

No. 20-16301

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

BRIAN MECINAS, CAROLYN VASKO *EX REL* C.V.; DNC SERVICES
CORPORATION D/B/A DEMOCRATIC NATIONAL COMMITTEE; DSCC;
PRIORITIES USA; PATTI SERRANO;

Plaintiffs-Appellants,

v.

KATIE HOBBS, in her official capacity as Arizona Secretary of State,
Defendant-Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
Case No. CV-19-05547-PHX-DJH

DEFENDANT-APPELLEE’S MOTION FOR 60-DAY STAY OF APPEAL

Pursuant to Ninth Circuit Rule 27-1, Defendant-Appellee, Arizona Secretary of State Katie Hobbs (“Secretary”) respectfully moves for a 60-day stay of these proceedings, until **September 7, 2021**, to provide the Secretary with adequate time to retain new counsel. Undersigned counsel has conferred with counsel for Plaintiffs, Sarah Gonski, regarding this motion. Due to the quick turnaround, Plaintiffs were not able to confirm their position on this motion by the time of filing. This motion is based on the following circumstances.

On June 30, 2021, the Arizona Legislature passed and the Governor signed into law Senate Bill 1823, which included provisions that, as requested by the Attorney General’s Office, do the following: (1) state that “[t]hrough June 30, 2023, the attorney general may not represent or provide legal advice to the secretary of state or the department of state on any matter;” (2) prohibit the Secretary from “mak[ing] expenditures or incur[ring] indebtedness to employ outside or private attorneys to provide representation or services;” and (3) permit the Secretary to “hire one full-time equivalent position to serve as legal advisor and to represent the secretary of state” but makes no appropriation for that position. Because this language was included as part of the general appropriations bill, it became effective upon the Governor’s signature. Ariz. Const. art. IV, pt. 1, § 1(3).

Prior to the bill taking effect, the Secretary was required by law to rely on the Attorney General for legal representation absent a disqualifying conflict. Therefore, the Secretary’s office has no in-house legal department, no in-house legal counsel, and no litigation support infrastructure, and, on top of that, the bill now prohibits the Secretary from paying for outside counsel.¹ Because of the

¹ While two members of the Secretary’s current senior staff are licensed to practice law in Arizona, neither of their job duties, which are demanding as it is, include serving as legal counsel to the Secretary or taking on representation of the Secretary in complex litigation with zero legal support infrastructure. Even if they could abandon their current duties to represent the Secretary in litigation, any such transition will take significant time and resources, including those

untenable restrictions placed on the Secretary's ability to obtain representation for this or any other matter for the remainder of her term in elected office, the Secretary has been unable to retain new counsel. Accordingly, the Secretary moves for a 60-day stay of this appeal to continue to try to retain new counsel to represent her in this matter.

A 60-day stay of this appeal, including a stay of the deadline to file Form 32 (from three business days to 60 calendar days) is not intended to delay the proceedings and will not prejudice the parties. Indeed, this appeal is fully briefed, and the Court's proposed oral argument dates for the Phoenix sitting location are currently four to seven months in the future. The Secretary seeks this stay to ensure that successor counsel will have the opportunity to prepare for the oral argument and notify the Court whether the following dates on this Court's calendar in Phoenix conflict with the successor counsel's schedule:

- November 15-19, 2021;
- February 7-11, 2022; or
- March 7-11, 2022.

As of this filing, undersigned counsel is unable to indicate whether successor counsel, presently unknown, will have any conflicts on the above dates.

required to hire replacements for their current roles and those required to prop up in-house litigation management capacity.

For the foregoing reasons, the Secretary respectfully requests a 60-day stay of this appeal, including a stay of the deadlines set forth in the Court's notice, until **September 7, 2021**.

RESPECTFULLY SUBMITTED this 12th day of July, 2021.

s/Linley Wilson

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the attached document with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on July 12, 2021. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/Maria Palacios