

Case No. 20-56233

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

JONAH MARTINEZ, et al.
Plaintiffs/Appellants,

v.

ALEX VILLANUEVA, et al.
Defendants/Appellees

Appeal From The United States District Court
for the Central District of California
Honorable André Birotte Jr.
Lower Court Docket No. 2:20-cv-02874-AB-SK

**DEFENDANTS' MOTION UNDER F.R.A.P. 41 AND
CIRCUIT RULE 41-1 FOR TEMPORARY STAY OF MANDATE
PENDING *EN BANC* PROCEEDING IN RELATED MATTER;
DECLARATION OF JIN S. CHOI**

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ALEX VILLANUEVA and BARBARA FERRER

This Panel “resolve[d] this case for the reasons set forth in *McDougall v. County of Ventura*, No. 20-56220, ___ F.4th ___ (9th Cir. Jan. 20, 2022), a related case involving different parties but materially similar issues.” *See*, Panel Memorandum at 1-2, filed January 20, 2022.

On March 8, 2022, however, this Court entered an order that *sua sponte* granted *en banc* review in *McDougall*, and vacated the Panel’s published opinion in said case. *See, McDougall* Docket. *En banc* oral argument is scheduled for June 21, 2022. *Id.*

Thus, the basis for this Panel’s ruling in the instant case no longer exists. Moreover, obviously, this Court’s ultimate *en banc* ruling in *McDougall* shall substantially impact the proper disposition of this case. Therefore, Defendants/Appellees respectfully request that the Panel temporarily stay issuance of the mandate. The issuance of a stay shall further the proper resolution of this case, result in greater efficiency in this and the district court, and preserve the limited resources of this Court and the parties.

Accordingly, for the aforementioned reasons, and in accordance with Rule 41 of the Federal Rules of Appellate Procedure and Circuit Rule 41-1, Defendants/Appellees respectfully request that the issuance of mandate in this matter be temporarily stayed pending disposition of the pending *en banc* proceeding in the related *McDougall* matter.

DECLARATION OF JIN S. CHOI

I, Jin S. Choi, declare as follows:

1. I am an attorney at law, duly authorized to practice before this Court and I am a shareholder in the law firm of Lawrence Beach Allen & Choi, PC, attorneys of record for Defendants/Appellees County of Los Angeles, Sheriff Alex Villanueva (in his official capacity only), and County Public Health Director Barbara Ferrer (in her official capacity only) in the within entitled action. I have personal knowledge of the facts stated herein. If called to testify to the matters herein, I could and would competently do so.

2. On March 10, 2022, Plaintiffs/Appellants' counsel, Mr. Raymond DiGuseppe, was advised by email and telephone of this Motion. Counsel for Appellants advised my office that Appellants take no position with respect to this Motion.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on March 10, 2022, at Glendale, California.

s/ Jin. S. Choi

Jin S. Choi