

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

JARROD MCKINNEY,

Plaintiff,

v.

THOMAS J. VILSACK, in his official capacity
as Secretary of Agriculture,
et al.,

Defendants.

No. 2:21-cv-00212-RWS

TIME SENSITIVE
DEFENDANTS' MOTION FOR ADMINISTRATIVE STAY
OF BRIEFING DEADLINES

Concurrent with this motion, Defendants filed a motion to stay proceedings in this case. ECF No. 24. Defendants also respectfully request that the Court enter an administrative stay to suspend the parties' upcoming deadlines pending resolution of Defendants' stay motion. Counsel for Defendants conferred with counsel for Plaintiff, who indicated that Plaintiff opposes this motion.

As reflected in Defendants' motion to stay proceedings in this case, Defendants believe that, in light of a class certified in the U.S. District Court for the Northern District of Texas to challenge Section 1005 of the American Rescue Plan Act (ARPA) that would encompass and bind Plaintiff here, proceedings in this case should be stayed altogether. Pending the Court's decision on Defendants' larger stay motion, Defendants also respectfully request that the Court enter a brief administrative stay pending resolution of Defendants' stay motion and vacate the current deadlines, including Defendants' July 13, 2021, deadline to oppose Plaintiff's motion for preliminary injunction. Plaintiff filed a motion for preliminary injunction on June 17, 2021. Defendants' opposition to that motion is currently due July 13, 2021, and Plaintiff's reply brief is due July 27, 2021. *See* Order, ECF No. 23.

Good cause exists to grant this temporary stay. As set forth in Defendants' motion to stay proceedings, Plaintiff's lawsuit is duplicative of other litigation proceeding on his behalf. Although Plaintiff opposes Defendants' motion for a stay, an administrative stay pending resolution of that motion is appropriate to avoid potentially needless expense to the parties and the Court related to Plaintiff's motion for preliminary injunction. Should the Court ultimately deny Defendants' separate motion to stay proceedings, briefing on Plaintiff's preliminary injunction motion may resume.

Plaintiff will not be prejudiced by this administrative stay, as three district courts have already entered nationwide or class-wide preliminary injunctions enjoining Defendants from making payments under § 1005. *See* Order on Class Cert. & PI, *Miller*, ECF No. 60; PI Order, *Holman v. Vilsack*, 1:21-cv-1085 (W.D. Tenn.), ECF No. 41; Order, *Wynn v. Vilsack*, 3:21-cv-514 (M.D. Fla.), ECF No. 41. These existing injunctions provide Plaintiff the same relief he seeks in his motion for preliminary injunction. Accordingly, Defendants respectfully request that the Court stay the briefing deadlines in this case pending resolution of Defendants' motion to stay proceedings. A proposed order is attached.

Additionally, Defendants respectfully request that if the Court denies this motion for an administrative stay it also reset Defendants' deadline to file their opposition to Plaintiff's motion for three days after such denial. A proposed order to this effect is attached separately.

Dated: July 12, 2021

Respectfully submitted,

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/s/ Michael F. Knapp
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Counsel for Defendants

CERTIFICATE OF CONFERENCE

Counsel for Defendants certify that they have complied with the meet and confer requirements in Local Rule CV-7(h). Plaintiff opposes the relief sought in this motion. Counsel for Defendants, Michael Knapp, Emily Newton, Kyla Snow, and Gary Feldon, and counsel for Plaintiff, Wen Fa, Daniel Ortner, and Glenn Roper, conferred by phone on July 12 to discuss Defendants' planned motion. The parties were unable to reach an agreement because Plaintiff does not believe an administrative stay pending resolution of Defendants' motion to stay proceedings is warranted. The discussions have conclusively ended in an impasse, necessitating the Court's resolution of Defendants' request for a stay of proceedings.

CERTIFICATE OF SERVICE

I hereby certify that on July 12, 2021, a copy of the foregoing motion to stay proceedings was filed electronically via the Court's ECF system, which effects service on counsel of record.

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Defendants.

No. 2:21-cv-00212-RWS

PROPOSED ORDER

The Court, having considered Defendants' Time-Sensitive Motion for Administrative Stay, hereby **GRANTS** the Motion. It is hereby **ORDERED** that the deadline for Defendants to oppose Plaintiff's motion for preliminary injunction, and Plaintiff's deadline to file a reply, is **STAYED** pending further order of this Court.

IT IS SO ORDERED.

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PROPOSED ORDER

The Court, having considered Defendants' Time-Sensitive Motion for Administrative Stay, hereby **DENIES** the Motion. It is hereby **ORDERED** that Defendants shall file their opposition to Plaintiff's motion for preliminary injunction no later than three days after the date on which this ordered is entered, and Plaintiff shall file his reply no later than 14 days thereafter.

IT IS SO ORDERED.