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**IN THE UNITED STATES DISTRICT COURT**

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**FOR THE DISTRICT OF ARIZONA**

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9 Eulandas J Flowers,

No. CV-14-08184-PCT-JAT (ESW)

10 Plaintiff,

**ORDER**

11 v.

12 Sandra Lawrence, et al.,

13 Defendants.

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Pending before the Court is Plaintiff Eulandas J. Flowers's Motion to Stay (Doc. 118). Plaintiff asks the Court to stay the upcoming bench trial on the issue of exhaustion "[w]hile his Motion for Appointment of Counsel and Request for Production" are processed. (*Id.* at 1). Plaintiff asserts that both are pending.

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The Court has "discretionary power to stay proceedings in its own court under *Landis v. North American Co.*, 299 U.S. 248, 254 (1936)." *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1109 (9th Cir. 2005). In *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962), the Ninth Circuit established a framework from which to analyze a motion to stay:

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Where it is proposed that a pending proceeding be stayed, the competing interests which will be affected by the granting or refusal to grant a stay must be weighed. Among those competing interests are the possible damage which may result from the granting of a stay, the hardship or inequity which a party may suffer in being required to go forward, and the orderly course of justice measured in terms of the simplifying or complicating of issues, proof, and questions of law which

1                   could be expected to result from a stay.  
2 *Id.* at 268. Having reviewed Plaintiff’s motion, the Court finds that Plaintiff has failed to  
3 show that he would “suffer sufficient hardship or inequity” from having to proceed to  
4 bench trial on June 16, 2016. *Schneider v. Sutter Amador Hosp.*, 621 Fed. Appx. 480, 481  
5 (9th Cir. 2015).

6                   One of Plaintiff’s principal reasons in support of a stay is his Motion for  
7 Appointment of Counsel. (Doc. 112). Plaintiff asks that if the Court were to grant his  
8 motion, his appointed counsel be given time to prepare for trial. The Court, however,  
9 denied Plaintiff’s motion in an May 12, 2016 Order, (Doc. 117), having found that  
10 Plaintiff failed to establish that “exceptional factors” were present requiring that counsel  
11 be appointed. (*Id.* at 4). Plaintiff cannot rely on the adjudicated motion to support a stay.

12                   Plaintiff further asserts that the June 16 bench trial should be stayed due to the fact  
13 that his request for production of documentary evidence is still “pending.” (Doc. 118 at  
14 1). The docket reflects a May 5, 2016, entry for “Notice of Second Request for  
15 Production of Documents” filed by Plaintiff, in which Plaintiff requested that  
16 Defendants’ counsel “provide[] a copy of 4/04/14 DVD – Disc #15, Disc #16” of  
17 Plaintiff’s “emergency grievance.” (Doc. 115 at 1). But this entry is not “pending” in the  
18 sense that the Court must adjudicate the motion,<sup>1</sup> and does not support entering a stay.

19                   Plaintiff’s stated reasons are insufficient to demonstrate “hardship or inequity” in  
20 “being required to go forward.” *Lockyer*, 398 F.3d at 1109 (citation omitted). Further,  
21 Plaintiff has nearly a month to prepare for the bench trial on a single issue: whether  
22 Plaintiff exhausted his available administrative remedies in accordance with the Prison  
23 Litigation Reform Act. This is a reasonable time for Plaintiff to prepare for trial.  
24 Moreover, staying the trial will not simplify any issues, proof, or questions of law, and  
25 will delay resolution of this matter unnecessarily. Having considered Plaintiff’s motion  
26 and the circumstances of the case, the Court finds that it is neither efficient nor the  
27 “fairest course for the parties to enter a stay.” *Levy v. Certified Grocers of California*,

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28                   <sup>1</sup> Plaintiff has not filed a motion to compel production of certain documents.

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*Ltd.*, 593 F.2d 857, 863-64 (9th Cir. 1979). Accordingly, the Court will deny Plaintiff's motion.

Based on the foregoing

**IT IS ORDERED** that Plaintiff's Motion to Stay, (Doc. 118), is hereby **DENIED**.

Dated this 17th day of May, 2016.

