

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 19-1425

LA UNIÓN DEL PUEBLO ENTERO; *et al.*

Plaintiffs-Appellants

v.

WILBUR L. ROSS,

sued in his official capacity, as U.S. Secretary of Commerce; *et al.*

Defendants-Appellees.

MOTION FOR REMAND

Plaintiffs hereby move for an order from this Court in the above-captioned matter resolving this appeal by remand to the district court with instructions to vacate paragraph 6 of the district court's April 5, 2019 Order. *Kravitz v. Dep't of Commerce*, No. 18-cv-1041 (D. Md.) (*Kravitz*), ECF No. 155. Paragraph 6 is an entry of final judgement for Defendants and against Plaintiffs of Plaintiffs' claims arising under the Due Process Clause of the Fifth Amendment of the Constitution and is the subject of this appeal. Counsel for Defendants have authorized us to state they take no position on this motion.

The district court entered an order on June 19, 2019 granting Plaintiffs' motion for an indicative ruling under Rule 62.1, concluding that Plaintiffs' Rule 60(b)(2) motion based on newly discovered evidence raises a substantial issue. *Kravitz*, ECF No. 174. This Court consequently granted Plaintiffs' motion to remand for further proceedings on Plaintiffs' Rule 60(b) motion. ECF No. 40. On July 16, 2019, this Court entered orders deconsolidating this case from case numbers 19-1387, 19-1425, and 19-1382 (ECF No. 53), and dismissing the appeals in 19-1387 (ECF No. 51) and 19-1382 (ECF No. 54).

On July 17, 2019, in light of the Supreme Court's ruling in *Department of Commerce v. State of New York*, No. 18-966 (June 27, 2019) that Defendants violated the Administrative Procedure Act, the district court in this case entered an order, unopposed by defendants, resolving Plaintiffs' Rule 60(b)(2) motion and permanently enjoining Defendants "from including a citizenship question on the 2020 decennial census questionnaire; from delaying the process of printing the 2020 decennial census questionnaire after June 30, 2019 for the purpose of including a citizenship question; and from asking persons about citizenship status on the 2020 Census questionnaire or otherwise asking a citizenship question as part of the 2020 decennial Census." *Kravitz*, ECF No. 203. Thus, the proceedings under Plaintiffs' Rule 60(b)(2) motion to reconsider their claims arising under the Due Process Clause of the Fifth Amendment of the Constitution,

the subject of this appeal, were terminated before adjudication. The resolution of the claims that are the basis of this appeal were mooted by the order providing permanent relief under other claims in the case, so the district court decision that was subject to reconsideration should be vacated as moot.

In light of the above-enumerated rulings, Plaintiffs respectfully request that this Court remand to the district court with instructions to vacate paragraph 6 of the district court's April 5, 2019 order. *Kravitz*, ECF No. 155.

Dated: July 17, 2019

By /s/ Denise Hulett

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**Admitted to the Fourth Circuit Court of Appeals*

CERTIFICATE OF SERVICE

I hereby certify that on July 17, 2019, the foregoing Motion for Remand was served on all parties or their counsel of record through the CM/ECF system if they are registered users.

Date: July 17, 2019

/s/ Andrea Senteno

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