

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JANE DOE I, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 4:08-CV-1518 (CEJ)
)	
JEREMIAH W. NIXON, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court on the motion of defendants Jeremiah W. Nixon and Matt Blunt for stay pending appeal, pursuant to Fed.R.Civ.P. 62(c).¹ Specifically, defendants ask the Court to stay the preliminary injunction entered on October 27, 2008, enjoining enforcement of subsections (1) and (2) of § 589.426.1, Mo.Rev.Stat.

The factors a court considers in determining whether to issue a stay pursuant to Rule 62(c) are: (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, 776-77 (1987). In evaluating the harm that will occur depending on whether or not a stay is granted, courts consider three factors: (1) the substantiality of the injury alleged; (2)


¹Defendant Robert P. McCulloch joins the motion.

the likelihood of its occurrence; and (3) the adequacy of the proof provided. Michigan Coalition of Radioactive Material Users, Inc. v. Griepentroq, 945 F.2d 150, 154 (6th Cir. 1991). The harm alleged must be both certain and immediate, rather than speculative or theoretical. Id.

Having reviewed the motions and memoranda of the parties, the Court concludes that defendants have not met their burden to establish the propriety of a stay pending their appeal of the order entered on October 27, 2008.

Accordingly,

IT IS HEREBY ORDERED that the motion of defendants Jeremiah W. Nixon and Matt Blunt to stay the order entered on October 27, 2008, [Doc. # 68] and the motion of defendant Robert P. McCulloch to stay [Doc. #64] are **denied**.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 30th day of October, 2008.