

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 13-30161

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

CITY OF NEW ORLEANS,

Defendant - Appellant

Appeal from the United States District Court for the
Eastern District of Louisiana, New Orleans

Before JONES, DENNIS, and HAYNES, Circuit Judges.

PER CURIAM:

Plaintiff-appellee United States filed suit against appellant City of New Orleans (“the City”) alleging various illegal practices by the New Orleans Police Department. The same date the suit was filed, the parties presented the district court with a proposed Consent Decree. The district court subsequently adopted the Consent Decree and entered it as its final judgment in the action on January 11, 2013. The City thereafter moved the district court to vacate the Consent Decree. The court denied the City’s motion. The City appealed, and also moved the district court to stay implementation of the Consent Decree pending appeal. The district court denied that motion as well

and the City now re-urges its motion for stay pending appeal before this court.

We review a district court's denial of a stay pending appeal for abuse of discretion. *Wildmon v. Berwick Universal Pictures*, 983 F.2d 21, 23 (5th Cir. 1992). The factors for evaluating the appropriateness of a stay pending appeal are well-established: "(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 (1987). "The party requesting a stay bears the burden of showing that the circumstances justify an exercise of [judicial] discretion." *Nken v. Holder*, 556 U.S. 418, 433-34 (2009).

The City has failed to meet this burden. The City's motion fails to address, let alone satisfy, the requisite strong showing of a likelihood of success on the merits of its appeal. The City similarly has failed to demonstrate that the other three factors weigh in favor of granting a stay.

IT IS ORDERED that the temporary order entered May 30, 2013 is hereby VACATED and the City's motion for stay pending appeal is DENIED.

IT IS FURTHER ORDERED that the appeal shall be expedited.