

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

DAVID A. BROWN,

Plaintiff,

:

Case No. 3:08-cv-141

-vs-

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

:

OFFICER MALICKI, et al.,

Defendants.

DECISION AND ORDER DENYING STAY

This case is before the Court on Plaintiff's Motion to Stay (Doc. No. 38), filed in response to the Magistrate Judge's Report and Recommendations on Defendant Malicki's motions for summary judgment and judgment on the pleadings.

Plaintiff seeks a stay because he alleges he was unprepared to litigate this action. However, Plaintiff filed this action *pro se*, participated in its scheduling, actively sought and obtained discovery, and filed evidence along with his opposition to the motion for summary judgment. The schedule sought in this case was completely in agreement with Plaintiff's stated need for time and the motion for summary judgment was filed after all discovery had been completed. Plaintiff neither sought more discovery nor filed a motion under Fed. R. Civ. P. 56(f) to show why he could not respond to the motion for summary judgment. Even now, faced with a recommendation for dismissal, Plaintiff does not suggest what additional information he would obtain or from whom or to prove what point.

The Motion for Stay is DENIED.

May 12, 2009.

s/ **Michael R. Merz**
United States Magistrate Judge