

[NOT YET SCHEDULED FOR ORAL ARGUMENT]

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

MARK KELLY, United States Senator
Representing the State of Arizona,

Plaintiff-Appellee,

v.

PETE HEGSETH, in his Official Capacity as
Secretary of Defense; U.S. DEPARTMENT OF
DEFENSE; JOHN C. PHELAN, in his Official
Capacity as Secretary of the Navy; U.S.
DEPARTMENT OF THE NAVY,

Defendants-Appellants.

No. 26-5070

**UNOPPOSED MOTION FOR EXPEDITED
BRIEFING AND ARGUMENT**

For the following reasons, the government respectfully requests that the Court set an expedited briefing schedule and hear oral argument in this case in May, before the Court's summer recess.

1. Plaintiff is Senator Mark Kelly, a retired Naval officer. Plaintiff brought this action against the government to challenge a letter of censure issued by the Secretary of War and the reopening of his retired grade. Those actions were based on statements that plaintiff made concerning military affairs that the Secretary determined were prejudicial to good

order and discipline in the Armed Forces. Plaintiff filed suit in district court and obtained a preliminary injunction enjoining defendants from, among other things, giving effect to the letter of censure or taking steps to revisit plaintiff's grade determination.

2. The government is currently enjoined from taking further actions against plaintiff in reliance on the findings in the letter of censure. In light of the public's unusual interest in prompt disposition of this appeal, the government respectfully requests that this Court set an expedited briefing schedule that will allow the Court to hear oral argument this Term, before the Court's summer recess. *See* D.C. Circuit Handbook of Practice and Internal Procedures 34 (Dec. 4, 2025). The government proposes the following expedited briefing schedule, subject to modifications the Court deems necessary to ensure that the case can be heard before the summer recess:

Government's opening brief and appendix:	March 20, 2026
Plaintiffs' answering brief:	April 17, 2026
Government's reply brief:	May 1, 2026

This schedule reasonably balances the need for adequate presentation of this important case—including providing plaintiff almost the full standard

period for a response brief—while ensuring that briefing is complete before this Court’s Term concludes in May.

3. Counsel for plaintiff has authorized the undersigned to represent that plaintiff consents to this motion, based on the rationale that the public generally has an unusual interest in prompt disposition.

Respectfully submitted,

BRETT A. SHUMATE
Assistant Attorney General

BRAD HINSHELWOOD
/s/ Cynthia Barmore

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FEBRUARY 2026

CERTIFICATE AS TO PARTIES AND AMICI

Pursuant to D.C. Circuit Rule 27(a)(4), the undersigned counsel certifies as follows:

Defendants-Appellants are Pete Hegseth, in his official capacity as Secretary of Defense; the U.S. Department of Defense; John C. Phelan, in his official capacity as Secretary of the Navy; and the U.S. Department of the Navy. Plaintiff-Appellee is Mark Kelly, United States Senator representing the State of Arizona.

Amici in the district court include Vet Voice Foundation and 41 former service secretaries and retired senior military officers. The 41 individuals are Former Secretary of the Army Louis E. Caldera; Former Secretary of the Navy Sean C. O’Keefe; Admiral C. Steve Abbot, U.S. Navy (Ret.); Admiral Thad W. Allen, U.S. Coast Guard (Ret.); Admiral Dennis C. Blair, U.S. Navy (Ret.); General George W. Casey, Jr., U.S. Army (Ret.); General Michael V. Hayden, U.S. Air Force (Ret.); Admiral Gregory G. Johnson, U.S. Navy (Ret.); Admiral John. B. Nathman, U.S. Navy (Ret.); Admiral William A. Owens, U.S. Navy (Ret.); Vice Admiral Donald C. Arthur, U.S. Navy (Ret.); Vice Admiral Michael T. Franken, U.S. Navy (Ret.); Lieutenant General Walter E. Gaskin, U.S. Marine Corps (Ret.); Lieutenant General Claudia J. Kennedy, U.S. Army (Ret.); Lieutenant

General Charles P. Otstott, U.S. Army (Ret.); Rear Admiral (Upper Half) William D. Baumgartner, U.S. Coast Guard (Ret.); Major General Richard T. Devereaux, U.S. Air Force (Ret.); Major General Paul D. Eaton, U.S. Army (Ret.); Rear Admiral (Upper Half) F. Stephen Glass, U.S. Navy (Ret.); Major General Jonathan S. Gration, U.S. Air Force (Ret.); Rear Admiral (Upper Half) Donald J. Guter, U.S. Navy (Ret.); Major General Richard S. Haddad, U.S. Air Force (Ret.); Major General Irving L. Halter, Jr., U.S. Air Force (Ret.); Rear Admiral (Upper Half) Janice Hamby, U.S. Navy (Ret.); Major General Dennis Laich, U.S. Army (Ret.); Major General Steven J. Lepper, U.S. Air Force (Ret.); Major General Randy E. Manner, U.S. Army (Ret.); Major General Frederick H. Martin, U.S. Air Force (Ret.); Rear Admiral (Upper Half) David R. Oliver, Jr., U.S. Navy (Ret.); Major General Antonio Taguba, U.S. Army (Ret.); Major General F. Andrew Turley, U.S. Air Force (Ret.); Brigadier General Clara Adams-Ender, U.S. Army (Ret.); Rear Admiral (Lower Half) James A. Barnett, Jr., U.S. Navy (Ret.); Brigadier General Bela J. Chain, Jr., U.S. Army (Ret.); Rear Admiral (Lower Half) Jay A. DeLoach, U.S. Navy (Ret.); Brigadier General John W. Douglass, U.S. Air Force (Ret.); Brigadier General Robert J. Felderman, U.S. Army (Ret.); Rear Admiral (Lower Half) Charles D. Harr, U.S. Navy (Ret.); Brigadier General David R. Irvine, U.S. Army (Ret.); Rear Admiral

(Lower Half) Harold L. Robinson, U.S. Navy (Ret.); Brigadier General John M. Schuster, U.S. Army (Ret.).

There were no intervenors in district court, and there have been no amici or intervenors in this Court to date.

/s/ Cynthia Barmore
Cynthia Barmore

CERTIFICATE OF COMPLIANCE

This motion complies with the type-volume limit of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 324 words. This motion also complies with the typeface and type-style requirements of Federal Rules of Appellate Procedure 27(d)(1)(E) and 32(a)(5)-(6) because it was prepared using Word for Microsoft 365 in Georgia 14-point font, a proportionally spaced typeface.

/s/ Cynthia Barmore
Cynthia Barmore

CERTIFICATE OF SERVICE

I hereby certify that on February 27, 2026, I electronically filed the foregoing motion with the Clerk of the Court by using the appellate CM/ECF system. I certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Cynthia Barmore
Cynthia Barmore