

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

CONNECTICUT GENERAL LIFE)	
INSURANCE COMPANY,)	
)	Case No. 1:00CV00065
Plaintiff,)	
)	ORDER STAYING JUDGMENT
v.)	
)	
DOUGLAS C. RINER, ET AL.,)	By: James P. Jones
)	Chief United States District Judge
Defendants.)	

Timothy W. McAfee, McAfee Law Firm, P.C., Norton, Virginia, for Robert R. Varner, III; Douglas C. Riner, Pro Se.

The question in this interpleader action is the proper distribution of the proceeds of a policy of life insurance. By final judgment entered January 4, 2005, the court directed that the proceeds be paid to Robert R. Varner, III. *See Connecticut Gen. Life Ins. Co. v. Riner*, No. 1:00CV00065, 2005 WL 17443 (W.D. Va. Jan. 4, 2005). The other claimant, Douglas C. Riner, filed a timely Notice of Appeal and has moved the court to stay the judgment pending his appeal. Varner objects to a stay on the ground that Riner has not given a supercedas bond. Riner is a state prisoner, proceeding pro se, and avers that he is indigent.

Federal Rule of Civil Procedure 62(d) governs whether an appellant is able to obtain a stay pending appeal. It provides that—

When an appeal is taken the appellant by giving a supercedas bond may obtain a stay subject to the exceptions contained in subdivision (a) of this rule. The bond may be given at or after the time of the filing the notice of appeal or of procuring the order allowing the appeal, as the case may be. The stay is effective when the supercedas bond is approved by the court.

Fed. R. Civ. P. 62(d). Dispute the language of the rule, it is widely held that the court has discretion to stay a judgment pending appeal without a supercedas bond. *See, e.g. Alexander v. Chesapeake, Potomac & Tidewater Books, Inc.*, 190 F.R.D. 190, 192 (E.D. Va. 1999). The primary duty of the court in this situation is to ““preserve the status quo while protecting the non-appealing party’s rights pending appeal.”” *Id.* (quoting *Poplar Grove Planting & Refining Co. v. Bache Halsey Stuart, Inc.*, 600 F.2d 1189, 1190-91 (5th Cir. 1979)). While in most cases a bond will be necessary to protect the non-appealing party’s rights, this is a case where that is not necessary.

At the institution of this action the insurance company paid into court the face amount of the insurance policy of \$100,000, together with accrued interest, which sum was placed on interest bearing account. At the present time, that account balance is \$116,680.67, which amount will insure that the appellee is adequately protected.

On the other hand, if the appellee obtains the amount now, and the appellant is successful on appeal, then the appellant may suffer irreparable loss. Accordingly,

even though the chances of success on appeal may be slim, the equities clearly favor staying the judgment without a bond.

For the foregoing reasons, it is **ORDERED** that the appellant's motion for a stay is GRANTED and the judgment entered by the court on January 4, 2005, is STAYED PENDING APPEAL.

ENTER: January 24, 2005

/s/ JAMES P. JONES
Chief United States District Judge