

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

DANA ALIX ZZYYM,

Plaintiffs,

v.

MICHAEL R. POMPEO, *in his official
capacity as Secretary of State*, and
STEVEN J. MULLEN, *in his official capacity
as Director of the Colorado Passport Agency
for the United States Department of State*,

Defendants.

Civil Action No. 15-2362-RBJ

**DEFENDANTS' UNOPPOSED MOTION FOR EXTENSION OF TIME
TO RE-ADJUDICATE PLAINTIFF'S PASSPORT APPLICATION**

On May 12, 2020, the United States Court of Appeals for the Tenth Circuit issued an opinion that “vacate[d] the district court’s entry of judgment for Zzyym and the court’s issuance of a permanent injunction against enforcement of the binary sex policy as to Zzyym and remand[ed] with instructions to vacate the State Department’s decision and reconsider Zzyym’s application for an intersex passport.” ECF No. 111-1 at 41. Following that decision, the parties filed a joint status report that proposed a schedule for reconsidering Plaintiff’s passport application, ECF No. 114, which the Court approved on August 7, 2020, ECF No. 115. Under that proposed schedule, the Department is to reconsider Plaintiff’s passport application within ninety days of receiving supplemental materials to the application, and the parties are to submit a status report thirty days thereafter.

On October 6, 2020, Plaintiff submitted supplemental materials in support of his application. Under the current schedule, the Department would adjudicate the Plaintiff’s application by January 4, 2021 and report back to the Court by February 3, 2021.

The parties have conferred and reached agreement on providing the State Department an

additional 120 days to reconsider Plaintiff's passport application, to on or about May 24, 2021. While the requested extension for the administrative process is lengthy, good cause exists for the additional time sought. Specifically, the requested extension is warranted to give Defendants sufficient time to review and consider Plaintiff's supplemental materials, which include numerous state policies on sex fields, as well as the court decisions in this litigation, including by the Tenth Circuit. There are no pending litigation deadlines in this case (other than a status report to the court due 30 days after adjudication of the application) that will be impacted by the extension sought. Under these circumstances—and given the importance of the issues presented—Defendants request that the Court grant this unopposed request to extend the schedule set forth in its prior order to allow the Defendants until on or about May 24, 2021 to adjudicate Plaintiff's revised passport application. This is the first such request for an extension of time.

Dated: December 23, 2020

Respectfully submitted,

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