

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DOMINGO ARREGUIN GOMEZ et al.,

Plaintiffs,

V.

JOSEPH R. BIDEN, JR. et al.,

Defendants.

Case No. 20-cv-01419 (APM)

**MOHAMMED ABDULAZIZ ABDUL
MOHAMMED et al.,**

Plaintiffs,

V.

ANTONY BLINKEN et al.,

Defendants.

Case No. 20-cv-01856 (APM)

AFSIN AKER et al.,

Plaintiffs,

V.

JOSEPH R. BIDEN, JR. et al.,

Defendants.

Case No. 20-cv-01926 (APM)

CLAUDINE NGUM FONJONG et al.,
Plaintiffs,**v.****JOSEPH R. BIDEN, JR. et al.,****Defendants.**

Case No. 20-cv-02128 (APM)

MORAA ASNATH KENNEDY et al.,
Plaintiffs,**v.****JOSEPH R. BIDEN, JR. et al.****Defendants.**

Case No. 20-cv-02639 (APM)**ORDER**

In these consolidated actions, on March 3, 2022, the court granted Defendants’ Motion to Stay the final orders entered for a period of thirty days on the condition that Defendants seek expedited review before the D.C. Circuit by March 10, 2022. Order, ECF No. 258 [hereinafter Stay Order]. Defendants did so, and the D.C. Circuit granted expedited review and consolidated the appeal in these cases with two others. *See Goodluck v. Biden*, Nos. 21-5263, Doc. No. 1939898 (D.C. Cir. March 10, 2022). Under the D.C. Circuit’s scheduling order, briefing is to conclude on June 9, 2022, and oral argument is to be held in September 2022. *Id.*

Defendants now ask the court, over Plaintiffs’ objections, to extend the stay “and maintain the status quo until such time as the D.C. Circuit has ruled on the pendant appeal and issued its mandate.” Notice of D.C. Cir. Action and Mot. to Extend Stay Pending Resolution of Appeal,

ECF No. 260. That request is granted in part and denied in part: the court will maintain the stay with respect to adjudicating and issuing reserved 2020 diversity visas (“DV 2020 visas”) but not with respect to the Department of State’s efforts to modify its information technology systems to enable the issuance of DV 2020 visas after the expiration of the fiscal year. The court also extends the stay only until the D.C. Circuit announces its opinion, not until it issues the mandate.

The balance of the four injunction factors that the court considered when granting the conditional stay has not materially changed. For Defendants’ part, they have raised serious legal issues that warrant more deliberative investigation. Stay Order at 3. They also have established irreparable harm based on the adverse impact court-ordered issuance of over 9,000 DV 2020 visas by September 1, 2022, would have on the Secretary of State’s discretionary authority to prioritize visa services during the pandemic. *Id.* at 4. For Plaintiffs’ part, their interests continue to weigh against a stay. *Id.* at 4. And the public interest remains neutral. *Id.* at 4–5. The court is aware of the significant impact extending the stay will have on DV 2020 selectees. It does not take that impact lightly. But the D.C. Circuit has agreed to expedite review, reducing the time until an appellate resolution. That process must run its course.

There is another important reason to extend the stay. Were the court to insist that the State Department comply with its orders, the relief sought by Defendants on appeal effectively would be rendered unavailable. The D.C. Circuit could not grant Defendants the relief they seek—reversal of this court’s judgment—if all reserved DV 2020 were issued by the time of oral argument. The court will not moot these actions before the D.C. Circuit has had a full opportunity to review this court’s decisions.


The court, however, lifts the stay as it relates to the State Department’s work to prepare its information technology infrastructure to issue DV 2020 visas past the end of the fiscal year. If

this court’s decision is affirmed, Plaintiffs should not have to wait for the Department of State to complete its systems modifications before it begins adjudicating and issuing visas. Such modifications were roughly 60 days from completion at the time Defendants moved for the stay. *See* Defs.’ Mot. For a Stay, ECF No. 253, Decl. of Sharon B. Westmark, ECF No. 253-3, ¶ 12 (estimating that systems modifications would not be completed until at least April 2022). That process now need only be completed by September 1, 2022—instead of months in advance of that date—which diminishes the impact of compliance on the agency’s other information technology priorities. *See id.* ¶¶ 13–14.

Finally, the court extends the stay only until the D.C. Circuit announces its opinion. If the D.C. Circuit affirms this court’s orders, Defendants’ “serious legal issues” would be ameliorated and a rebalancing of the relevant factors would decidedly favor Plaintiffs. Requiring Plaintiffs to wait until the D.C. Circuit issues its mandate—which could take months if Defendants were to seek rehearing and/or en banc review—would no longer be justified.

For the foregoing reasons, Defendants’ Motion is granted in part and denied in part. Defendants shall file a Status Report by July 22, 2022, which updates the court on the State Department systems’ preparedness to issue DV 2020 visas.

Dated: April 5, 2022



Amit P. Mehta
United States District Court Judge