

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

CLIFFORD TYLER,

Plaintiff-Appellant,

v.

No. 13-1876

HILLSDALE COUNTY SHERIFF'S
DEPARTMENT, et al.,

Defendants-Appellees.

**MOTION OF THE FEDERAL APPELLEES
FOR A STAY OF THE BRIEFING SCHEDULE IN LIGHT OF
LAPSE OF APPROPRIATIONS**

Pursuant to Federal Rule of Appellate Procedure 26 and Sixth Circuit Rule 26, the federal appellees — Eric H. Holder, Jr; the U.S. Department of Justice; the Bureau of Alcohol Tobacco, Firearms, and Explosives; B. Todd Jones; Thomas E. Brandon; the Federal Bureau of Investigation; Robert S. Mueller, III; and the United States of America — respectfully move for a stay of the briefing schedule.

1. This is a pre-enforcement challenge to the constitutionality of a federal statute limiting the possession of firearms by any person “who has been adjudicated as a mental defective or who has been committed to a mental institution,” 18 U.S.C. § 922(g)(4). Appellant’s opening brief was filed on August 8, 2013. The brief for the federal

appellees is currently due on October 11, 2013, as extended by the Court.

2. The federal appellees in the above-referenced case are represented by counsel from the Department of Justice. At the end of the day on September 30, 2013, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. The same is true for most Executive agency clients with whom the Department attorneys must coordinate their filings. The Department does not know when funding will be restored by Congress.

3. Absent an 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 requests a stay of the briefing schedule until Congress has restored appropriations to the Department.

5. If this stay is granted, undersigned counsel will notify the Court as soon as Congress has appropriated funds for the Department. The Government requests that, at that point, all current deadlines for the parties be extended commensurate with the duration of the lapse in appropriations.

6. Counsel for plaintiff-appellant was contacted but has not responded with his position on this motion. Counsel for the non-federal appellees consents to this motion.

CONCLUSION

For the foregoing reasons, although we greatly regret any disruption caused to the Court and the other litigants, the Government hereby moves for a stay of the briefing schedule until the Department of Justice attorneys representing the federal appellees are permitted to resume their usual civil litigation functions.

Respectfully submitted,

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October 1, 2013

CERTIFICATE OF SERVICE

I hereby certify that on October 1, 2013, I filed and served the foregoing Motion For A Stay Of The Briefing Schedule with the Clerk of the Court by causing a copy to be electronically filed via the appellate CM/ECF system. I also certify that the participants in the case are registered CM/ECF users and will be served via the CM/ECF system.

/s/ Anisha S. Dasgupta
ANISHA S. DASGUPTA