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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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12 Barry Northcross Patterson,)

13 Plaintiff,)

No. CIV 05-1159-PHX-RCB

14 vs.)

O R D E R

15 Charles L. Ryan, et al.,)

16 Defendants.)
17

18 Presently before the court is a "Motion for Delay" (Doc.
19 131) filed by plaintiff *pro se* Barry Northcross Patterson on
20 December 6, 2011. As the court construes this motion, plaintiff
21 is seeking an indefinite delay of this litigation because on
22 December 1, 2011, evidently he began a self-imposed hunger
23 strike. See Mot. (Doc. 131) at 1. The only remaining
24 defendants, Broderick and Mason, oppose an "indefinite stay[,]"
25 but they do not "oppose a shorter, 30-day stay[.]" Resp. (Doc.
26 132) at 3:5-6. Further, defendants acquiesce in allowing
27 plaintiff to "request (prior to the expiration of the initial
28 30-day stay) an additional period of time not to exceed 30 days
if he shows that his physical and emotional condition has not

1 improved sufficiently for him to participate meaningfully in
2 these proceedings." Id. at 3:7-10. Plaintiff did not file or
3 serve a reply as LRCiv 7.2(d) allows.

4 Before deciding whether a stay is proper here, given
5 plaintiff's stated intent to "stop eating & die[,]" unless he
6 is allowed to "eat in peace in the prison system[,]" Mot. (Doc.
7 131) at 1, compels the court to reiterate, as it held in
8 Patterson v. Ryan, 2011 WL 3799099 (D.Ariz. Aug. 26, 2011), that
9 "[s]ince shortly after the filing of this lawsuit, plaintiff
10 Patterson has been receiving the very kosher diet for which he
11 request[ed] injunctive relief." Id. at *8. As plaintiff's
12 motion indicates, and defendants' response corroborates,
13 nonetheless, wholly of his own volition plaintiff is
14 "persist[ing] with his hunger strike." See Resp. (Doc. 132) at
15 2:8. Further, evidently plaintiff's erratic eating behaviors
16 have given rise to mental health concerns, which in turn, have
17 led to a "complete medical/psychological review[]" of plaintiff
18 "at the Baker Unit, a special medical ward that is staffed so
19 as to be able to provide this kind of assessment." See id. at
20 2:14-16. The timing of that evaluation is uncertain, however.
21 See id. at 2:16-18.

22 Based upon the foregoing circumstances, and because the
23 defendants do not oppose it, the court finds that a stay is
24 necessary here. A stay of these proceedings is necessary given
25 what appears, even based upon the scant record before it, to be
26 the possibility that plaintiff's physical and mental state may
27 be compromised; and that his self-imposed hunger strike may be
28 contributing to or causing plaintiff's current condition.


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Accordingly, the court hereby:

(1) **GRANTS** plaintiff a stay, but only, as defendants agree, for **30 days** from the date of entry of this order; and

(2) **GRANTS** plaintiff the right to file a motion, prior to the expiration of the initial 30-day stay, for an additional stay not to exceed 30 days upon a showing that his physical and emotional condition has not improved sufficiently for him to participate meaningfully in these proceedings.

DATED this 29th day of December, 2011.



Robert C. Broomfield
Senior United States District Judge

copies to counsel of record and plaintiff *pro se*