

IN THE UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

THE AMERICAN CIVIL LIBERTIES  
UNION, et al.,

Plaintiffs/Appellees,

-vs-

No. 07-2081

MILLIE SANTILLANES, ALBUQUERQUE  
CITY CLERK,

Defendant/Appellant.

MOTION FOR STAY OF PROCEEDINGS OR, IN THE  
ALTERNATIVE, EXTENSION OF TIME

---

Defendant/Appellant Millie Santillanes (hereinafter the city clerk), by and through her undersigned attorneys, moves for a stay of proceedings or, in the alternative, extension of time in which to file her reply brief in support of her appeal. In support of this motion, the city clerk states:

1. The city clerk's reply brief is due on or about October 3, 2007.
2. The issue before the court is the validity of the City of Albuquerque's voter identification requirements. The district court invalidated the voter identification requirement and the city clerk appealed to this court.
3. Whether voter identification requirements are valid has been addressed in several other jurisdictions including:

a. In re REQUEST FOR ADVISORY OPINION REGARDING CONSTITUTIONALITY OF 2005 PA 71., --- NW 2d ---, 479 Mich. 1, 2007 WL 2410868 (S.Ct.Mi. 07-18-07).

b. Common Cause/Georgia v. Billups, --- F. Supp.2d ---, 2007 WL 2601438 (N.D. Ga.) (Sept. 6, 2007).

c. Gonzalez v. Arizona, 485 F.3d 1041 (9<sup>th</sup> Cir. 2007).

d. Northeast Ohio Coalition for the Homeless v. Blackwell, 467 F. 3d 999 (6<sup>th</sup> Cir. 2006).

e. Indiana Democratic Party v. Rokita, --- S.Ct. ----, 2007 WL 1999963 (Mem) U.S., 2007 (September 25, 2007).

4. The United States Supreme Court recently accepted certiorari in Rokita, 2007 WL 1999963.

5. Rokita was cited and relied upon by plaintiffs/appellees in this case and by the city clerk in their initial briefs.

6. All of the issues addressed by the district court and by the parties in their briefs have been addressed by the Seventh Circuit Court of Appeals in Rokita which will be decided by the Supreme Court.

7. Once the Supreme Court addresses the issues in Rokita, the parties in this proceeding will request leave to file additional briefs addressing the impact of

the decision by the Court. The impact will be substantial because the issues raised are virtually identical.

8. Any briefing which occurs prior to the time when the Supreme Court addresses the issue will be irrelevant and superseded by the Supreme Court's decision.

9. It will be a misuse of judicial economy and of the parties' resources to continue briefing when the identical and dispositive matters are pending before the Supreme Court.

10. The city clerk requests that this case be placed on hold pending issuance of a decision by the Supreme Court. The city clerk requests that the parties be given time in which to address the decision of the Supreme Court in briefs filed after the decision is rendered.

11. Alternatively, if this court declines to place this case on hold pending the outcome of the Supreme Court, the city clerk requests that she be granted an extension of time in which to submit her reply brief until November 15, 2007. One of the counsel for the city clerk will be out of the country from October 6, 2007 through October 29, 2007. The other counsel for the city clerk is leaving employment with the City of Albuquerque.

12. Granting this extension of time will not result in delay in resolution of the case. If the city clerk is given the extension of time requested to file her reply

brief this Court will not have addressed this case prior to the extended time for filing the reply brief and prior to the Supreme Court addressing the identical issues in Rokita.

13. Counsel for the city clerk has contacted counsel for plaintiffs/appellees concerning this motion. Counsel for plaintiffs/appellees does not object to the city clerk being granted an extension of time until November 15, 2007 in which to file her reply brief, and does not object to the case being stayed pending resolution of Rokita by the Supreme Court, but believes that the city clerk should file her reply brief before the case is stayed. Counsel for plaintiffs/appellees believes that both parties should be permitted to engage in additional briefing after the decision in Rokita.

WHEREFORE, the city clerk respectfully requests that the Court grant the following relief pursuant to this motion:

- A. Grant this motion and stay proceedings in this appeal pending the Supreme Court decision in Rokita.
- B. Issue a revised briefing schedule permitting the parties to address the Supreme Court decision in Rokita.
- C. In the alternative, grant the city clerk until November 15, 2007 in which to file her reply brief.
- D. Grant such other and further relief as the Court deems just and proper.

Respectfully Submitted,

CITY OF ALBUQUERQUE  
Robert M. White  
City Attorney

---

Paula I. Forney  
Assistant City Attorney  
Attorney for Defendants/Appellee  
P.O. Box 2248  
Albuquerque, New Mexico 87103  
(505) 768-4500

**CERTIFICATE OF SERVICE**

I hereby certify that on the 2<sup>nd</sup> day of October, 2007, I served the required number of true and accurate copies of Appellees Motion for Stay of Proceedings or, in the Alternative, Extension of Time to opposing counsel at the following addresses, by depositing them at 1135 Broadway, NE, Albuquerque, New Mexico, first class postage prepaid.

Charles K. Purcell, Esq.  
Andrew G. Schultz, Esq.  
Rodey Dickason Sloan Akin Robb, PA  
P.O. Box 1888  
Albuquerque, NM 87103-1888

George L. Bach, Jr., Esq.  
ACLU of New Mexico  
P.O. Box 566  
Albuquerque, NM 87103

Joseph P. Kennedy, Esq.  
1000 Second Street NW  
Albuquerque, NM 87102-2216

James R. Scarantino, Esq.  
714 Montclair NE  
Albuquerque, NM 87110

Philip B. Davis, Esq.  
814 Marquette NW  
Albuquerque, NM 87102

---

Paula I. Forney  
Assistant City Attorney