

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION
FRANKFORT

COMMONWEALTH OF KENTUCKY, *et al.*,

Plaintiffs,

v.

JOSEPH R. BIDEN, in his official capacity
as President of the United States, *et al.*,

Defendants.

Civil No. 3:21-cv-00055-GFVT

ORDER

*** **

On November 30, 2021, this Court granted the Plaintiffs’ Emergency Motion for a Preliminary Injunction. [R. 50.] On December 3, Defendants filed the motion presently before the Court, asking for an emergency stay pending appeal of this matter to the Sixth Circuit. [R. 53.] Plaintiffs responded to the motion on December 8 and Defendants replied on December 9. [R. 57; R. 58.]

In determining whether to grant a motion to stay pending appeal, the Court must consider the following four factors: “(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 issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.” *Tiger Lily, LLC v. Dep’t of Hous. and Urban Dev.*, 992 F.3d 518, 522 (6th Cir. 2021) (quoting *Nken v. Holder*, 556 U.S. 418, 434 (2009)). After considering these factors in light of the briefing submitted by the parties in this matter, and for the reasons set forth in the Court’s Opinion and Order [R. 50], the Court does not find that the factors weigh in favor of granting Defendants’ motion to stay pending appeal. *Cf. Missouri*

v. Biden, 2021 WL 5631736 (E.D. Mo. Dec. 1, 2021) (denying motion to stay pending appeal the enforcement of Centers for Medicare and Medicaid Services' Covid-19 vaccine mandate "for the reasons stated in the Order"); *Georgia v. Biden*, --- F. Supp. 3d ----, 2021 WL 5779939 (S.D. Ga. Dec. 7, 2021) (issuing injunction halting vaccine mandate for federal contractors nationwide).

Accordingly, the Court being sufficiently advised and for the reasons set forth in the Court's Opinion and Order, it is hereby **ORDERED** that Defendants' Motion for an Emergency Stay Pending Appeal [R. 53] is **DENIED**.

This the 10th day of December, 2021.

The image shows a handwritten signature in black ink, which appears to read "Gregory F. Van Tatenhove". The signature is written over a circular official seal. The seal contains the text "UNITED STATES DISTRICT COURT" at the top and "WESTERN DISTRICT OF KENTUCKY" at the bottom. In the center of the seal is an eagle with its wings spread, perched on a shield.

Gregory F. Van Tatenhove
United States District Judge