

No. 13-1476

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

JOHN WELCH, KENNETH SPARKS, JR.; )  
JUDITH WELCH; CAROL SPARKS; SHERRY )  
MURPHY; MARK A. FULKS; URGE, )

Plaintiffs-Appellees, )

v. )

MICHAEL BROWN; EDWARD KURTZ; )  
ROBERT ERLLENBECK; GERALD AMBROSE; )  
FLINT, CITY OF, )

Defendants-Appellants. )

**FILED**  
**Jul 23, 2013**  
DEBORAH S. HUNT, Clerk

ORDER

Before: COOK and GRIFFIN, Circuit Judges; ECONOMUS, District Judge.\*

The plaintiffs sued under 42 U.S.C. § 1983 on behalf of themselves and others against the City of Flint, its current and former emergency managers, its Retirement Officer manager, and its Finance Director (collectively, “the defendants”) seeking declaratory and injunctive relief from the emergency managers’ modification of their retirement benefits. The defendants appeal a district court’s order preliminarily enjoining them from implementing the modifications. The defendants move to stay the preliminary injunction or, alternatively, limit application of the preliminary injunction to the named plaintiffs. The plaintiffs oppose a stay.

In determining whether to stay a preliminary injunction, we consider: (1) “whether the movant has a strong likelihood of success on the merits”; (2) “whether the movant would suffer

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\*The Honorable Peter C. Economus, Senior United States District Judge for the Northern District of Ohio, sitting by designation.

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irreparable injury absent a stay”; (3) whether a stay would result in “substantial harm to others”; and (4) “whether the public interest would be served by granting the stay.” *U.S. Student Ass’n Found. v. Land*, 546 F.3d 373, 380 (6th Cir. 2008). We review a district court’s grant of a preliminary injunction for an abuse of discretion. *Mich. Bell Tel. Co. v. Engler*, 257 F.3d 587, 592 (6th Cir. 2001). We will “not disturb a district court’s findings of fact unless clearly erroneous, but review[] a district court’s legal conclusions de novo.” *Id.*

The defendants must “show, at a minimum, serious questions going to the merits.” *Mich. Coal. of Radioactive Material Users, Inc. v. Griepentrog*, 945 F.2d 150, 154 (6th Cir. 1991) (citation and internal quotation marks omitted). Further, “[w]hen a party seeks a preliminary injunction on the basis of a potential constitutional violation, the likelihood of success on the merits often will be the determinative factor.” *Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012) (citation omitted and internal quotation marks). This case raises several difficult issues, many of which are issues of first impression before this court. Nevertheless, the defendants have demonstrated a likelihood of success on the claims underpinning the injunction. On this basis, we conclude that the preliminary injunction should be stayed pending the outcome of this appeal.

The motion to stay is **GRANTED**. This appeal is fully briefed. Therefore, the clerk is **DIRECTED** to expedite its consideration.

ENTERED BY ORDER OF THE COURT



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Clerk