

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

J.A.W.,)
)
 Plaintiff,)
)
 vs.) Cause No. 3:18-cv-37-WTL-MPB
)
 EVANSVILLE VANDERBURGH)
 SCHOOL CORPORATION,)
)
 Defendant.)

ENTRY ON MOTION TO STAY

This cause is before the Court on the Defendant’s Motion to Stay (Dkt. No. 69), in which the Defendant asks the Court to stay the preliminary injunction it granted in this case pending the Defendant’s appeal to the Seventh Circuit Court of Appeals. The motion is **DENIED**.

The standard for granting a stay pending appeal mirrors that for granting a preliminary injunction. Stays, like preliminary injunctions, are necessary to mitigate the damage that can be done during the interim period before a legal issue is finally resolved on its merits. The goal is to minimize the costs of error. To determine whether to grant a stay, we consider the moving party’s likelihood of success on the merits, the irreparable harm that will result to each side if the stay is either granted or denied in error, and whether the public interest favors one side or the other. As with a motion for a preliminary injunction, a “sliding scale” approach applies; the greater the moving party’s likelihood of success on the merits, the less heavily the balance of harms must weigh in its favor, and vice versa.

In re A & F Enterprises, Inc. II, 742 F.3d 763, 766 (7th Cir. 2014) (citations omitted). As the Court discussed at length in its entry granting the motion for preliminary injunction, the Defendant failed to identify what harm it would suffer if the preliminary injunction were granted, while the Plaintiff did identify harm that he would suffer if it were denied. While the Defendant disputes the harm alleged by the Plaintiff, its motion to stay does not identify any harm that J.A.W.’s use of the boys’ restrooms at school will cause the Defendant. Thus, the Court finds

that the goal of minimizing the cost of error is best served by leaving the preliminary injunction in place.

SO ORDERED: 8/10/18

A handwritten signature in black ink, reading "William T. Lawrence", is written over a horizontal line.

Hon. William T. Lawrence, Judge
United States District Court
Southern District of Indiana

Copies to all counsel of record via electronic notification