

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ALLISON DAWN BLIXT and L. Z.-B.	:	
	:	
Plaintiffs,	:	
v.	:	
	:	
The UNITED STATES DEPARTMENT OF STATE and ANTONY J. BLINKEN in his official capacity as Secretary, U.S. Department of State	:	Civ. No. 1:20-cv-02102-KM-JBC
	:	
	:	
Defendants.	:	
	:	

**DEFENDANTS’ NOTICE OF MOTION AND
MOTION FOR 60-DAY STAY OF CASE DEADLINES**

Defendants U.S. Department of State and Antony J. Blinken, in his official capacity as Secretary of the U.S. Department of State, respectfully request a 60-day stay of case deadlines and hereby state the following:

1. The parties’ reply briefs in support of their motions for partial summary judgment are currently due on or before March 8, 2021. Order, ECF No. 72. A status conference is currently scheduled for March 31, 2021. Letter Order, ECF No. 64.
2. Defendants previously requested and received a 30-day extension of time in connection with the parties’ partial summary-judgment briefing schedule to allow the new presidential administration time to become familiar with the issues in this case. ECF Nos. 71, 72.
3. That initial assessment of this case has led the Department of State to engage in a broader assessment of the policies this litigation implicates and, as a result, the Department is currently actively reviewing its policies regarding the administration

of the at-birth citizenship statutes for children born abroad in light of the new administration's priorities. The Department denied the Consular Report of Birth Abroad for plaintiff K.R.K. under its current statutory interpretation and supporting policies regarding at-birth citizenship; therefore, the policies under review are the subject of this lawsuit and the parties' cross-motions for partial summary judgment. This ongoing review could obviate the need for further litigation or otherwise impact further proceedings.

4. Given the strong interest in judicial economy and preserving both the Court's and the parties' scarce resources, and in the potential avoidance of complex questions of statutory and constitutional law, Defendants request a 60-day stay of case deadlines while the State Department continues this review process.
5. This court's "power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket. . . ." *Commonwealth Ins. Co. v. Underwriters, Inc.*, 846 F.2d 196, 199 (3d Cir. 1988) (quoting *Landis v. North American Co.*, 299 U.S. 248, 254 (1936) (internal quotation marks omitted)). The district court is empowered to manage its docket "with economy of time and effort for itself, for counsel, and for litigants." *Landis*, 299 U.S. at 254. A court deciding a contested motion to stay "must weigh competing interests and maintain an even balance." *Id.* at 254–55. A party may be required "to submit to delay not immoderate in extent and not oppressive in its consequences if . . . convenience will thereby be promoted." *Id.* at 256.
6. Here, given that the State Department's active review of its statutory interpretation of and policies implementing the at-birth citizenship statutes may result in an

administrative outcome that would require no further proceedings in this case, the principles of judicial economy favor a stay. ““A trial court may, with propriety, find it is efficient for its own docket and the fairest course for the parties to enter a stay of an action before it, pending resolution of independent proceedings which bear upon the case.”” *IBT/HERE Empl. Representatives’ Council v. Gate Gourmet Div. Ams.*, 402 F.Supp.2d 289, 292 (D.D.C. 2005) (quoting *Leyva v. Certified Grocers of Cal., Ltd.*, 593 F.2d 857, 863–64 (9th Cir. 1979)); *cf. Bechtel Corp. v. Local 215, Laborers’ Int’l Union*, 544 F.2d 1207, 1215 (3d Cir. 1976) (“In the exercise of its sound discretion, a court may hold one lawsuit in abeyance to abide the outcome of another which may substantially affect it or be dispositive of the issues.”).

7. Further, Defendants would be harmed in the absence of the stay. “Courts generally weigh a number of factors in determining whether to grant a stay including . . . whether denial of the stay would create a clear case of hardship or inequity for the moving party.” *Akishev v. Kapustin*, 23 F. Supp. 3d 440, 446 (D.N.J. 2014) (cleaned up). In the absence of a stay, the State Department would have to litigate over its current policies and statutory interpretations while simultaneously reviewing and potentially making changes to those policies. Moreover, the Court may then be asked to issue an opinion over a policy that may be subject to change. In this scenario, the State Department would expend unnecessary resources and would be hindered its ability to expeditiously carry out its policy review and any attendant changes. *See, e.g., Fed. Trade Comm’n v. Lending Club Corp.*, No. 18-CV-02454-JSC, 2020 WL 4898136, at *3 (N.D. Cal. Aug. 20, 2020) (A stay was appropriate where continuing with litigation would

- “needlessly burden [the defendant] only to possibly have the entire enterprise mooted . . .”).
8. Defendants do not request this stay for the purpose of undue delay, and submit that the revised schedule should not prejudice the conduct of the litigation or the plaintiff. It is possible that policy deliberations will proceed more quickly than any final resolution of this lawsuit and, in any event, could avoid the need for judicial review of the significant and complex statutory and constitutional issues presented by this case. *Cf. Stinnie v. Holcomb*, 396 F. Supp. 3d 653, 660 (W.D. Va. 2019) (concluding that a stay was warranted under the “principles of constitutional avoidance and judicial restraint” due to pending legislative action that could resolve the case).
 9. Defendants propose that the parties file a joint status report within 60 days to update the Court.
 10. Good cause, therefore, exists for Defendants’ request. Accordingly, Defendants request that the Court enter a 60-day stay of the case deadlines and order the parties to file a joint status report within 60 days.
 11. In the alternative, should the Court deny Defendants’ request for a stay of proceedings, Defendants request a 30-day extension of the reply deadline and a commensurate continuance of the March 31, 2021 status conference.
 12. Defendants have conferred with Plaintiffs before filing this motion. Plaintiffs do not consent to the motion.

Dated: March 4, 2021

Respectfully submitted,

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[PROPOSED] ORDER

Upon consideration of Defendants’ motion for a 60-day stay of the case deadlines, for good cause shown, it is HEREBY ORDERED that Defendants’ motion is GRANTED. The parties are ordered to file a joint status report within 60 days.

It is SO ORDERED.

Date

Kevin McNulty
United States District Judge