

District Judge John C. Coughenour

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STATE OF WASHINGTON, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, in his official
capacity as President of the United States, *et*
al.,

Defendants.

CASE NO. C25-0127-JCC

MOTION TO STAY PRELIMINARY
INJUNCTION PENDING APPEAL

NOTE ON MOTION CALENDAR:
FEBRUARY 28, 2025

Motion to Stay Preliminary Injunction Pending Appeal
C25-0127-JCC-1

U.S. DEPARTMENT OF JUSTICE
CIVIL DIVISION, FEDERAL PROGRAMS BRANCH
1100 L STREET, NW
WASHINGTON, DC 20005
202-616-8098

INTRODUCTION

Pursuant to Federal Rule of Civil Procedure 62, Defendants respectfully move for a partial stay pending appeal of the Court's Order granting Plaintiffs' motions for preliminary injunction, ECF No. 114 (Order), entered on February 6, 2025, which entered a nationwide injunction prohibiting Defendants from implementing or enforcing Executive Order No. 14160, Protecting the Meaning and Value of American Citizenship (EO). In particular, Defendants contend that the Court should stay its injunction in two ways, so that it provides relief to only those plaintiffs in this case who have made a sufficient showing of standing to entitle them to preliminary injunctive relief (*i.e.*, the named individual plaintiffs in the Consolidated Amended Complaint, ECF No. 106). First, the Court should stay the injunction's application to the plaintiff states, who have not shown that they are likely to establish Article III standing and have not shown that the EO violates any of *their* rights as opposed to the rights of third parties. And second, the Court should stay the injunction's nationwide application.

Defendants' arguments that the states lack standing and that nationwide relief is inappropriate are very likely to succeed on appeal. The Supreme Court has recently rejected state standing arguments very similar to what the states have offered here, *see United States v. Texas*, 599 U.S. 670 (2023), and the Court's extension of relief to individuals across the nation who are not before this Court violates the well-established principle that judicial remedies "must be tailored to redress the plaintiff's particular injury." *Gill v. Whitford*, 585 U.S. 48, 73 (2018). The equities similarly weigh in favor of staying application of an injunction to parties

1 who are not properly before the Court, and who cannot claim to be irreparably harmed from
2 the staying of an injunction to which they have not demonstrated their entitlement.

3 Defendants respectfully request a ruling by the close of business on Wednesday,
4 February 12, 2025. After that time, if relief has not been granted, Defendants intend to seek
5 relief from the U.S. Court of Appeals for the Ninth Circuit.

6 ARGUMENT

7 Courts consider four factors in assessing a motion for stay pending appeal: (1) the
8 movant's likelihood of prevailing on the merits of the appeal, (2) whether the movant will
9 suffer irreparable harm absent a stay, (3) the harm that other parties will suffer if a stay is
10 granted, and (4) the public interest. *See Hilton v. Braunskill*, 481 U.S. 770, 776 (1987);
11 *Humane Soc'y of U.S. v. Gutierrez*, 523 F.3d 990, 991 (9th Cir. 2008). When the government
12 is a party, its interests and the public interest "merge." *Nken v. Holder*, 556 U.S. 418, 435
13 (2009). Here, the significance of Defendants' arguments on appeal, together with the relevant
14 equitable considerations, weighs in favor of granting the partial stay pending appellate review
15 that Defendants have requested.

16 **I. Defendants Are Likely To Prevail On The Merits Of Their Argument That The** 17 **Preliminary Injunction Should Be Limited In Scope.**

18 "At the preliminary injunction stage, the plaintiffs 'must make a clear showing of each
19 element of standing.'" *LA All. for Hum. Rts. v. County of Los Angeles*, 14 F.4th 947, 956 (9th
20 Cir. 2021) (citation omitted); *see also, e.g., Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016)

1 (to establish standing, a plaintiff must have “(1) suffered an injury in fact, (2) that is fairly
2 traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a
3 favorable judicial decision”).

