
No. 23A858

In the Supreme Court of the United States

ISRAEL ALVARADO, *ET. AL.*,
Applicants,

v.

LLOYD AUSTIN, III, *ET. AL.*,
Respondents.

On Application for a Writ of Injunction Pending Petition for a Writ of Certiorari

To the Honorable John G. Roberts, Jr., Chief Justice of the United States and
Circuit Justice for the Fourth Circuit

**SUPPLEMENTAL BRIEF IN SUPPORT OF ALVARADO, ET AL, APPLICATION FOR
WRIT OF INJUNCTION PENDING PETITION FOR A WRIT OF *CERTIORARI***

BRANDON JOHNSON
DEFENDING THE REPUBLIC
2911 Turtle Creek Blvd.
Suite 300
Dallas, Texas 75219
(214) 707-1775
bcj@defendingtherepublic.org

ARTHUR A. SCHULCZ, SR.
Counsel of Record
CHAPLAINS COUNSEL, PLLC
21043 Honeycreeper Place
Leesburg, Virginia 20175
(703) 645-4010
art@chaplainscounsel.com

J. ANDREW MEYER
FINN LAW GROUP, P.A.
8380 Bay Pines Blvd.
St. Petersburg, Florida 33709
(727) 709-7668
ameyer@finnlawgroup.com

Counsel for Applicants

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APPLICANTS' SUPPLEMENT TO THEIR APPLICATION FOR A WRIT OF INJUNCTION FOR INTERIM RELIEF

To the Honorable John G. Roberts, Jr., Chief Justice of the United States and Circuit Justice for
the Fourth Circuit:

INTRODUCTION

The *Alvarado v. Austin* petitioners in Case No. 23-717 filed an Application for a Writ of Injunction for Interim Relief, No. 23A858, on March 19, 2024.

Parties to the Proceeding, Application (“Applic.”) at I; Rule 29.6 Disclosure Statement, *id.*; Statement of Related Cases, *id.* at ii- iii; and Jurisdiction, *id.* at iii, as presented in the Application remain unchanged.

Pursuant to S.Ct. R. 15.8, Applicants respectfully file this supplemental brief addressing two distinct but related topics that impact and support both this Application and the Applicant’s pending petition for certiorari, No. 23-717.

First, *FBI v. Fikre*, 601 U.S. ___, 144 S.Ct. 771 (2024) addresses the criteria for a defendant to prove mootness, *id.* at 777-78. The Application at 15-16, § II.A, argued: “The Court is likely to grant a writ of *certiorari* on the issue of mootness.” Sections I and II below shows Applicants’ facts 12-31, Applic. at 8-12, which *Fikre* requires courts accept as true, 144 S.Ct. at 778, preclude mootness as Respondents have failed to meet *Fikre*’s standard. *Fikre*’s emphasizes the courts’ “virtually unflagging obligation” to hear and resolve questions over which they have jurisdiction, *id.* at 777.

Fikre expressly abrogated the Fourth Circuit’s decision in *Long v. Pekoske*, 38 F.4th 717 (4th Cir. 2022) and the mootness standard therein that Respondents successfully advocated to affirm dismissal of the Applicants’ complaint, *see* App.747a-749a. *Fikre* was issued after the

filing of Petitioner’s petition and Application. It clarifies the application of the mootness doctrine and the voluntary cessation exception thereto for similar claims of religious liberty violations justified by the government on broad, yet undisclosed national security grounds.

The second topic or factor that Applicants bring to the Court’s attention is the Navy Chaplain Corps’ April 5, 2024, “Quarterly Newsletter”, Supplemental Appendix 738a-39a (attached) presenting the Navy Chaplain Recruiting Numbers for FY (“fiscal year”) 24, “20 added with a goal of 82 (24%)” halfway through the FY. Section IV addresses the Application’s reference to the reported shortage of military chaplains as reflective of Secretary’s and DOD’s hostility to people of faith as shown in their attempt to purge the military of those who believe in following their conscience and their “malicious implementation of Congress’s 2023 Order to rescind the mandate”, Applic. at 10.

REASONS TO GRANT THE APPLICATION

I. *FIKRE* CLARIFIED THE APPLICATION OF MOOTNESS DOCTRINE TO EVALUATING A DEFENDANT’S PROOF OF MOOTNESS.

Fikre covers known ground on the law of mootness in many respects, but in addition to expressly abrogating the Fourth Circuit’s decision in *Long*, it clarifies the standard defendants must meet to carry their burden of establishing mootness generally and specifically the showing required to demonstrate that it cannot reasonably be expected to resume the challenged conduct or policy.

- *Fikre* restates mootness doctrine, making clear the respondents here cannot show mootness:

- To find a lack of jurisdiction, the defendant accepts the complaint’s allegations unless denied or controverted. *Fikre*, 144 S.Ct. at 777.

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