

FILED

UNITED STATES COURT OF APPEALS

OCT 09 2012

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

DOUG LAIR; et al.,

Plaintiffs - Appellees,

v.

STEVE BULLOCK, in his official
capacity as Attorney General of the State
of Montana; et al.,

Defendants - Appellants.

No. 12-35809

D.C. No. 6:12-cv-00012-CCL
District of Montana,
Helena

ORDER

Before: GOULD, CLIFTON, and BYBEE, Circuit Judges.

The court has reviewed appellants' emergency motion to stay the district court's October 3, 2012 order pending appeal and the response thereto. To date, however, the district court has not issued findings of fact and conclusions of law in support of its order, although it indicated in an Order issued today that such findings and conclusions will be "finalized and filed soon." Without such findings, however, the court is severely constrained in its consideration of the underlying issues raised in the emergency motion, *see, e.g., Purcell v. Gonzalez*, 549 U.S. 1, 5 (2006), including whether, in light of *Randall v. Sorrell*, 548 U.S. 230 (2006), our decision in *Montana Right to Life Ass'n v. Eddleman*, 343 F.3d 1085 (9th Cir.

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2003), must be revisited. Accordingly, the October 3, 2012 district court order is temporarily stayed pending further order of the court.

The previously established briefing schedule remains in effect.