

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

February 15, 2024

Christopher M. Wolpert
Clerk of Court

BLAINE FRANKLIN SHAW, individually
and on behalf of a class, et al.,

Plaintiffs - Appellees,

v.

ERIK SMITH, in his official capacity as
the Superintendent of the Kansas Highway
Patrol,

Defendant - Appellant,

and

DOUG SCHULTE, Master Trooper, in his
individual capacity, et al.,

Defendants.

No. 23-3264
(D.C. No. 6:19-CV-01343-KHV)
(D. Kan.)

MARK ERICH, et al.,

Plaintiffs - Appellees,

v.

ERIK SMITH, in his official capacity as
the Superintendent of the Kansas Highway
Patrol,

Defendant - Appellant.

No. 23-3267
(D.C. No. 6:20-CV-01067-KHV-GEB)
(D. Kan.)

ORDER

Before **HOLMES**, Chief Judge, and **PHILLIPS**, Circuit Judge.

Appellant has filed a motion to stay the district court's permanent injunction pending appeal. Appellees have responded, and appellant has replied.¹

In deciding whether to grant a stay pending appeal, we consider the traditional factors: "(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." *Nken v. Holder*, 556 U.S. 418, 434 (2009) (internal quotation marks omitted).

We conclude that appellant has satisfied his burden to establish that the *Nken* factors weigh in favor of granting a stay. We therefore grant the motion and stay the district court's permanent injunction dated November 20, 2023, until further order of this court.

Entered for the Court



CHRISTOPHER M. WOLPERT, Clerk

¹ We entered a temporary stay to facilitate our review of the filings. Having completed our review, we now vacate the temporary stay.