

FILED

United States Court of Appeals  
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

January 27, 2022

Christopher M. Wolpert  
Clerk of Court

DEMETRIUS MAREZ, et al.,

Plaintiffs - Appellants,

v.

JARED POLIS, Colorado Governor, et al.,

Defendants - Appellees.

No. 21-1421  
(D.C. No. 1:21-CV-02941-RMR)  
(D. Colo.)

ORDER

Before **BACHARACH** and **PHILLIPS**, Circuit Judges.

Plaintiffs filed a motion for an injunction pending their interlocutory appeal from the district court's order denying their emergency motion for a preliminary injunction. They seek to enjoin Defendants from undertaking any action pursuant to a Colorado statute enacted in June 2021 that generally prohibits the use of American Indian mascots in public schools. Defendants filed a response in opposition to the motion, and Plaintiffs filed a reply in support of the motion.

Tenth Circuit Rule 8.1 requires Plaintiffs to address the following factors when seeking an injunction pending appeal: (A) "the basis for the district court's . . . subject matter jurisdiction and the basis for the court of appeals' jurisdiction, including . . . a statement of facts establishing jurisdiction"; (B) "the likelihood of success on appeal"; (C) "the threat of irreparable harm if the . . . injunction is not granted"; (D) "the absence

of harm to opposing parties if the . . . injunction is granted”; and (E) “any risk of harm to the public interest.”

In ruling on a request for an injunction pending appeal, “this court makes the same inquiry as it would when reviewing a district court’s grant or denial of a preliminary injunction.” *Homans v. City of Albuquerque*, 264 F.3d 1240, 1243 (10th Cir. 2001) (per curiam). “Thus, we must consider, based on a preliminary record, whether the district court abused its discretion and whether the movant has demonstrated a clear and unequivocal right to relief.” *Id.*

Upon consideration of the parties’ filings and the relevant law, we conclude that Plaintiffs have failed to show their entitlement to an injunction pending appeal. Accordingly, we deny Plaintiffs’ motion.

Entered for the Court



CHRISTOPHER M. WOLPERT, Clerk