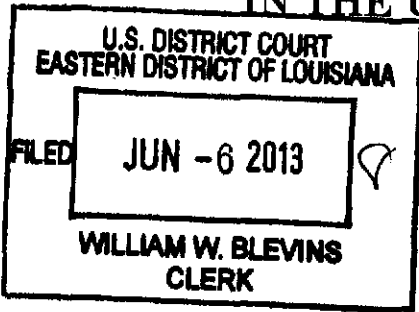


IN THE UNITED STATES COURT OF APPEALS



FOR THE FIFTH CIRCUIT

No. 13-30161

CY 12-1924-E

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

CITY OF NEW ORLEANS,

Defendant - Appellant

Appeal from the United States District Court for the Eastern District of Louisiana, New Orleans

Before JONES, DENNIS, and HAYNES, Circuit Judges.

PER CURIAM:

Plaintiff-appellee United States filed suit against appellant City of New Orleans ("the City") alleging various illegal practices by the New Orleans Police Department. The same date the suit was filed, the parties presented the district court with a proposed Consent Decree. The district court subsequently adopted the Consent Decree and entered it as its final judgment in the action on January 11, 2013. The City thereafter moved the district court to vacate the Consent Decree. The court denied the City's motion. The City appealed, and also moved the district court to stay implementation of the Consent Decree pending appeal. The district court denied that motion as well

\_\_\_ Fee \_\_\_\_\_  
\_\_\_ Process \_\_\_\_\_  
 Dkt \_\_\_\_\_  
\_\_\_ Ct Rm Dep \_\_\_\_\_  
\_\_\_ Doc. No. \_\_\_\_\_

and the City now re-urges its motion for stay pending appeal before this court.

We review a district court's denial of a stay pending appeal for abuse of discretion. *Wildmon v. Berwick Universal Pictures*, 983 F.2d 21, 23 (5th Cir. 1992). The factors for evaluating the appropriateness of a stay pending appeal are well-established: "(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." *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987). "The party requesting a stay bears the burden of showing that the circumstances justify an exercise of [judicial] discretion." *Nken v. Holder*, 556 U.S. 418, 433-34 (2009).

The City has failed to meet this burden. The City's motion fails to address, let alone satisfy, the requisite strong showing of a likelihood of success on the merits of its appeal. The City similarly has failed to demonstrate that the other three factors weigh in favor of granting a stay.

IT IS ORDERED that the temporary order entered May 30, 2013 is hereby VACATED and the City's motion for stay pending appeal is DENIED.

IT IS FURTHER ORDERED that the appeal shall be expedited.

True copy  
Elect

Clerk, U. S. Court of Appeals, Fifth Circuit

By A. Lopez

New Orleans, Louisiana

6/5/13

**United States Court of Appeals**  
FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE  
NEW ORLEANS, LA 70130

June 05, 2013

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 13-30161, USA v. City of New Orleans  
USDC No. 2:12-CV-1924

Enclosed is an order entered in this case.

In light of this order, the briefing schedule will proceed as follows:

Appellant's opening brief will be due June 26, 2013.

Appellees' brief will be due July 11, 2013.

Any reply brief will be due July 18, 2013.

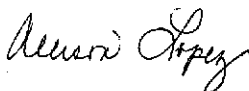
The Court has tentatively set oral argument for the week of August 5, 2013. You will receive a printed calendar prior to the sitting.

THE PARTIES ARE DIRECTED TO ADHERE TO THE ABOVE EXPEDITED BRIEFING SCHEDULE WITHOUT REQUESTING ANY EXTENSIONS OF TIME IN ORDER TO ENSURE AVAILABILITY OF THE BRIEFS TO THE COURT PRIOR TO THE ORAL ARGUMENT DATE.

**Additionally, appellant is reminded that the \$455 appeal docketing and filing fees have not yet been paid. Failure to pay the fees by the current deadline of June 13, 2013, will result in dismissal of the appeal for failure to prosecute.**

Sincerely,

LYLE W. CAYCE, Clerk

  
By: \_\_\_\_\_  
Allison G. Lopez, Deputy Clerk  
504-310-7702

Ms. April J. Anderson  
Mr. Brian Joseph Capitelli  
Ms. Emily Anna Gunston  
Ms. Angela Macdonald Miller  
Ms. Jessica Dunsay Silver  
Ms. Sharonda R. Williams  
Mr. William W. Blevins