

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

American Heritage Railways, Inc., et al. v. Bradley Arthur Hirou, et
al.

American Heritage Railways · No. 3:24-cv-01802-CAB-JLB · Decided April 2, 2025

SUMMARY

The United States District Court for the Southern District of California denied Defendant Bradley Arthur Hirou’s motion to stay the court’s prior ruling pending appeal. The court also denied reconsideration because the challenged order was involved in an interlocutory appeal and the court therefore lacked jurisdiction to reconsider it. The court directed that future motions filed without leave be stricken.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Cathy Ann Bencivengo
JURISDICTION	United States District Court for the Southern District of California
DECIDED	April 2, 2025
DOCKET	3:24-cv-01802-CAB-JLB
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved to stay the court's prior ruling denying his motion to dismiss and granting plaintiffs' preliminary injunction pending appeal, and also moved for reconsideration of that prior order. The district court denied both motions.
STANDARD OF REVIEW	A stay pending appeal requires consideration of four factors: likelihood of success on the merits, irreparable injury absent a stay, substantial injury to other interested parties, and the public interest. Reconsideration was denied on the jurisdictional ground that a district court generally lacks jurisdiction over aspects of a case involved in a pending appeal.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Bradley Arthur Hirou v. American Heritage Railways, Inc., et al.

TOPICS

motion for reconsideration

appellate procedure

interlocutory appeal

injunctions

copyright law

PRACTICE AREAS

civil procedure

appellate procedure

intellectual property

copyright law

equitable relief

QUESTIONS PRESENTED

1. Whether defendant was entitled to a stay pending appeal under the four-factor stay standard.
2. Whether the district court had jurisdiction to reconsider the order that defendant had appealed.
3. Whether the requested stay was warranted where defendant had not shown a likelihood of success, irreparable harm, lack of substantial injury to other parties, or a favorable public interest.

HOLDINGS

1. Defendant was not entitled to a stay pending appeal because he failed to make the required showing under the four stay factors.
2. The district court lacked jurisdiction to reconsider the order because defendant had appealed the same order and a district court is divested of jurisdiction over aspects of the case involved in the appeal.

KEY QUOTATIONS

“A stay pending appeal is an “extraordinary” remedy.” (at 1)

“A district court loses jurisdiction following a notice of appeal to adjudicate those aspects of the case involved in the appeal.” (at 2)

“Defendant’s motion for reconsideration and motion to stay are DENIED.” (at 2)

FACTUAL BACKGROUND

Defendant Bradley Arthur Hirou appealed the district court's order denying his motion to dismiss and granting plaintiffs' preliminary injunction. He sought a stay pending appeal and reconsideration of that same order. The court noted that the dispute concerned whether Hirou's name was subject to common-law copyright protection and that a prior case involving Hirou had reached a similar result.

PROCEDURAL HISTORY

The district court had previously denied defendant's motion to dismiss and granted plaintiffs' request for a preliminary injunction. Defendant appealed and then sought a stay pending appeal and reconsideration of the appealed order. The court denied the stay on the merits and denied reconsideration for lack of jurisdiction because the notice of appeal divested the court of jurisdiction over the appealed issues.

DISPOSITION

CASES CITED

- Citizens for Resp. & Ethics in Washington v. Fed. Election Comm’n, 904 F.3d 1014, 1017 (D.C. Cir. 2018) (per curiam)
- Nken v. Holder, 556 U.S. 418, 434 (2009)
- Hilton v. Braunskill, 481 U.S. 770, 776 (1987)
- Teeple v. Hirou, No. 08-CV-2281-JAH-CAB, 2009 WL 10671655 (S.D. Cal. 2009)
- United States v. Rodriguez Ramirez, 291 F. Supp. 2d 266, 269 (S.D.N.Y. 2003)
- Griggs v. Provident Consumer Disc. Co., 459 U.S. 56, 58 (1982)
- City of Los Angeles, Harbor Div. v. Santa Monica Baykeeper, 254 F.3d 882, 886 (9th Cir. 2001)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 AMERICAN HERITAGE RAILWAYS, Case No.: 3:24-cv-01802-CAB-JLB
INC., et al., 12 ORDER DENYING MOTION TO Plaintiffs, 13 STAY & MOTION FOR v.
RECONSIDERATION 14 BRADLEY ARTHUR HIROU, et al., 15 [Doc. Nos. 22, 25]
Defendants. 16 17 I. MOTION TO STAY 18 Defendant, proceeding pro se, has requested that this
Court stay its ruling denying 19 Defendant’s motion to dismiss and granting Plaintiffs’ preliminary
injunction pending 20 Defendant’s appeal to the Ninth Circuit.

[Doc. No. 20.] A stay pending appeal is an 21 “extraordinary” remedy. Citizens for Resp. & Ethics
in Washington v. Fed. Election 22 Comm’n, 904 F.3d 1014, 1017 (D.C. Cir. 2018) (per curiam). To
obtain such exceptional 23 relief, the stay applicant must (1) make a “strong showing that [it] is
likely to succeed on 24 the merits” of the appeal; (2) demonstrate that it will be “irreparably
injured” before the 25 appeal concludes; (3) show that issuing a stay will not “substantially injure
the other 26 parties” interested in the proceeding; and (4) establish that “the public interest” favors
a 27 28 1 Nken v. Holder, 556 U.S. 418, 434 (2009) (quoting Hilton v. Braunskill, 481 U.S. 2 776
(1987)).

3 Plaintiff has not made the requisite showing here. For starters, as the Court’s prior 4 order stated,
the outcome in this case tracks the outcome in a nearly identical case brought 5 against Defendant
Hirou in 2008. Teeple v. Hirou, No. 08-CV-2281-JAH-CAB, 2009 WL 6 || 10671655 (S.D. Cal.
2009). And the likelihood of harm to Defendant is minimal where 7 ||Defendant provides no
authority to disturb the finding that his name is not subject to 8 ||common law copyright
protection.

See, e.g., United States v. Rodriguez Ramirez, 291 F. 9 || Supp. 2d 266, 269 (S.D.N.Y. 2003). The
public interest in a dispute between these parties, 10 ||if any, is minimal. These factors strongly

counsel against a stay.

The motion is DENIED. 11 ||[Doc. No. 22.] 12 II. MOTION FOR RECONSIDERATION 13 Defendant also seeks reconsideration of this Court's order granting Plaintiffs' 14 request for preliminary injunction and denying Defendant's motion to dismiss. [Doc. No. 15 A district court loses jurisdiction following a notice of appeal to adjudicate those 16 aspects of the case involved in the appeal.

See *Griggs v. Provident Consumer Disc. Co.*, 17 ||459 U.S. 56, 58 (1982); see also *City of Los Angeles, Harbor Div. v. Santa Monica* 18 || Bayvkeeper, 254 F.3d 882, 886 (9th Cir. 2001) (finding this divestiture of jurisdiction 19 || applies to interlocutory appeals as well). Defendant seeks reconsideration of the very order 20 issues he has appealed.

Accordingly, the Court lacks jurisdiction and DENIES 21 Defendant's motion for reconsideration. [Doc. No. 25.] 22 it. CONCLUSION 23 Defendant's motion for reconsideration and motion to stay are DENIED. Defendant 24 only file additional motions with leave of the Court.

The Clerk of Court is instructed 25 ||to STRIKE any additional motions that are filed without leave of the Court. 26 It is SO ORDERED. é 27 Dated: April 2, 2025 Hon. Cathy Ann Bencivengo 28 United States District Judge