

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Cynthia Brown, et al.,

Plaintiffs,

v.

David Yost, Ohio Attorney General,

Defendant.

Case No. 2:24-cv-1401

Judge Graham

Magistrate Judge Deavers

Order

On March 14, 2025, the Court issued an Opinion and Order granting preliminary injunctive relief to plaintiffs. *See* Doc. 62. Defendant filed a notice of the appeal and has also moved for a stay of the preliminary injunction pending appeal. In deciding a motion for stay pending appeal, a court considers: (1) the likelihood that the party seeking the stay will prevail on the merits; (2) the likelihood that the moving party will be irreparably harmed; (3) the prospect that others will be harmed by the stay; and (4) the public interest in the stay. *Coal. to Defend Affirmative Action v. Granholm*, 473 F.3d 237, 244 (6th Cir. 2006). Defendant bears the burden of justifying a stay. *See Kentucky v. Biden*, 23 F.4th 585, 593 (6th Cir. 2022).

Upon consideration of these factors, the Court finds that a stay is warranted. The first appeal in this action, including the rehearing en banc, demonstrated that jurists can reasonably disagree over the issues at stake. Although this Court is not in a position to predict whether defendant is likely to prevail on appeal, it is at least plausible.

The Court couples this consideration with the en banc court's statement that the Sixth Circuit would "stand ready" to ensure that plaintiffs' "First Amendment rights are aired in time for the November 2025 election." *Brown v. Yost*, 122 F.4th 597, 603 (6th Cir. 2024) (en banc).

Finally, a stay will serve the interests of the state and the public in that a long-standing requirement of Ohio law will continue be enforced until the court of appeals has an opportunity to consider the important issues presented in this case. *See Thompson v. DeWine*, 976 F.3d 610, 619 (6th Cir. 2020) (per curiam).

Accordingly, the Court grants the motion to stay (doc. 64) and hereby STAYS the March 14, 2025 preliminary injunction pending appeal.

s/ James L. Graham  
JAMES L. GRAHAM  
United States District Judge

DATE: March 17, 2025