

U.S. LAW SHIELD OF PENNSYLVANIA,
LLC,
EX REL. TODD HOOVER;
JOHN BRUNO, AN INDIVIDUAL,
Plaintiffs

v.

CITY OF HARRISBURG;
MAYOR ERIC PAPENFUSE;
WANDA WILLIAMS,
SANDRA REID,
BRAD KOPLINSKI,
BEN ALATT,
JEFF BALTIMORE,
SUSAN WILSON,
SHAMAINE DANIELS,
HARRISBURG CITY COUNCIL
MEMBERS;
AND THOMAS CARTER, CITY OF
HARRISBURG
CHIEF OF POLICE,
Defendants

: IN THE COURT OF COMMON PLEAS
: DAUPHIN COUNTY, PENNSYLVANIA

: NO. 2015 CV 00255 EQ

: CIVIL ACTION LAW

DAUPHIN COUNTY
PENNA

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MEMORANDUM and ORDER

Before the Court is Defendant's Motion to Stay Pending Appeal and Plaintiff's Response.

We proceed to disposition.

Defendants have appealed this Court's decision granting in part and denying in part Plaintiffs' request for preliminary injunction of five city ordinances, which concern the regulation of firearms. Defendants have requested that this Court stay these proceedings for the following reason: The Commonwealth Court's decision on appeal will become the binding law of the case; it is likely that the Commonwealth Court's decision will dictate or influence the

outcome of the preliminary objections; the parties may have to re-litigate the matter on remand after the appeal is decided; and that discovery is not necessary in this case. Plaintiffs aver that Defendants have failed to demonstrate likelihood of success on appeal, that they have not demonstrated irreparable injury absent a stay and that the scope of appeal is narrow and the appellate court will not likely create any binding precedent in this case.

The standards for granting a stay pending appeal are controlled by the Supreme Court's decision in *Pennsylvania Public Utility Commission v. Process Gas Consumers*, 467 A.2d 805 (Pa. 1983). In *Pennsylvania Public Utility Commission*, the Supreme Court held that the grant of a stay is warranted if: 1) the petitioner makes a strong showing that he is likely to prevail on the merits; 2) the petitioner has shown that he will suffer irreparable injury without the requested relief; 3) the issuance of a stay will not substantially harm other parties; and 4) the issuance of a stay will not adversely affect the public interest. *Id.* at 808-809. However, the decision to grant or deny a stay pending appeal is vested in the trial court's discretion, and will not be reversed absent a clear abuse of that discretion. *In re: Upset Sale, Tax Claim Bureau of Berks Co.*, 505 Pa. 327, 479 A.2d 940 (Pa. 1984).

Here, we find that the City of Harrisburg has failed to make a strong showing that they are likely to prevail on appeal. We also find that City has failed to show that it will suffer irreparable injury or demonstrate that any party will be substantially harmed by not granting the stay. Further, we find that the public interest will be better served by not granting the stay. The public, as well as the litigants, are entitled to the prompt, efficient and fair disposition of this matter. To serve that end, we believe that fully litigating this matter to a final disposition is appropriate. A final disposition will also provide the opportunity for dispositive appellate review, if deemed necessary.

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: CIVIL ACTION LAW

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ORDER

AND NOW, this 1st day of May 2015, in consideration of Defendants' Motion to Stay

Pending Appeal and Plaintiffs' Response,

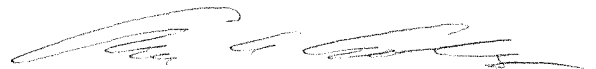
IT IS HEREBY ORDERED that Defendants' Motion is Denied.

MAY 01 2015

I hereby certify that the foregoing is a true and correct copy of the original filed.

Stephen A. Harris
Prothonotary

BY THE COURT:



JUDGE ANDREW H. DOWLING

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