

IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

DANA ALIX ZZYIM,

Plaintiff-Appellee,

v.

MICHAEL R. POMPEO, in his official capacity
as the Secretary of State,

Defendant-Appellant, and

SHERMAN PORTELL, in his official capacity
as the Director of the Colorado Passport
Agency for the United States Department of
State,

Defendant-Appellant.

No. 18-1453

UNOPPOSED MOTION FOR A STAY OF BRIEFING
IN LIGHT OF LAPSE OF APPROPRIATIONS

Defendants-appellants Michael R. Pompeo and Sherman Portell hereby move for a stay of briefing in the above-captioned case. Plaintiff does not oppose this request.

1. At the end of the day on December 21, 2018, the appropriations act that had been funding the Department of Justice expired and appropriations to the

Department lapsed. The Department of Justice does not know when funding will be restored by Congress.

2. Absent an appropriation, Department of Justice attorneys are prohibited from working, even on a voluntary basis, except in very limited circumstances, including “emergencies involving the safety of human life or the protection of property.” 31 U.S.C. § 1342.

3. The defendants-appellants’ opening brief currently is due on January 22, 2019. In light of the lapse in appropriations, defendants-appellants request a stay of briefing in this case until Congress has restored appropriations to the Department of Justice.

4. Defendants-appellants request that, as soon as Congress has appropriated funds for the Department of Justice, all current deadlines for the parties be extended commensurate with the duration of the lapse in appropriations.

5. Plaintiff does not oppose this request.

Although we greatly regret any disruption caused to the Court and the other litigants, defendants-appellants hereby move for a stay of briefing in this case until Department of Justice attorneys are permitted to resume their usual functions related to this appeal.

Respectfully submitted,

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s/Lewis S. Yelin
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January 2, 2019

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s/ Lewis S. Yelin

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ECF CERTIFICATION

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s/ Lewis S. Yelin

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Counsel for the defendants-appellants

CERTIFICATE OF SERVICE

I hereby certify that on January 2, 2019, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the Tenth Circuit by using the appellate CM/ECF system, which, pursuant to Circuit Rule 25.4, constitutes service on all parties registered for electronic filing.

s/ Lewis S. Yelin

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