

S.D.N.Y.–N.Y.C.
12-cv-0751
Preska, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 29th day of February, two thousand and twelve,

Present:

John M. Walker, Jr.
Pierre N. Leval,
Guido Calabresi,
Circuit Judges.

The Bronx Household of Faith, Robert Hall, and
Jack Roberts,

Plaintiffs-Appellees,

v.

Board of Education of the City of New York and
Community School District No. 10,

Defendants-Appellants.

ORDER

Docket Number: 12-0751

In the twelfth year of this litigation, the district court has granted a new preliminary injunction adjudicating grounds previously not addressed. The Board of Education of the City of New York and Community School District No. 10 (collectively, “Defendants”) appeal from that preliminary ruling and, pending adjudication of the appeal, move to stay the injunction.

Upon due consideration of the history of the litigation and the interests of all parties, we

conclude that the interests of justice are not best served by hearing the appeal from the preliminary injunction, which by definition fails to reach a final adjudication of the dispute. Following our decision of an appeal from the preliminary ruling, the case would return to the district court for trial and final adjudication, which would in turn be followed by a second appeal – all of which would needlessly delay final adjudication for no very good reason. We recognize that both sides face some harm depending whether Chancellor’s Regulation D-180 is enforced during the pendency of the preliminary injunction. The harm suffered by the City defendants if the preliminary injunction remains in effect in that interim period is real and significant but consists only in the continuation for the short balance of this school year of a status quo that has been in effect for almost a decade.

In our view, the interests of all would be better served if the district court proceeds without delay to grant the parties the opportunity to present their evidence expeditiously and to render a final judgment. We hope and expect that the district court will render its conclusive, final judgment as soon as practicable, and no later than mid-June, so that the dispute can perhaps be concluded by the beginning of the next school term.

For the reasons stated above, it is hereby ORDERED that Defendants’ petition for a stay is DENIED. Any further petitions or appeals in this case will be referred to this panel.

FOR THE COURT:
Catherine O’Hagan Wolfe, Clerk


