



U. S. Department of Justice

*United States Attorney
Western District of Virginia*

*Thomas T. Cullen
United States Attorney*

*Street Address (overnight mail)
310 First Street, SW, Room 906
Roanoke, Virginia 24011*

*Mailing Address
P. O. Box 1709
Roanoke, Virginia 24008-
1709
Telephone: 540-857-2250
Fax: 540-857-2614*

January 25, 2019

Clerk of Court
Circuit Court of Culpeper County
Attn: Civil Division
135 W. Cameron Street
Culpeper, VA 22701

Re: Michael V. McClary, et al. v. Scott H. Jenkins, et al.
Case No. CL18001373-00

Dear Madam:

Enclosed please find the original and one copy of the United States' Motion to Stay Deadline to File Statement of Interest to be filed in the above-referenced case. Please return the copy stamped "Filed" to this office in the enclosed postage-paid envelope.

A copy of the Motion to Stay has been furnished to all interested parties.

Very truly yours,

THOMAS T. CULLEN
United States Attorney

Nancy H. Withers

Nancy H. Withers
Paralegal, Civil Division

Enclosures

cc: All Parties on Certificate of Service (w/enc.)

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF CULPEPER

MICHAEL V. McCLARY,

and

CHRISTINA STOCKTON,

Plaintiffs,

v.

SCOTT H. JENKINS, in his official capacity
as Sheriff of Culpeper County,

and

BOARD OF SUPERVISORS OF
CULPEPER COUNTY,

Defendants.

Case No. CL18001373-00

MOTION TO STAY DEADLINE TO FILE STATEMENT OF INTEREST

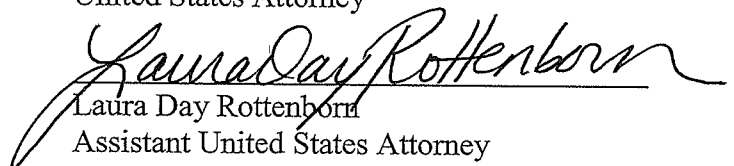
1. The United States of America hereby respectfully notifies the Court that it is currently considering filing a statement of interest in this case under its statutory authority to file in any court of the United States a statement in support of its interests, as provided in 28 U.S.C. §§ 517 & 518.¹
2. At the end of the day on December 21, 2018, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. The Department does not know when funding will be restored by Congress.

¹ Specifically, 28 U.S.C. § 517 provides that “[t]he Solicitor General, or any officer of the Department of Justice, may be sent by the Attorney General to any State or district in the United States to attend to the interests of the United States in a suit pending in a court of the United States, or in a court of a State, or to attend to any other interest of the United States.” And 28 U.S.C. § 518 permits the Attorney General or his designee to “conduct and argue suits and appeals” in which “the United States is interested,” and, when he “considers it in the interests of the United States,” to “personally conduct and argue any case in a court of the United States in which the United States is interested, or he may direct the Solicitor General or any officer of the Department of Justice to do so.”

3. Absent appropriation, Department of Justice attorneys are prohibited from working, even on a voluntary basis, except in very limited circumstances, including “emergencies involving the safety of human life or the protection of property.” 31 U.S.C. § 1342.
4. Undersigned counsel for the Department of Justice therefore respectfully requests that, at this point, the Court permit the United States to file a statement of interest, if the United States determines that it will file one, at a date after appropriations have been restored.
5. Undersigned counsel will notify the Court as soon as Congress has appropriated funds for the Department.
6. Therefore, although we greatly regret any disruption caused to the Court and the other litigants, the Government hereby requests that it be permitted to file a statement of interest at a date after Department of Justice attorneys are permitted to resume their usual civil litigation functions.

Respectfully submitted,
THOMAS T. CULLEN
United States Attorney

Date: January 25, 2019


Laura Day Rottenborn
Assistant United States Attorney
Virginia State Bar No. 94021
P. O. Box 1709
Roanoke, VA 24008-1709
Telephone: (540) 857-2250
Facsimile: (540) 857-2283
E-mail: laura.rottenborn@usdoj.gov

Francesca M. Genova
Trial Attorney
U.S. Department of Justice
Civil Division
Office of Immigration Litigation
District Court Section
P.O. Box 868
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 305-1062
Email: Francesca.M.Genova@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of January, 2019, I caused a true copy of the foregoing *Motion to Stay* to be mailed, first class postage prepaid, to the following:

Vishal Agraharkar, Esquire
American Civil Liberties Union
Foundation of Virginia
701 E. Franklin Street, Suite 1412
Richmond, VA 23219
Counsel for Plaintiffs

Dale G. Mullen, Esquire
Casey E. Lucier, Esquire
Travis C. Gunn, Esquire
Ashley P. Peterson, Esquire
McGuire Woods LLP
800 East Canal Street
Richmond, VA 23219
Counsel for Plaintiffs

Scott H. Jenkins, Sheriff
County of Culpeper
14023 Public Safety Court
Culpeper, VA 22701

Bobbi Jo Alexis
Culpeper County Attorney
306 North Main Street
Culpeper, VA 22701

Nancy H. Withers

Nancy H. Withers
Paralegal, Civil Division