

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

FILED
DEC 26 2018
CARMELITA REEDER SHINN, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY: [Signature] DEPUTY

IN THE MATTER OF)
THE FEDERAL LAPSE)
IN APPROPRIATIONS)

G.O. 18-2

TEMPORARY GENERAL ORDER

Before the Court is the matter of a lapse in appropriations currently impacting the Department of Justice and the United States Attorney's Office for the Western District of Oklahoma.

1. At midnight on December 21, 2018, funding for the Department of Justice expired and appropriations to the Department lapsed. Many other Executive agencies are also experiencing a lapse in appropriations.

2. Absent funding, Assistant U.S. Attorneys and support staff assigned to the Civil Division of the U.S. Attorney's Office who are funded by direct appropriations may not lawfully provide uncompensated services on behalf of the Government.

An officer or employee of the United States Government . . . may not accept voluntary services . . . exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property . . . [T]he term "emergencies involving the safety of human life or the protection of property" does not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property.

31 U.S.C. § 1342. As a result, on December 22, 2018, non-supervisory Assistant U.S. Attorneys and support staff assigned to the Civil Division of the U.S. Attorney's Office, funded by direct appropriations, will be in furlough status. Furlough means the placing

of an employee in a temporary status without duties because of lack of work or funds or other nondisciplinary reasons. 5 U.S.C. § 7511(a)(5). If the funding situation does not change, some Assistant U.S. Attorneys may be called back from furlough status, but only on a critical need basis to protect life or property.

3. The United States Attorney's Office has sought a stay of all civil cases within the Western District of Oklahoma wherein the United States or an agency, corporation, officer or employee of the United States is a party until Congress restores appropriations to the Department of Justice. This includes those cases involving federally funded facilities (and their officers, employees, and contractors) that the U.S. Department of Health and Human Services Secretary has deemed to be employees of the U.S. Public Health Service pursuant to the Federally Supported Health Centers Assistance Act ("FSHCAA"), 42 U.S.C. § 233(g)–(n), as amended by the Federally Supported Health Centers Assistance Act of 1995, Pub. L. No. 104–73, 109 Stat. 777 (1995). These entities are shielded under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 1346(b), 2671–2680 from liability while acting within the scope of their duties, with the United States assuming liability for any negligent acts they may commit. 42 U.S.C. § 233(g)(1). Further, the United States Attorney's Office has requested that the Court extend all current deadlines commensurate with the duration of the lapse in appropriations. This includes but is not limited to the electronic filing of all Social Security Administration Transcripts and the delivery of courtesy copies of the transcripts to the Court.

4. Based on the number of cases involved, consulting all parties to all litigation in which the United States, or an agency, corporation, officer or employee of the United States

is a party, is impracticable. Likewise, requesting individual extensions of time or stays in cases, at a time when U.S. Attorney's Office personnel may not lawfully work, is impracticable.

5. To preserve the status quo until restoration of funding, all civil cases within the Western District of Oklahoma wherein the United States or an agency, corporation, officer or employee, deemed or otherwise, of the United States is a party are stayed unless otherwise ordered by the assigned district judge. All deadlines, due dates or cut-off dates are extended for a period of time commensurate with the duration of the lapse in appropriations.

6. Civil hearings involving the United States or an agency, corporation, officer or employee, deemed or otherwise, of the United States will be reset at a time after the lapse in appropriations.


7. This Order does not alter, vacate or stay any obligation of individuals to pay amounts previously lawfully determined to be owed to the United States or to an agency or office of the United States.

8. This Order does not prohibit, in any manner, the ability of parties to file claims or commence actions against the United States. However, the cases or matters commenced while there is a lapse in appropriations will be immediately stayed, pending restoration of appropriations. All deadlines, response dates, due dates or cut-off dates in such cases will be extended for a period of time commensurate with the duration of the lapse in appropriations.

9. The United States Attorney's Office shall notify the Court when Congress restores appropriations to the Department of Justice, and the Court will enter additional instructions and guidance at that time.

IT IS SO ORDERED

Dated this 26th day of December, 2018.



JOE HEATON
CHIEF U.S. DISTRICT JUDGE