

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HARRIS COUNTY, TEXAS, et al.,

Plaintiffs,

v.

ROBERT F. KENNEDY, JR., in his
official capacity as Secretary of Health
and Human Services, *et al.,*

Defendants.

Case No. 1:25-cv-01275-CRC

**PLAINTIFF AFSCME’S RESPONSE TO DEFENDANTS’ NOTICE OF
SUPPLEMENTAL AUTHORITY**

Defendants’ notice of supplemental authority asserts that the Supreme Court’s emergency docket stay order in *National Institutes of Health v. American Public Health Association*, 606 U.S. ___, No. 25A103, 2025 WL 2415669 (U.S. Aug. 21, 2025), “provides additional grounds for this Court to deny AFSCME’s Reconsideration Motion.” ECF No. 47 at 2 (citing 2025 WL 2415669, at *1).¹ Defendants do not explain why the order in *NIH*, which, as Defendants acknowledge, addressed only the Administrative Procedure Act, not constitutional claims, *id.* at 2, controls the outcome of a reconsideration motion requesting a modest extension of a preliminary injunction order that was premised only on constitutional claims. In any event, Plaintiffs explained why *NIH* is distinguishable in their motion for summary judgment, the day before Defendants filed the instant notice. *See* ECF No. 46 at 28-31. For the reasons explained in the memorandum of law that accompanied Plaintiffs’ motion for summary judgment, *NIH* does not control the outcome of the instant motion.

¹ Page number citations are to the file-stamped page number in the upper right-hand corner of each document.

Dated: September 5, 2025

Respectfully submitted,

/s Joel McElvain

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