4 1. As Defendants have explained, the state plaintiffs have failed to carry this burden
5 here. *See* Defs.’ Opp’n to Pls.’ Mots. for Prelim. Inj. at 7-13, ECF No. 84 (Defs.’ PI Opp’n).
6 Fundamentally, their asserted economic harms are the “indirect effects on state revenues or
7 state spending” of federal immigration policy, which the Supreme Court has held does not
8 support Article III standing. *See Texas*, 599 U.S. at 680 n.3. *Eiden v. Nebraska*, 143 S. Ct.
9 2355 (2023), on the other hand, dealt with a federal policy that would have directly deprived
10 a state government corporation of ongoing fees that it would otherwise continue earning under
11 a federal contract. Defendants respectfully submit that it is *Texas*, which the Court did not
12 address in assessing the states’ standing, that should control the standing analysis in this case.

13 The Court similarly did not acknowledge or rebut Defendants’ argument that the states
14 lack third-party standing to assert Citizenship Clause claims on behalf of their residents, much
15 less the residents of other states. *See* Defs.’ PI Opp’n at 11-13. Even assuming the states had
16 made an adequate showing of direct economic injury to support Article III standing (which
17 they have not), this argument would provide an independent basis to deny their Citizenship
18 Clause claim. A plaintiff “cannot rest his claim to relief on the legal rights or interests of third
19 parties.” *Warth v. Seldin*, 422 U.S. 490, 499 (1975). For the same reason that states lack
20 standing to assert claims that individuals’ Due Process and Equal Protection rights are harmed,

1 | *see South Carolina v. Katzenbach*, 383 U.S. 301, 323-24 (1966); *Haaland v. Brackeen*, 599
2 | U.S. 255, 294-95 (2023), they lack standing to assert that other individuals’ rights under the
3 | Citizenship Clause are impaired. On this argument, too, Defendants are likely to succeed on
4 | appeal.

5 | 2. Defendants are also likely to prevail on their argument that nationwide relief is
6 | improper. *See* Defs.’ PI Opp’n at 44-45. A federal court may entertain a suit only by a plaintiff
7 | who has suffered a concrete “injury in fact,” and the court may grant relief only to remedy “the
8 | inadequacy that produced [the plaintiff’s] injury.” *Gill*, 585 U.S. at 66 (citation omitted).
9 | Principles of equity reinforce those limitations, and “[u]niversal injunctions have little basis in
10 | traditional equitable practice.” *Dep’t of Homeland Sec. v. New York*, 140 S. Ct. 599, 600
11 | (2020) (Gorsuch, J., concurring). Indeed, nationwide injunctions “take a toll on the federal
12 | court system,” and “prevent[] legal questions from percolating through the federal courts.”
13 | *Trump v. Hawaii*, 585 U.S. 667, 713 (2018) (Thomas, J., concurring). These general principles
14 | foreclose any relief in this case to anyone not properly before the Court, *i.e.*, anyone other than
15 | the named individual plaintiffs who, for present purposes at least, have made a sufficient
16 | showing of Article III standing to obtain emergency preliminary relief.

17 | In nonetheless fashioning nationwide relief, the Court noted that a geographically
18 | limited injunction would be “ineffective” because of the possibility that “babies born in other
19 | states would travel to the Plaintiff States” and necessitate state funding. Order at 12. But the
20 | mere prospect of such remote future impacts on state revenue streams is insufficient to justify

the breadth of the Court’s order here, which prevents implementation or enforcement *anywhere* in the United States. Particularly in this preliminary injunction posture, the remote concern that babies will be born after the effective date of the EO but also move into the plaintiff states while this case is pending is too speculative to justify such sweeping relief. It is not necessary to provide complete relief to the plaintiff states, whose claimed injuries would be substantially remedied by an order that provided relief only within their borders (assuming that they were proper parties, which again they are not). *Cf. Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982). This is particularly so when the injunction covers states who asked this Court not to issue an injunction. *See* ECF No. 89-1 (amicus brief filed by 18 states supporting Defendants’ position); *Arizona v. Biden*, 31 F.4th 469, 484 (6th Cir. 2022) (Sutton, J., concurring) (“Nationwide injunctions ... sometimes give States victories they do not want.”).

