

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BRIAN P. CARR, RUEANGRONG CARR,
and BUAKHAO VON KRAMER,

Plaintiffs,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

Civil Action No. 3:23-CV-02875-S-BT

**DEFENDANTS' MOTION FOR LEAVE TO FILE
NOTICE OF SUPPLEMENTAL AUTHORITY**

Defendants respectfully request the Court's permission under Local Civil Rule 56.7 to file the attached Notice of Supplemental Authority. After Defendants filed their reply in support of their motion to dismiss on June 11, 2024, (Doc. 41), the Supreme Court of the United States issued its opinion in *Dep't. of State v. Muñoz*, 602 U.S. ---, No. 23–334, 2024 WL 3074425 (U.S. June 21, 2024). This opinion analyzes several relevant issues on which the parties here disagree, including (1) whether an executive officer's decision to deny a visa to a noncitizen is subject to review by the federal courts; and (2) whether a citizen has a liberty interest in their noncitizen spouse being admitted to the country sufficient to overcome the doctrine of consular nonreviewability.

Because *Muñoz* analyzes arguments similar to those raised by the parties in connection with Defendants' motion to dismiss, consideration of *Muñoz* as a supplemental authority may aid the Court in resolving the parties' arguments, and it

would not prejudice Plaintiffs. *See* Fed. R. App. P. 28(j). Therefore, Defendants request permission to apprise the Court of this new authority. *See also Highland Capital Mgmt. L.P. v. Bank of Am., N.A.*, No. 3:10-CV-1632-L, 2013 WL 4502789, at *28 (N.D. Tex. Aug. 23, 2013) (noting that under Local Civil Rule 56.7, where an authority is issued after briefing is complete, “the court will generally permit a party to file a notice of supplemental authority without seeking formal leave of court”).

Relying by analogy on Federal Rule of Appellate Procedure 28(j), Defendants’ proposed notice of supplemental authority does “not exceed 350 words.” *See* Fed. R. App. P. 28(j). Thus, if this motion for leave is granted, Defendants respectfully request that Plaintiffs be granted leave to respond to the attached notice so long as Plaintiffs’ response is “similarly limited.” *Id.*

Respectfully submitted,

LEIGHA SIMONTON
UNITED STATES ATTORNEY

/s/ *Emily H. Owen*

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CERTIFICATE OF CONFERENCE

On June 27, 2024, I conferred with pro se Plaintiff Brian Carr who stated that Plaintiffs are opposed to the requested relief.

/s/ *Emily H. Owen*

Emily H. Owen

CERTIFICATE OF SERVICE

On July 1, 2024, I electronically filed the above response with the clerk of court for the U.S. District Court, Northern District of Texas. I certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ *Emily H. Owen*

Emily H. Owen