

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

STATE OF ARIZONA, *et al.*,

Plaintiffs,

Case No. 3:21-cv-314

vs.

JOSEPH R. BIDEN, *et al.*,

District Judge Michael J. Newman
Magistrate Judge Peter B. Silvain, Jr.

Defendants.

**ORDER DENYING DEFENDANTS' EMERGENCY MOTION FOR AN
ADMINISTRATIVE STAY (DOC. NO. 45)**

Before the Court is Defendants' (collectively, Department of Homeland Security or "DHS") emergency motion for an administrative stay of the Court's March 22, 2022 Order preliminarily enjoining DHS from certain applications of Defendant Secretary Alejandro N. Mayorkas's September 30, 2021 Guidelines for the Enforcement of Civil Immigration Law (the "Permanent Guidance"). Doc. Nos. 44, 45. DHS has not yet moved for a stay of the Order pending appeal but explains it would use the 14-day administrative stay to consider making such a request. Doc. No. 45. Plaintiffs filed an opposition memorandum. Doc. No. 46.

An administrative stay "is only intended to preserve the status quo until the substantive motion for a stay pending appeal can be considered on the merits, and does not constitute in any way a decision as to the merits of the motion for stay pending appeal." *Doe #1 v. Trump*, 944 F.3d 1222, 1223 (9th Cir. 2019). An administrative stay, at this stage, would have the same effect as a stay pending appeal absent DHS's satisfaction of the factors in *Nken v. Holder*, 556 U.S. 418, 434 (2009). Considering DHS has not yet moved for a stay pending appeal, an administrative stay is presently unwarranted. DHS's motion is **DENIED**.

IT IS SO ORDERED.

Date: March 23, 2022

s/Michael J. Newman
Hon. Michael J. Newman
United States District Judge