

(ORDER LIST: 558 U.S.)

MONDAY, JANUARY 11, 2010

ORDER IN PENDING CASE

09A648 HOLLINGSWORTH, DENNIS, ET AL. V. PERRY, KRISTIN M., ET AL.

Upon consideration of the application for stay presented to Justice Kennedy and by him referred to the Court, it is ordered that the order of the United States District Court for the Northern District of California, case No. 3:09-cv-02292, permitting real-time streaming is stayed except as it permits streaming to other rooms within the confines of the courthouse in which the trial is to be held. Any additional order permitting broadcast of the proceedings is also stayed pending further order of this Court. To permit further consideration in this Court, this order will remain in effect until Wednesday, January 13, 2010, at 4 p.m. eastern time.

Justice Breyer, dissenting.

I agree with the Court that further consideration is warranted, and I am pleased that the stay is time limited. However, I would undertake that consideration without a temporary stay in place. This stay prohibits the transmission of proceedings to other federal courthouses. In my view, the Court's standard for granting a stay is not met. See *Conkright v. Frommert*, 556 U. S. ___, ___ (2009) (slip op., at 1-2) (Ginsburg, J., in chambers). In particular, the papers filed, in my view, do not show a likelihood of "irreparable harm."

With respect, I dissent.