

THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

AMERICA FIRST POLICY INSTITUTE, *et al.*,

Plaintiffs,

v.

JOSEPH R. BIDEN, JR., in his official capacity
as President of the United States, *et al.*,

Defendants.

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Civil Action No.: 2:24-cv-00152-Z

PLAINTIFFS' UNOPPOSED MOTION TO HOLD CASE IN ABEYANCE

Plaintiffs brought this action on July 11, 2024, challenging President Biden's Executive Order 14019, *Promoting Access to Voting*, 86 Fed. Reg. 13,623 (Mar. 7, 2021) (the EO), and federal agency actions implementing the EO. ECF No. 1. On September 10, 2024, Plaintiffs moved for a preliminary injunction in advance of the November elections. ECF Nos. 15 & 16.

Those elections were held on November 5, 2024, and Donald J. Trump was elected the next President of the United States. On November 6, 2024, Plaintiffs withdrew their motion for a preliminary injunction. ECF No. 72.

President Trump will take office on January 20, 2025. It is foreseeable that he may decide to withdraw the challenged EO. If he does so, such action may well moot this case.

Accordingly, to conserve the limited resources of the Court and the parties and to avoid the possible unnecessary litigation of issues, Plaintiffs respectfully request that this case be held in abeyance. Holding this case in abeyance is well within this Court's discretionary authority to manage its docket. *See Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936) (“[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the

causes on its docket with economy of time and effort for itself, for counsel, and for litigants.”); accord *United States v. Colomb*, 419 F.3d 292, 299 (5th Cir. 2005) (quoting *Landis*, 299 U.S. at 254); *In re Ramu Corp.*, 903 F.2d 312, 318 (5th Cir. 1990) (“The stay of a pending matter is ordinarily within the trial court’s wide discretion to control the course of litigation”). Doing so would not prejudice Defendants. Moreover, holding this case in abeyance would be in keeping with “the cardinal principle of judicial restraint—if it is not necessary to decide more, it is necessary not to decide more.” *Hammoud v. Ma’at*, 49 F.4th 874, 882 n.42 (5th Cir. 2022) (en banc) (quoting *PDK Labs. Inc. v. U.S. D.E.A.*, 362 F.3d 786, 799 (D.C. Cir. 2004) (Roberts, J., concurring)) (alterations omitted).

Counsel for Plaintiffs has conferred with counsel for Defendants, who stated: “Defendants believe that this case can and should be resolved on the basis of the pending motion to dismiss. However, Defendants take no position on Plaintiffs’ motion to hold the case in abeyance.”

If the requested hold is granted, Plaintiffs will file a status report no later than February 20, 2025.

November 12, 2024

Respectfully submitted,

/s/ Kenneth A. Klukowski

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CERTIFICATE OF CONFERENCE

On November 12, 2024, I conferred with Alexander Sverdlov, attorney for Defendants, regarding the relief sought in the foregoing motion. Defendants believe this case can and should be resolved on the basis of the pending motion to dismiss but take no position on Plaintiffs' motion. Accordingly, the foregoing is presented to the Court as Unopposed.

/s/ Kenneth A. Klukowski
Kenneth A. Klukowski
Counsel for Plaintiffs

CERTIFICATE OF SERVICE

On November 12, 2024, the foregoing document was filed with the Clerk of Court for the United States District Court, Northern District of Texas using the Court's CM/EC system. I hereby certify that I have served the document on all counsel of record by manner authorized by Federal Rule of Civil Procedure 5(b)(2) (ECF system).

/s/ Kenneth A. Klukowski
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Counsel for Plaintiffs