

Appeal No. 20-16932

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

MI FAMILIA VOTA, *et al.*,

Plaintiffs and Appellees,

vs.

KATIE HOBBS,

Defendant and Appellee, and

REPUBLICAN NATIONAL COMMITTEE, *et al.*,

*Intervenor-Defendants and
Appellants.*

On Appeal from the United States District Court
for the District of Arizona
Hon. Steven P. Logan
Case No. 2:20-CV-01903-SPL

**APPELLANTS' REPLY IN SUPPORT OF EMERGENCY MOTION
UNDER CIRCUIT RULE 27-3**



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Appellants Republican National Committee and Republican National Senatorial Committee submit this Reply in Support of their Emergency Motion for Administrative Stay for the limited purpose of clarifying a discrete but critical procedural point.

The instant Motion seeks an emergency administrative stay. In faulting Appellants for “not even attempt[ing] to show” that they have satisfied the four factors set forth in *Nken v. Holder*, 556 U.S. 418 (2009), *see* Response at 5, Plaintiffs-Appellees “erroneously collapse[] the distinct legal analyses for an administrative stay and a motion for stay pending appeal.” *Nat’l Urban League v. Ross*, 20-16868, 2020 WL 5815054, at *3 (9th Cir. Sept. 30, 2020). The Court “defer[s] weighing the *Nken* factors until the motion for stay pending appeal is considered.” *Id.*

As this Court has explained, a temporary administrative stay precedes a motion for stay pending appeal, and “is only intended to preserve the status quo until the substantive motion for a stay pending appeal can be considered on the merits.” *Al Otro v. Wolf*, 945 F.3d 1223, 1224 (9th Cir. 2019). For this reason, the issuance of an administrative stay “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).

Appellants intend to imminently file a motion for a stay pending appeal, which will address the *Nken* factors, as well as the requirements of Federal Rule of Appellate Procedure 8. Until such time, however, the Plaintiffs-Appellees' arguments with respect to those issue are premature and not responsive to the sole question currently before the Court—*i.e.*, the preservation of the legal status quo during a pending election. *See generally Veasey v. Perry*, 769 F.3d 890, 892 (5th Cir. 2014) (“This is not a run-of-the-mill case; instead, it is a voting case decided on the eve of the election. The judgment below substantially disturbs the election process . . . days before early voting begins. Thus, the value of preserving the status quo here is much higher than in most other contexts.”).

CONCLUSION

For the reasons set forth above and in the Motion, the Court should grant an emergency administrative stay of the district court's order pursuant to 9th Cir. R. 27-3 until such time as the Court resolves Appellants' forthcoming motion for a stay pending appeal.

Dated: October 6, 2020

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing 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 October 6, 2020. Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

Dated: October 6, 2020

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