

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

STATE OF TEXAS, <i>et al.</i>)	
)	
Plaintiffs,)	
)	No. 1:14-cv-254
v.)	
)	
UNITED STATES OF AMERICA, <i>et al.</i>)	
)	
Defendants.)	
)	

UNOPPOSED MOTION TO STAY MERITS PROCEEDINGS

Consistent with this Court’s March 22, 2017, Order, the parties have met and conferred on how to proceed in this case. For the reasons stated below, Defendants move to continue the stay of proceedings on the merits of Plaintiffs’ claims, including the obligation to propose a schedule for resolution of the case, for two weeks, until June 29, 2017. Plaintiffs and Intervenors do not oppose the relief sought in this motion. The basis for this motion is as follows:

1. On January 19, 2017, this Court granted the parties’ joint motion to stay proceedings to allow for the new administration to consider next steps in this litigation following completion of proceedings on the preliminary injunction in the Fifth Circuit and the Supreme Court. *See* Order, January 19, 2017 (ECF No. 435) (recognizing “the vagaries involved in a change of administrations”). In that Order, this Court further noted that it would “consider an additional stay if good cause exists and if agreed to by all the parties.” *Id.*

2. On February 20, 2017, John Kelly, Secretary of Homeland Security, issued a memorandum providing new guidance on immigration enforcement. *See* Enforcement of the Immigration Laws to Serve the National Interest, *available at* <https://www.dhs.gov/sites/>

default/files/publications/17_0220_S1_Enforcement-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf. Secretary Kelly’s memorandum rescinded previous enforcement guidance, but the November 20, 2014, policy at issue in this case—“Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children and with Respect to Certain Individuals Who Are the Parents of U.S. Citizens or Permanent Residents”—was specifically excluded from rescission. *Id.* at 2. Rather, Secretary Kelly stated that “[t]he November 20, 2014, memorandum will be addressed in future guidance.” *Id.* at 2 n.1.

3. On March 17, 2017, Defendants moved to continue the stay of proceedings until June 15, 2017, and Plaintiffs and Intervenors did not oppose the relief sought. *See* Unopposed Motion to Stay Merits Proceedings, March 17, 2017 (ECF No. 438). In support of this motion, Defendants cited Secretary Kelly’s February 20, 2017, memorandum as good cause to continue the stay. Finding good cause shown, this Court granted Defendants’ unopposed motion on March 22, 2017. *See* Order, March 22, 2017 (ECF No. 439).

4. On June 15, 2017, Secretary Kelly issued a memorandum providing further guidance on the November 20, 2014, policy at issue in this case. This memorandum, “Rescission of November 20, 2014 Memorandum Providing for Deferred Action for Parents of Americans and Lawful Permanent Residents (‘DAPA’),” rescinds the November 20, 2014 policy, noting “the preliminary injunction in this matter, the ongoing litigation, the fact that DAPA never took effect, and our new immigration enforcement priorities.” *See* Ex. A. The memorandum “does not alter the remaining periods of deferred action under the Expanded DACA policy granted between issuance of the November 20, 2014 Memorandum and [this Court’s] February 16, 2015 preliminary injunction order in the Texas litigation, nor does it affect

the validity of related Employment Authorization Documents (EADs) granted during the same span of time.” *See id.*

5. Good cause exists to continue the stay for two weeks. Secretary Kelly’s June 15, 2017, memorandum has a direct bearing on the proceedings in this case. A stay will promote judicial efficiency by allowing the parties to further confer in light of the memorandum issued earlier today. In the meantime, this Court’s preliminary injunction of February 16, 2015, would remain in effect for the duration of any stay.

6. Accordingly, Defendants respectfully submit that further proceedings on the merits of this case, including the submission of a schedule for resolving the merits, should be stayed for two weeks until June 29, 2017. Because no party opposes a stay of the merits proceedings, the balance of interests weighs heavily in favor of granting that stay.

Dated: June 15, 2017

ABRAN MARTINEZ
Acting United States Attorney

DANIEL DAVID HU
Assistant United States Attorney
Deputy Chief, Civil Division

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General

JENNIFER D. RICKETTS
Branch Director, Federal Programs Branch
Attorney-in-Charge (VA Bar No. 29281)

JOHN R. TYLER
Assistant Branch Director

/s/ Julie S. Saltman
JULIE S. SALTMAN (D.C. Bar No. 975015)
DANIEL HALAINEN
Trial Attorneys
Civil Division, Federal Programs Branch
U.S. Department of Justice
P.O. Box 883
Washington, D.C. 20044
Tel.: (202) 532-4252
Fax: (202) 616-8470

Julie.Saltman@usdoj.gov

Attorneys for Defendants

CERTIFICATE OF CONFERRAL

Undersigned counsel hereby certifies that counsel for Plaintiffs, Adam Biggs, and counsel for Intervenors, Nina Perales, concurred in the filing of this Unopposed Motion to Stay Merits Proceedings.

/s/ Julie S. Saltman
Counsel for Defendants

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that a true and correct copy of the foregoing Unopposed Motion to Stay Merits Proceedings has been delivered electronically on June 15, 2017, to counsel of record via the District's ECF system.

/s/ Julie S. Saltman
Counsel for Defendants