UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

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Clerk — CINCINNATI, OHIO 45202-3988 — www.ca6.uscourts.gov

Filed: November 26, 2019

Ms. Miriam J. Aukerman
Mr. Nabih H. Ayad
Mr. H. Thomas Byron III
Ms. Alyson Sandler

Re: Case No. 19-114, *In re: Donald Trump, et al*
Originating Case No.: 2:17-cv-10310

Dear Counsel,

The Court issued the enclosed Order today in this case.

Sincerely yours,

s/Laura A. Jones
Case Management Specialist
Direct Dial No. 513-564-7023

cc: Mr. Daniel S. Korobkin
Ms. Natalie C. Qandah
Mr. Joshua Paul Waldman
Mr. David J. Weaver

Enclosure

No mandate to issue

No. 19-0114

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Nov 26, 2019
DEBORAH S. HUNT, Clerk

In re: DONALD J. TRUMP, President of the United States, et al.,

Petitioners.

O R D E R

Before: MOORE, SUTTON, and NALBANDIAN, Circuit Judges.

President Donald J. Trump, the Department of Homeland Security, and other government entities petition for leave to appeal the district court's denial of their motion to dismiss Plaintiffs' constitutional challenges to the President's Proclamation No. 9645, 82 Fed. Reg. 45161 (Sept. 24, 2017), titled "Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry into the United States by Terrorists or Other Public-Safety Threats." The district court certified its order for interlocutory appeal under 28 U.S.C. § 1292(b) but denied Defendants' motion to stay discovery pending appeal. Defendants petition for leave to appeal and move to stay further proceedings in the district court, including discovery. Plaintiffs oppose the petition and the stay motion.

An appeal may "be taken from an order certified for interlocutory appeal if (1) the order involves a controlling question of law, (2) a substantial ground for difference of opinion exists regarding the correctness of the decision, and (3) an immediate appeal may materially advance the ultimate termination of the litigation." *In re City of Memphis*, 293 F.3d 345, 350 (6th Cir. 2002)

(citing 28 U.S.C. § 1292(b)). If the petition is granted, we may address any issue included within the certified order. *Yamaha Motor Corp., U.S.A. v. Calhoun*, 516 U.S. 199, 205 (1996).

The issue then is whether, in our discretion, we should permit an appeal so that this court can consider the merits of the district court's order before the case proceeds. *See In re: Trump*, 874 F.3d 948, 950 (6th Cir. 2017) (order). Having considered the three factors that justify interlocutory appeal, as well as the practical and political consequences of this case, we conclude that an interlocutory appeal is warranted. We also find that a stay of further proceedings in the district court, including discovery, is appropriate.

The petition for permission to appeal and the motion for a stay are **GRANTED**.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk