

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION**

THE BELOVED CHURCH, an Illinois Not-for-Profit Corporation, and PASTOR STEPHEN CASSELL, an individual,	)	
	)	
	)	No. 3:20-cv-50153
	)	
Plaintiffs,	)	
	)	
<b>v.</b>	)	
	)	District Judge John Z. Lee
JAY ROBERT PRITZKER, Governor of the State of Illinois, DAVID SNYDERS, Sheriff of Stephenson County, Illinois, STEVE SCHAIBLE, Chief of Police of the Village of Lena, Illinois, and CRAIG BEINTEMA, Administrator of the Department of Public Health of Stephenson County, Illinois, in their official capacities,	)	
	)	Mag. Judge Iain D. Johnston
	)	
Defendants.	)	

**PLAINTIFFS' EMERGENCY MOTION FOR INJUNCTION PENDING APPEAL AND  
MEMORANDUM OF LAW**

Plaintiffs, by and through their counsel, the Thomas More Society, and pursuant to Federal Rule of Civil Procedure 62(d) and Federal Rule of Appellate Procedure 8(a)(1)(C), move this Court for an injunction pending appeal of this Court's May 2, 2020 Minute Order (Dkt. 37) and May 3, 2020 Memorandum Opinion (Dt. 39), which are the subject of Plaintiffs' Notice of Appeal (Dkt. 46) to the United States Court of Appeals for the Seventh Circuit.

**MEMORANDUM OF LAW**

Plaintiffs have appealed to the Seventh Circuit from this Court's May 2, 2020 Order (Dkt. 37) and May 3, 2020 Memorandum Opinion and Order (Dkt. 39) denying Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction (Dkt. 6). Because this Court denied Plaintiff's motions for both a Temporary Restraining Order and a Preliminary Injunction,

Plaintiffs' have appealed pursuant to 28 U.S.C. § 1292(a)(1) authorizing interlocutory appeals of federal district court orders refusing to grant an injunction. Plaintiffs now move for injunction pending appeal in this Court pursuant to Fed. R. App. P. 8(a)(1)(C). *See Rakovich v. Wade*, 834 F.2d 673, 673-74 (7th Cir. 1987) (stating that "trial court reserves the power to make orders appropriate to preserve the *status quo* while the appeal is pending" and that "a notice of appeal does not deprive the district court of jurisdiction over a motion for stay of its judgment" (emphasis in original)).

"The standard for granting a stay pending appeal mirrors that for granting a preliminary injunction." *In re A & F Enterprises, Inc., II*, 742 F.3d 763, 766 (7th Cir. 2014).

And Fed. R. App. P. 8(a)(1)(C) and (a)(2) authorizing injunctions pending appeal "does not suggest that the standard is different from that applicable to a motion to stay the district court's judgment." *Cavel Int'l, Inc. v. Madigan*, 500 F.3d 544, 547 (7th Cir. 2007). *See also Hilton v. Braunskill*, 481 U.S. 770, 776 (1987) (stating that the factors for issuing a stay under Fed. R. App. P. 8(a) are "(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether the issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies").

Plaintiffs acknowledge this Court has already denied Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction under that analysis, but they are nonetheless required by Fed. R. App. P. 8(a)(1)(C) to first seek an injunction pending appeal in this Court before seeking it from the Seventh Circuit. Therefore, in support of this motion for an injunction pending appeal, Plaintiffs incorporate by reference their reasons and legal arguments provided in Plaintiffs' Verified Complaint (Dkt. 1), Motion for Temporary Restraining Order and Preliminary Injunction (Dkt. 6), Memorandum in Support of the Motion for Temporary

Restraining Order and Preliminary Injunction (Dkt. 7), Reply in Support of Their Motion for Temporary Restraining Order and Preliminary Injunction (Dkt. 33), and Declaration in Support of Reply (Dkt. 34).

### **CONCLUSION**

For the foregoing reasons, Plaintiffs request that this Court enter an injunction pending appeal.

Respectfully submitted,

/s/Martin Whittaker

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