II. The Balance Of Equities, Including The Irreparable Harm Defendants Will Suffer, Favors A Stay.

The balance of the equities likewise favor limiting injunctive relief to the individual named plaintiffs in this case and not extending it to (1) states who are not proper parties to bring the claims at issue here and (2) all individuals nationwide who are not proper parties before this Court. Such overbroad relief conflicts with the principles articulated above and allows “one district court [to] make a binding judgment for the entire country.” *Louisiana v. Becerra*, 20 F.4th 260, 263 (5th Cir. 2021). That is especially inappropriate here: as evidenced by the amicus participation in this case, the Citizenship Clause interpretation forwarded by

1 these plaintiffs is not uniformly accepted throughout the country. *See, e.g.*, ECF No. 89-1
2 (amicus brief filed by 18 states supporting Defendants’ position).

3 In addition, an injunction that prevents the President from carrying out his broad
4 authority over immigration matters is “an improper intrusion by a federal court into the
5 workings of a coordinate branch of the Government.” *INS v. Legalization Assistance Project*
6 *of L.A. County Fed’n of Lab.*, 510 U.S. 1301, 1305-06 (1993) (O’Connor, J., in chambers).
7 Indeed, an injunction that prevents the President from exercising his core authorities is “itself
8 an irreparable injury.” *Doe #1 v. Trump*, 957 F.3d 1050, 1084 (9th Cir. 2020) (Bress, J.,
9 dissenting) (citing *Maryland v. King*, 567 U.S. 1301, 1303 (2012) (Roberts, C.J., in chambers)).

10 The injunction causes further harm to the Defendants because its breadth and timing—
11 applying to all implementation and enforcement and extending a temporary restraining order
12 that was entered just three days after the EO was issued—prevents (and has prevented) the
13 executive branch as a whole from even beginning the process of formulating relevant policies
14 and guidance for implementing the EO. If Defendants are successful on their appeal and the
15 EO is eventually allowed to take effect, but the injunction is not stayed in its overbroad
16 applications while that appeal is pending, the Defendants will be unable to make necessary
17 advance preparations and the ultimate implementation of the EO will be delayed. Such a delay
18 in effectuating a policy enacted by a politically accountable branch of the government imposes
19 its own “form of irreparable injury.” *King*, 567 U.S. at 1303 (Roberts, C.J., in chambers)
20 (citation omitted). This is especially harmful in this context where, as Defendants have

1 explained, the challenged EO is part of a larger immigration policy designed to combat the
 2 “significant threats to national security and public safety” posed by unlawful immigration. *See*
 3 Defs.’ PI Opp’n at 4.

4 CONCLUSION

5 For the foregoing reasons, and for all the reasons stated in Defendants’ opposition to
 6 Plaintiffs’ motions for preliminary injunction, Defendants respectfully request that this Court
 7 stay its preliminary injunction to the extent it extends beyond the named individual plaintiffs
 8 in this consolidated action. Defendants respectfully request a ruling on this motion no later
 9 than the close of business on February 12, 2025, after which time Defendants intend to seek
 10 relief from the Ninth Circuit.

11 DATED this 7th day of February, 2025.

12 Respectfully submitted,

13 BRETT A. SHUMATE
 14 Acting Assistant Attorney General
 Civil Division

15 ALEXANDER K. HAAS
 16 Branch Director

17 BRAD P. ROSENBERG
 Special Counsel

18 /s/ R. Charlie Merritt
 19 R. CHARLIE MERRITT (VA Bar No. 89400)
 20 YURI S. FUCHS
 Trial Attorneys
 U.S. Department of Justice
 Civil Division, Federal Programs Branch

21 Motion to Stay Preliminary Injunction Pending Appeal
 22 C25-0127-JCC-8

U.S. DEPARTMENT OF JUSTICE
 CIVIL DIVISION, FEDERAL PROGRAMS BRANCH
 1100 L STREET, NW
 WASHINGTON, DC 20005
 202-616-8098

Washington, DC 20005
Phone: (202) 616-8098
Fax: (202) 616-8460
Email: robert.c.merritt@usdoj.gov

Attorneys for Defendants

*I certify that this memorandum contains 1,767
words, in compliance with the Local Civil Rules.*

RETRIEVED FROM DEMOCRACYDOCKET.COM