

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

THE STATE OF LOUISIANA,
By and through its Attorney General,
Elizabeth B. Murrill, et al.

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
COMMERCE, et al.,

Defendants.

No. 6:25-cv-76-DCJ-DJA

PLAINTIFFS' REPLY IN SUPPORT OF MOTION TO LIFT STAY

Defendants currently oppose lifting the stay because the Department of Commerce plans to issue a notice of proposed rulemaking “in the next few months” which, “[d]epending on its substance...could also potentially” lead to dismissal of the case or a narrowing of the issues. ECF 68, 2-3. This is not a “new development” that should warrant staying the case—it is simply a continuation of Defendants’ year-long delay tactic, under the purported quest to determine a litigation position. No further delay should be tolerated.

Defendants have taken no action that would warrant dismissal or which could narrow the issues in this case. Their response continues their inexplicable practice of taking no position on this litigation. Furthermore, the possibilities Defendants outline are too contingent and vague to justify a stay. For instance, Defendants do not commit to finalizing any rule within any specific timeframe. And they fail to make any commitment concerning the substance of their planned rule. Plus, Defendants fail to account for the possibility that a future rule they promulgate, like any other regulation, may be challenged in its own right, which only adds to the contingency of their response.

The mere possibility that an agency rule might be promulgated, at some point, with some relevance to the claims in the complaint, does not justify continuing the stay in this case at this time.

Further, it is not clear that *any* final rule would moot the constitutional claims in Plaintiff's complaint. As long as Defendants retain the ability and discretion to change how the Census counts inhabitants and to control the final apportionment count, Plaintiff's complaint may be "capable of repetition, yet evading review." *FEC v. Wis. Right to Life, Inc.*, 551 U.S. 449, 462 (2007). In any case, nothing stops Defendants from raising the issue of mootness in their own motion to dismiss. But the possibility that Defendants may bring such a motion in the future fails to justify continuing the stay.

For these reasons, Plaintiffs respectfully request the Court to lift the stay.

Dated: February 26, 2026

Respectfully submitted,

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