

VERMONT SUPREME COURT
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Case No. 25-AP-292

ENTRY ORDER

SEPTEMBER TERM, 2025

In re Appeal of H.D. (Department for	}	APPEALED FROM:
Children and Families*)	}	
	}	Human Services Board
	}	CASE NO. T-06/25-549

In the above-entitled cause, the Clerk will enter:

The State moves to stay the decision of the Human Services Board. Ordinarily, a stay must first be sought below. See V.R.A.P. 8(a)(1) (requiring party to move first in superior court for stay); V.R.A.P. 1(c)(1) (indicating that superior court includes administrative board or agency). The State has not sought a stay from the Board, asserting that the Fair Hearing Rules do not provide for a stay and therefore arguing that asking for a stay would be impractical. The Board's authority, however, is not fully defined by its administrative rules. See 3 V.S.A. § 3091(d) (providing Board with authority to modify agency decisions and to provide appropriate relief).

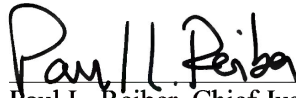
In any event, appellant has not met its burden for a motion to stay. For this Court to grant a motion to stay, the moving party must demonstrate each of the following: "(1) a strong likelihood of success on the merits; (2) irreparable injury if the stay is not granted; (3) the stay will not substantially harm other parties; and (4) the stay will serve the best interests of the public." Gilbert v. Gilbert, 163 Vt. 549, 560 (1995).

This Court judges "the likelihood of success on the merits primarily on the basis of the thoroughness and completeness of the Board's decision, and its support in existing law, in light of the claims of appellants." In re Petition of Vt. Gas Sys., Inc., 2016 VT 132, ¶ 4, 203 Vt. 655.

Here, both the Board's conclusion and appellant's arguments are each rooted in conceivable analyses based on the language of the statute and canons of statutory construction. Consequently, appellant has not met its burden to demonstrate a "strong" likelihood of success. We emphasize, however, that our conclusion on this motion does not have any impact on our later consideration of the merits of the underlying appeal.

Appellant's motion is denied.

BY THE COURT:

Handwritten signature of Paul L. Reiber in black ink.

Paul L. Reiber, Chief Justice

Handwritten signature of Harold E. Eaton, Jr. in blue ink.

Harold E. Eaton, Jr., Associate Justice

Handwritten signature of William D. Cohen in black ink.

William D. Cohen, Associate Justice

Handwritten signature of Nancy J. Waples in black ink.

Nancy J. Waples, Associate Justice