

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Nov 08, 2019

SEAN F. MCAVOY, CLERK

STATE OF WASHINGTON;
COMMONWEALTH OF VIRGINIA;
STATE OF COLORADO; STATE
OF DELAWARE; STATE OF
ILLINOIS; COMMONWEALTH OF
MASSACHUSETTS; DANA
NESSEL, Attorney General on behalf
of the people of Michigan; STATE OF
MINNESOTA; STATE OF
NEVADA; STATE OF NEW
JERSEY; STATE OF NEW
MEXICO; STATE OF RHODE
ISLAND; STATE OF MARYLAND;
STATE IF HAWAI'I,

Plaintiffs,

v.

UNITED STATES DEPARTMENT
OF HOMELAND SECURITY, a
federal agency; KEVIN K.
MCALEENAN, in his official
capacity as Acting Secretary of the
United States Department of
Homeland Security; UNITED
STATES CITIZENSHIP AND
IMMIGRATION SERVICES, a
federal agency; KENNETH T.
CUCCINELLI, II, in his official
capacity as Acting Director of United
States Citizenship and Immigration
Services,

Defendants.

NO: 1:19-CV-5210-RMP

ORDER DENYING MOTION TO
EXPEDITE HEARING OF MOTION
FOR STAY OF INJUNCTION
PENDING APPEAL

1 BEFORE THE COURT is a Motion to Expedite Defendants’ Motion for Stay
2 of Injunction Pending Appeal. ECF No. 173. Defendants are the United States
3 Department of Homeland Security (“DHS”), Acting Secretary of DHS Kevin K.
4 McAleenan, United States Citizenship and Immigration Services (“USCIS”), and
5 Acting Director of USCIS Kenneth T. Cuccinelli II (collectively, “the Federal
6 Defendants”). The Motion to Expedite is opposed by Plaintiffs State of Washington,
7 Commonwealth of Virginia, State of Colorado, State of Delaware, State of Hawai’i,
8 State of Illinois, State of Maryland, Commonwealth of Massachusetts, Attorney
9 General Dana Nessel on behalf of the People of Michigan, State of Minnesota, State
10 of Nevada, State of New Jersey, State of New Mexico, and State of Rhode Island
11 (collectively, “the Plaintiff States”). ECF No. 183. The Federal Defendants also
12 filed a reply. ECF No. 185. The Court has reviewed the parties’ filings and finds no
13 basis to expedite hearing of the Federal Defendants’ Motion for Stay of Injunction
14 Pending Appeal.

15 “Hearing time requirements may only be altered by the Court.” LCivR
16 7(i)(2)(C). A party seeking expedited hearing “on a time sensitive matter” must
17 demonstrate “good cause.” *Id.*

18 On October 11, 2019, this Court stayed the implementation of the proposed
19 administrative rule, Inadmissibility on Public Charge Grounds, 84 Fed. Reg. 41,292
20 (Aug. 14, 2019) (to be codified at 8 C.F.R. pts. 103, 212, 213, 214, 245, and 248)
21 (the “Public Charge Rule”) under 5 U.S.C. § 705 and preliminarily enjoined the

1 Federal Defendants from implementing and enforcing the Public Charge Rule until
2 further order of the Court. ECF No. 162. On October 25, 2019, the Federal
3 Defendants filed a Motion for Stay of Injunction pending the Federal Defendants'
4 appeal of the Court's October 11 Order ("Motion for Stay"). ECF No. 169. Five
5 days later, the Federal Defendants moved to expedite hearing of their Motion for
6 Stay on October 30, 2019. ECF No. 173. The Court set an expedited briefing and
7 hearing schedule to resolve the Motion to Expedite. ECF No. 178.

8 The Federal Defendants offer no justification for expedited hearing beyond
9 their arguments for irreparable harm in their Motion for Stay. *See* ECF No. 173 at 2.
10 Nor do the Federal Defendants demonstrate in their Motion to Expedite that the
11 matter is time sensitive. Rather, the Federal Defendants argue in conclusory fashion
12 that the "harms described in Defendants' motion to stay easily constitute good cause
13 for expedited treatment, whether or not the Court agrees that those harms justify a
14 stay." ECF No. 185 at 3. The Federal Defendants have not demonstrated that
15 adjudication of their Motion to Stay requires expedited treatment, and the Court
16 finds that the Federal Defendants' Motion for Stay should be fully briefed in a
17 timely fashion, rather than expedited.

18 Accordingly, **IT IS HEREBY ORDERED:**

19 1. The Motion to Expedite the Federal Defendants' Motion for Stay of
20 Injunction Pending Appeal, **ECF No. 173**, is **DENIED**.

1 2. Given that the time involved in briefing and resolving the Motion to
2 Expedite has complicated the hearing schedule for the Federal Defendants’ Motion
3 for Stay, the briefing schedule for the Motion for Stay of Injunction Pending Appeal,
4 **ECF No. 169**, shall be modified. **Any response** from the Plaintiff States shall be
5 filed by **November 15, 2019**. **Any reply** from the Federal Defendants shall be filed
6 by **November 22, 2019**. Hearing without oral argument shall remain as set by the
7 Federal Defendants, in accordance with LCivR 7, **on November 25, 2019, at 6:30**
8 **p.m.**

9 **IT IS SO ORDERED.** The District Court Clerk is directed to enter this
10 Order and provide copies to counsel.

11 **DATED** November 8, 2019.

12
13 s/ Rosanna Malouf Peterson
14 ROSANNA MALOUF PETERSON
15 United States District Judge
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