

**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,)

Plaintiffs,)

v.)

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,)

Defendants.)

Case No. 20-CV-50153
Honorable Judge Lee

**DEFENDANTS STEPHENSON COUNTY SHERIFF SNYDERS AND HEALTH
DEPARTMENT ADMINISTRATOR BEINTEMA’S RESPONSE TO PLAINTIFFS’
MOTION FOR AN EMERGENCY INJUNCTION PENDING APPEAL**

This court should deny Plaintiffs’ Motion for Injunction Pending Appeal pursuant to Federal Rule of Civil Procedure 62. Plaintiffs assert in their motion that the standard for granting a stay pending appeal under F.R.C.P 62 mirrors the standard for granting a preliminary injunction in the trial court. (Doc. 47 at 2 (citing *In re A & F Enterprises, Inc., II*, 742 F.3d 763, 766 (7th Cir. 2014).) But, “in the context of a stay pending appeal, where the applicant’s arguments have already been evaluated on the success scale, the applicant must make a stronger threshold showing of a likelihood of success to meet his burden.” *In re Matter of Forty-Eight Insulations, Inc.*, 115 F.3d 1294, 1301 (7th Cir. 1997) (citing *Adams v. Walker*, 488 F.2d 1064, 1065 (7th Cir. 1973) for the proposition that a stay movant must make a “strong” and “substantial” showing of likelihood of success on the appeal.) Where a court denies a

preliminary injunction on the merits, the court should also deny a request for stay pending appeal. *Id.*

Plaintiffs acknowledge that this court already denied their request for preliminary injunction (doc. 47 at 7; doc. 39), but assert that they must move for this injunction pending appeal as a formality before they seek an injunction in the appellate court pursuant to F.R.A.P. 8(a)(1)(c). So, in support of this motion, Plaintiffs simply rely on and incorporate their Verified Complaint, Motion for Temporary Restraining Order and Preliminary Injunction, Memorandum in Support of their Motion for Temporary Restraining Order and Preliminary Injunction, Reply in Support of their Motion for Temporary Restraining Order and Preliminary Injunction, and Declaration in Support of Reply. They do not assert any new argument or facts.

This court denied Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction on the basis, *inter alia*, that the Plaintiffs have "little likelihood of prevailing on the merits[.]" (Doc. 39 at 35.) Having simply reasserted their prior arguments, Plaintiffs cannot overcome the burden of demonstrating a strong or substantial showing of likelihood of success on appeal. For these reasons, and for all of the reasons set forth in this court's Memorandum Opinion & Order (doc. 39) and in the County Defendants' Response to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction (doc. 27), this court should deny Plaintiffs' Motion for Injunction Pending Appeal.

WHEREFORE Defendants Stephenson County Sheriff Snyders and Health Department Administrator Beintema request that this court deny Plaintiffs' Motion for Injunction Pending Appeal and for any further relief this court deems necessary.

**DAVID SNYDERS and CRAIG
BEINTEMA**

/s/Benjamin M. Jacobi

One of their attorneys

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CERTIFICATE OF SERVICE

I hereby certify that on May 6, 2020, I served *Defendant Sheriff Snyders and Administrator Beintema's Response to Plaintiffs' Motion for Injunction Pending Appeal* by filing same with the CM/ECF system, which shall provide electronic notice to the following counsel of record:

See Service List

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