

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

WILLIAM JOSEPH, JR.,	)	
	)	
Plaintiff,	)	CIVIL NO. SX-04-CV-188
v.	)	
	)	ACTION FOR DAMAGES
WILBUR JOSEPH,	)	
	)	JURY TRIAL DEMANDED
Defendants.	)	
_____	)	

APPEARANCES:

JOMO MEADE, ESQ.
Law Office of Jomo Meade
Frederiksted, St. Croix, VI
Attorney for Plaintiff

RENEE DOWLING, ESQ.
Law Offices of Renee Dowling
Christiansted, St. Croix, VI
Attorney for Defendant

MEMORANDUM OPINION

MOLLOY, Judge.

THIS MATTER comes before the Court pursuant to Attorney Jomo Meade's ("Attorney Meade") Motion to Stay Pending Appeal filed on April 14, 2015. Therein, Attorney Meade indicates that he has appealed a March 24, 2015 Order imposing a \$100 fine for his failure to appear at a status conference to the Supreme Court of the Virgin Islands,¹ and he requests that the Court stay the Order pending the outcome of his appeal. For the reasons stated below, the Court will deny Attorney Meade's motion.

I. BACKGROUND

On January 14, 2015, the Court issued an Order scheduling a status conference for this matter on January 28, 2015. Plaintiff's counsel, Attorney Meade, neither appeared at the

¹ According to the Supreme Court of the Virgin Islands' Electronic Case Filing System, Attorney Meade filed his appeal on April 13, 2015 and paid the \$105 docketing fee on April 15, 2015.

January 28 status conference, nor did he file a motion for continuance. Pursuant to Attorney Meade's failure to appear, the Court issued an Order to Show Cause on February 26, 2015. Attorney Meade filed his response on March 4, 2015, citing an "inadvertent oversight regarding Counsel's schedule of Court appearances" as the cause for his failure to appear. On March 24, 2015, the Court issued an Order requiring that Attorney Meade pay \$100 to the Court or to a charitable organization of his choosing within twenty days. On April 13, 2015, Attorney Meade filed a Motion to Stay Pending Appeal, indicating therein that he appealed the Court's March 24 Order to the Supreme Court of the Virgin Islands and that he believes he will succeed on the merits of his appeal. Attorney Meade provided no analysis to support this assertion; indeed, the only legal authority he cites in his skeletal motion is a singular, cursory citation to *In re Rogers*, 56 V.I. 325 (V.I. 2012).

II. LEGAL STANDARD

Attorney Meade requests that the Court stay its Order imposing a fine of \$100 pursuant to his failure to appear at his client's status conference until the outcome of his appeal to the Supreme Court of the Virgin Islands. In the Virgin Islands, to determine whether a litigant is entitled to a stay pending appeal, courts apply a four-factor test considering:

(1) whether the litigant has made a strong showing that he is likely to succeed on the merits; (2) whether the litigant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceedings; and (4) where the public interest lies.

Tip Top Constr. Corp. v. Gov't of the V.I., 2014 V.I. Supreme LEXIS 15, *2 (V.I. February 14, 2014)(unpublished), quoting *Hilton v. Braunskill*, 481 U.S. 770, 776, 107 S. Ct. 2113, 95 L. Ed.

2d 724 (1987); *Rojas v. Two/Morrow Ideas Enters.*, 2009 V.I. Supreme LEXIS 6, *4-5 (V.I. 2009)(unpublished).²

Throughout the United States, courts are heavily split as to whether to apply a “sequential injunction test,” where all four factors must be satisfied in full, or a “sliding-scale test,” where the four factors are balanced and weighed. *See Tip Top* 2014 V.I. Supreme LEXIS 15, *8-9 (declining to adopt a standard but indicating that the Supreme Court of the Virgin Islands has previously used a sliding-scale test). On March 12, 2015, the St. Thomas and St. John Division of the Superior Court of the Virgin Islands conducted a *Banks* analysis and concluded that a sliding-scale test is the correct test for the Virgin Islands. *SBRMCOA, LLC v. Morehouse Real Estate Invs., LLC*, 2015 V.I. LEXIS 27 (V.I. Super. Ct. Mar. 12, 2015), *analyzing according to Banks v. Int’l Rental & Leasing Corp.*, 55 V.I. 967 (V.I. 2011). The sliding-scale test allows the “moving party to obtain an injunction even where the probability of success on the merits is low if the court determines that the moving party’s likelihood of irreparable harm is great and the nonmoving party’s likelihood of irreparable harm is very low.” *Yusuf v. Hamed*, 59 V.I. 841, 847 n.3 (V.I. 2013).

