FILED
JUL - 6 2016
CLERK, US DISTRICT COURT
NORFOLK, VA

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION

G.G., by his next friend and mother, DEIRDRE GRIMM,

Plaintiffs,

v. **CIVIL NO. 4:15cv54**

GLOUCESTER COUNTY SCHOOL BOARD,

Defendant.

ORDER

This matter is before the Court on Defendant's Motion for Stay Pending Appeal. ECF No. 71. With this Motion the defendant, Gloucester County School Board ("Defendant"), asks this Court to stay the Preliminary Injunction issued by the Court on June 23, 2016 pending Defendant's appeal of that Order. Id.

On June 11, 2015, the plaintiff in this case, G.G. ("Plaintiff"), filed a Motion for Preliminary Injunction. ECF No. 11. On September 4, 2015, this Court denied the Motion. ECF No. 53. On appeal, the Court of Appeals vacated this denial and remanded the case for reevaluation of the Motion under a different evidentiary standard. Op. of USCA, ECF No. 62 at 33. The Court of Appeals also reversed this Court's dismissal of G.G.'s claim under Title IX. Id. at 26. In a concurrence, Judge Davis explained why the Preliminary Injunction should issue in light of the Court of Appeals' analysis of Title IX. Id. at 37–44.

The Court of Appeals denied Defendant's motion for a rehearing en banc, Order of

USCA, ECF No. 65, and its motion to stay the mandate pending the filing of a writ of certiorari, Order of USCA, ECF No. 67. On June 17, 2016, the Court of Appeals issued its mandate. ECF No. 68.

Based on the opinion of the Fourth Circuit and the evidence submitted by declaration, the Court granted the Preliminary Injunction on June 23, 2016. Order, ECF No. 69. Defendant filed a notice of appeal on June 27, 2016. ECF No. 70. On June 28, 2016, Defendant filed the instant Motion to Stay along with a Memorandum in Support. ECF Nos. 71–72. Plaintiff responded to the Motion on July 1, 2016. ECF No. 75.

This Court is bound by the Judgment of the Court of Appeals. The Court of Appeals' actions in denying a rehearing en banc and a stay of its mandate indicate that it desires that its Judgment take effect immediately. The Court of Appeals itself is bound by its own prior precedents. Although Defendant has filed an appeal of the Preliminary Injunction, the Court of Appeals' prior opinion in this case will control in that appeal. This Court believes that based on the law as laid out in that opinion and the evidence submitted by declarations in this case, the Preliminary Injunction was warranted. There are no grounds for a stay. Accordingly, the Court **DENIES** the Motion for Stay Pending Appeal. ECF No. 71.

The Clerk is **DIRECTED** to forward a copy of this Order to all Counsel of Record.

IT IS SO ORDERED.

/s/
Robert G. Doumar
Senior United States District Judge
UNITED STATES DISTRICT JUDGE

Newport News, VA
July 6, 2016