



U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, NW
Washington, DC 20005

July 3, 2019

By ECF

The Honorable Jesse M. Furman
United States District Judge
Southern District of New York
Thurgood Marshall Courthouse
40 Foley Square
New York, New York 10007

Re: *State of New York, et al., v. U.S. Department of Commerce, et al.*, 18-cv-2921 (JMF)
N.Y. Immigration Coalition v. U.S. Dep't of Commerce, 18-cv-5025 (JMF)

Dear Judge Furman:

Pursuant to ECF No. 611, Defendants write to respond to Plaintiffs' letter request for an immediate status conference and to provide the Court with information regarding a status conference held earlier this afternoon in a matter before another court, *Kravitz v. U.S. Dep't of Commerce*, No. 18-cv-1041 (D. Md.).

On July 2, 2019, counsel for Defendants sent an email communication to counsel for Plaintiffs confirming that the questionnaire for the 2020 Decennial Census had been sent to the printer, without a question inquiring about respondents' citizenship status, and that the process of printing the questionnaires had started. ECF No. 610-3. That representation was based on the information undersigned counsel had at the time, and it remains undersigned counsel's understanding that the process of printing the questionnaires, without the citizenship question, continues.

The Departments of Justice and Commerce have now been asked to reevaluate all available options following the Supreme Court's decision and whether the Supreme Court's decision would allow for a new decision to include the citizenship question on the 2020 Decennial Census. The agencies are currently performing the analysis requested, and, if they determine that the Supreme Court's decision does allow any path for including such a decision, DOJ may file a motion with the Supreme Court seeking further procedural guidance for expediting litigation on remand. In the event that the Commerce Department adopts a new rationale for including the citizenship question on the 2020 Decennial Census consistent with the decision of the Supreme Court, the Government will immediately notify this Court so that it can determine whether there is any need for further proceedings or relief.

However, Defendants can confirm that they are taking no action in contravention of the injunction of this Court, which vacated the Secretary's March 2018 decision to place a citizenship question on the 2020 decennial census, and which was affirmed in relevant part by the Supreme Court and remains in place to protect the interests of Plaintiffs in this matter.

Finally, with respect to today's proceedings before Judge Hazel, he ordered that the parties, by 2:00 pm on July 5, 2019, submit either a stipulation that the Government would undertake no further efforts to include a citizenship question on the 2020 Decennial Census, or file a proposed discovery schedule regarding Plaintiffs' equal protection and conspiracy claims.

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

JAMES M. BURNHAM
Deputy Assistant Attorney General

JOHN R. GRIFFITHS
Director, Federal Programs Branch

/s/Joshua E. Gardner
JOSHUA E. GARDNER
Special Counsel
United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, N.W.
Washington, DC 20005
Tel.: (202) 305-7583
Fax: (202) 616-8470
Email: joshua.e.gardner@usdoj.gov

Counsel for Defendants

CC:

All Counsel of Record (by ECF)