III. DISCUSSION

Attorney Meade has failed to provide any arguments or analysis with respect to the four-factor test he must satisfy in order for the Court to grant his requested stay; indeed, he did not even mention the four-factor test in his motion. A court may deny a stay on the basis

² “The standard for obtaining a stay pending appeal is essentially the same as for obtaining a preliminary injunction.” *SBRMCOA, LLC v. Morehouse Real Estate Invs., LLC*, 2015 V.I. LEXIS 27, 13 n.34 (V.I. Super. Ct. Mar. 12, 2015), *referring to Yusuf v. Hamed*, 59 V.I. 841 (V.I. 2013). Accordingly, case law that analyzes these factors as applied to a preliminary injunction is applicable here.

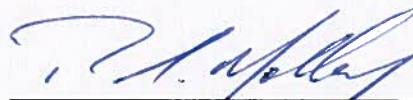
that the movant has provided no support for the relief he seeks. *See SBRMCOA, LLC*, 2015 V.I. LEXIS 27, *11-12; *United States v. Christopher*, 2013 U.S. Dist. LEXIS 179026, *6 (D.V.I. Dec. 20, 2013). It was Attorney Meade's burden to demonstrate to the Court that the facts in this matter warrant the issuance of a stay. "The party requesting a stay bears the burden of showing that the circumstances justify an exercise of [the court's] discretion." *Nken v. Holder*, 556 U.S. 418, 433-34 (2009). He is not automatically entitled to a stay. "A stay is not a matter of right, even if irreparable injury might otherwise result . . . It is instead an exercise of judicial discretion[.]" *Id.* at 433 (internal citations omitted).

Furthermore, in general, the Court will not make a movant's arguments for him when he has failed to do so. *See People of the Virgin Islands v. Penn*, 53 V.I. 315, 318 (V.I. Super. Ct. 2010)(denying a defendant's motion to dismiss when he did not present any argument or case law supporting his claim of discrimination); *Schneider's Dairy v. Serv. Pers. & Emples., Teamsters Local Union No. 205*, 2013 U.S. Dist. LEXIS 174350, *5-6 n.1 (W.D. Pa. Dec. 10, 2013)(noting that "[i]t is not the Court's job to research and construct legal arguments open to parties. . . In order to develop a legal argument effectively, the facts at issue must be bolstered by relevant legal authority; a perfunctory and undeveloped assertion is inadequate[.]")(internal citation omitted). The Supreme Court of the Virgin Islands has spoken on the importance of this principle: "The rules that require a litigant to brief and support his arguments . . . before the Superior Court, are not mere formalistic requirements. They exist to give the Superior Court the opportunity to consider, review, and address an argument[.]" *Simpson v. Golden*, 56 V.I. 272, 280 (V.I. 2012).

IV. CONCLUSION

Because Attorney Meade has failed to make any arguments as to why a stay should be issued in this matter, the Court will deny his request for a stay. An appropriate Order follows.

Dated: April 23, 2015



ROBERT A. MOLLOY
Judge of the Superior Court

ATTEST:

ESTRELLA GEORGE
Acting Clerk of the Court

By: 
Court Clerk Supervisor

Dated: 4/23/15

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
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WILLIAM JOSEPH, JR.,

Plaintiff,

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CIVIL NO. SX-04-CV-188

ACTION FOR DAMAGES

JURY TRIAL DEMANDED

ORDER

THIS MATTER comes before the Court pursuant to Attorney Jomo Meade's Motion to Stay Pending Appeal filed on April 14, 2015. After careful consideration and review, for the reasons stated in the accompanying Memorandum Opinion, it is hereby

ORDERED that Attorney Jomo Meade's Motion to Stay Pending Appeal filed on April 14, 2015 is **DENIED**.

Dated: April 23, 2015



ROBERT A. MOLLOY
Judge of the Superior Court

ATTEST:

ESTRELLA GEORGE

Acting Clerk of the Court

By: 

Court Clerk Supervisor

Dated: 4/23/15