

IN THE FRANKLIN COUNTY, OHIO COURT OF COMMON PLEAS
CIVIL DIVISION

STATE ex rel CANDY BOWLING, et al :
 :
 Plaintiffs, : Case No. 21 CVH07-4469
 :
 v. : JUDGE HOLBROOK
 :
 MICHAEL DEWINE, et al :
 :
 Defendants. :

STATE ex rel JAMES PARKER, et al :
 :
 Plaintiffs : 21CVH08-5524
 :
 vs. : JUDGE HOLBROOK
 :
 MICHAEL DEWINE, et al :
 :
 Defendants. :

SEBESTIAN NASH, et al :
 :
 Plaintiffs : 21CVH08-5525
 :
 vs. : JUDGE HOLBROOK
 :
 MICHAEL DEWINE, et al :
 :
 Defendants. :

ENTRY GRANTING STAY

These matters came before the Court for a hearing on February 24, 2025 upon defendants' motion to stay this Court's February 12, 2025 Decision and Entry granting plaintiffs' motion for summary judgment. Plaintiffs have filed their memorandum in opposition to the motion to stay.

Background

On February 12, 2025, this Court entered a final appealable order granting, in part, plaintiffs' motion for summary judgment (the "Judgment Entry"). Within the Judgment Entry, the Court ordered defendants as follows:

1. Pursuant to *State ex rel Candy Bowling v. Mike DeWine*, 2021-Ohio-2902, FPUC is one of the "available advantages" described in R.C. 4141.43(I) that the General Assemble requires Defendants "secure" to the citizens of the State of Ohio;
2. Defendants acted in violation of R.C. 4343.41(I) [sic] when they terminated participation in the FPUC program prior to its expiration;
3. Defendants are hereby ORDERED pursuant to R.C. 4343.41(I) [sic] to take all action necessary to reinstate Ohio's participation in the FPUC program from June 26, 2021 through its expiration; and
4. Defendants are hereby ORDERED pursuant to R.C. 4343.41(I) [sic] to take all action necessary to obtain Ohio's share of FPUC program benefits from the United States Department of Labor.

Judgment Entry at p. 12. On February 18, 2025, defendants filed a notice of appeal in the Tenth District Court of Appeals. Contemporaneously with the filing of the notice of appeal, defendants filed the instant motion to stay the Judgment pursuant to Civ.R. 62.

Law and Analysis

Civ.R. 62 provides in relevant part:

(A) **Stay on motion after judgment.** In its discretion and on such conditions for the security of the adverse party as are proper, the court may, upon motion made any time after judgment, stay the execution of that judgment or stay any proceedings to enforce the judgment until the time for moving for a new trial under Civ.R. 59, moving for relief from a judgment or order under Civ.R. 60, moving for judgment notwithstanding the verdict under Civ.R. 50, or filing a notice of appeal, and during the pendency of any motion under Civ.R. 50, Civ.R. 59, or Civ.R. 60.

(B) **Stay upon appeal.** When an appeal is taken the appellant may obtain a stay of execution of a judgment or any proceedings to enforce a judgment by giving an adequate supersedeas bond. The bond may be given at or after the time of filing the notice of appeal. The stay is effective when the supersedeas bond is approved by the court.

(C) **Stay in favor of the government.** When an appeal is taken by this state or political subdivision, or administrative agency of either, or by any officer thereof acting in his representative capacity and the operation or enforcement of the judgment is stayed, no bond, obligation or other security shall be required from the appellant.

In *State ex rel. Geauga County Bd. of Comm'rs v. Milligan*, 100 Ohio St. 3d 366 (2003), the Supreme Court of Ohio discussed in depth the propriety of a stay in favor of the government ultimately holding, “[u]nder Civ.R. 62(B) and (C), the board and commissioners are entitled to a stay of respondent's November 14, 2002 judgment pending their appeal from that judgment.” *Id.* at 369. In doing so they relied on a prior holding in which the Court granted a writ of prohibition to prevent a trial court from conducting an evidentiary hearing and ancillary proceedings to determine the propriety of a government motion for a stay pending appeal in a civil case:

Pursuant to [Civ.R. 62], defendants-appellants are entitled to a stay of the judgment **as a matter of right**. The lone requirement of Civ.R. 62(B) is the giving of an adequate supersedeas bond. Civ.R. 62(C) makes this requirement unnecessary in this case, and respondent has no discretion to deny the stay.

State ex rel. Ocasek v. Riley, 54 Ohio St.2d 488, 490 (1978) (emphasis added). Similarly, in *State ex rel. State Fire Marshal v. Curl*, 87 Ohio St.3d 568, 2000-Ohio-248, the Supreme Court of Ohio granted a writ of mandamus to compel the trial judge to grant the State Fire Marshal's motion for stay pending appeal of a civil judgment and a writ of prohibition to prevent a trial court from holding a contempt hearing. The State Fire Marshal was entitled to a stay as a matter of right without posting a supersedeas bond, and this holding was "supported by precedent, the views of state and federal experts in the field, as well as federal courts construing similarly worded rules of civil procedure." *Id.*, 87 Ohio St.3d at 572.

While this Court's believes that the entry of a partial stay is in the best interest of *all* the parties, it is compelled to act within the bounds of the law. Accordingly, upon consideration, the Court finds good cause shown to **STAY** the Judgment pending the outcome of all appeals. Defendants' motion to stay is hereby **GRANTED**.

Pursuant to Civ.R. 62(C), no bond, obligation or other security shall be required from the appellant.

IT IS SO ORDERED.

Electronic notification to counsel of record

Franklin County Court of Common Pleas

Date: 02-24-2025

Case Title: THE STATE OF OHIO ET AL -VS- MICHAEL DEWINE ET AL

Case Number: 21CV004469

Type: ORDER TO STAY - CASE INACTIVATED

It Is So Ordered.

The image shows a handwritten signature in black ink, which appears to read "Michael J. Holbeck". The signature is written over a blue circular seal. The seal contains the text "COMMON PLEAS" at the top, "FRANKLIN COUNTY, OHIO" in the middle, and "IN GOD WE TRUST" and "ALL THINGS ARE POSSIBLE" at the bottom.