees

On Appeal from the United States District Court for the
Northern District of Texas, Dallas Division
Case No. 3:15-cv-03851

PLAINTIFF-APPELLANT'S UNOPPOSED MOTION TO DISMISS
PURSUANT TO FEDERAL RULE OF APPELLATE PROCEDURE 42

Ken Paxton
Attorney General of Texas
Jeffrey C. Mateer
First Assistant Attorney General
Office of the Attorney General
P.O. Box 12548 (MC 009)
Austin, Texas 78711-2548
Tel.: (512) 936-1414

Austin R. Nimocks
Associate Deputy Attorney General
Andrew D. Leonie
Associate Deputy Attorney General
Michael C. Toth
Senior Counsel
Counsel for Plaintiff-Appellant

Pursuant to Federal Rule of Appellate Procedure 42(b), Plaintiff-Appellant respectfully moves to dismiss its appeal of the district court's order of dismissal of June 15, 2016. Defendants-Appellees do not object to a dismissal.

PRAYER

Plaintiff-Appellant respectfully request that its appeal be dismissed.

Respectfully submitted on this the 7th Day of October, 2016,

KEN PAXTON
Attorney General of Texas
JEFFREY C. MATEER
First Assistant Attorney General
BRANTLEY D. STARR
Deputy First Assistant Attorney General
PRERAK SHAH
Senior Counsel to the Attorney General
ANDREW D. LEONIE
Associate Deputy Attorney General
/s/ Austin R. Nimocks
AUSTIN R. NIMOCKS
Associate Deputy Attorney General
Texas Bar No. 24002695
austin.nimocks@oag.texas.gov
MICHAEL C. TOTH
Senior Counsel
Office of Special Litigation
ATTORNEY GENERAL OF TEXAS
P.O. Box 12548, Mail Code 009
Austin, Texas 78711-2548
Tel: 512-936-1414
*ATTORNEYS FOR PLAINTIFF-
APPELLANT*

CERTIFICATE OF CONFERENCE

Counsel for Plaintiff-Appellant consulted via e-mail with counsel for Defendants-Appellees regarding this motion. Counsel for both the federal and private Defendants provided that they do not oppose the dismissal.

/s/ Austin R. Nimocks
AUSTIN R. NIMOCKS
Associate Deputy Attorney General

**CERTIFICATE OF SERVICE
AND ELECTRONIC COMPLIANCE**

I, Austin R. Nimocks, Associate Deputy Attorney General of Texas, do hereby certify that Motion was transmitted to the Clerk of the United States Court of Appeals for the Fifth Circuit, via the Court’s CM/ECF Document Filing System, <https://ecf.ca5.uscourts.gov/>, which caused service upon counsel for all parties.

Counsel also certifies that: (1) required privacy redactions have been made, 5th Cir. R. 25.2.13; (2) the electronic submission is an exact copy of the paper document, 5th Cir. R. 25.2.1; and (3) the document has been scanned with the most recent version of Symantec Endpoint Protection and is free of viruses.

/s/ Austin R. Nimocks
AUSTIN R. NIMOCKS
Associate Deputy Attorney General