

FILED

UNITED STATES COURT OF APPEALS

FEB 20 2014

FOR THE NINTH CIRCUIT

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

<p>VIETNAM VETERANS OF AMERICA; et al.,</p> <p style="text-align: center;">Plaintiffs - Appellants - Cross-appellees,</p> <p style="text-align: center;">v.</p> <p>CENTRAL INTELLIGENCE AGENCY; et al.,</p> <p style="text-align: center;">Defendants - Appellees - Cross-appellants.</p>

Nos. 13-17430, 14-15108

D.C. No. 4:09-cv-00037-CW
Northern District of California,
Oakland

ORDER

Before: LEAVY and TASHIMA, Circuit Judges.

The emergency motion to stay the district court’s November 19, 2013 injunction pending these cross-appeals is denied. *See Hilton v. Braunskill*, 481 U.S. 770, 776 (1987) (listing four-factor test). The second *Hilton* factor is “whether the applicant will be irreparably injured absent a stay.” *Id.* Here the only irreparable injury claimed is the expenditure of money and the time and energy of Army personnel. Even this showing is vague and general, but putting those problems aside, it has long been “well established that such monetary injury is not normally considered irreparable.” *L.A. Mem’l Coliseum Comm’n v. Nat’l Football*

League, 634 F.2d 1197, 1202 (9th Cir. 1980). “Mere injuries, however substantial, in terms of money, time and energy necessarily expended are not enough.” *Id.* (quoting *Sampson v. Murray*, 415 U.S. 61, 90 (1974) (internal quotation marks and ellipsis omitted)). Because of the government’s failure to meet the second *Hilton* factor, we need not examine whether the remaining *Hilton* factors are present in this case.

We lift this court’s temporary stay entered on February 13, 2014. We sua sponte extend the time to comply with the district court’s November 19, 2013 injunction. The Department of the Army’s report, described in paragraph 4 of the November 19, 2013 injunction, is now due 14 days after the date of this order. The deadline of 120 days set forth in paragraph 4(d) of the injunction is extended to 43 days after the date of this order.

Nothing in this order shall limit the district court’s authority to modify the schedule for compliance.

The briefing schedule established previously for these cross-appeals shall remain in effect.