


1 In Rico, the district court considered defendants' motion to dismiss the action based on,
2 among other things, qualified immunity. On March 5, 2019, the court held that qualified
3 immunity protected the high level supervisory defendants from this suit but that the remaining
4 defendants, those who reviewed plaintiff's appeals and those who conducted the security tests,
5 were not so protected. (No. 2:17-cv-1402 KJM DB P, ECF No. 102.) The defendants remaining
6 in the case then appealed. (Id., ECF No. 103.) On appeal, they argue that the district court erred
7 in denying them qualified immunity. See Appellants' Mediation Questionnaire, Rico v. Ducart,
8 et al., No. 19-15541 (9th Cir. Mar. 29, 2019). The Rico appeal remains pending in the Ninth
9 Circuit.²

10 In the present case, plaintiff identifies one defendant - Kim Holland, CCI Warden. On
11 January 18, 2019, defendant filed a motion for summary judgment. (ECF No. 68.) One of
12 defendant's arguments is that she is entitled to qualified immunity.

13 This court finds that the Ninth Circuit's decision in Rico will very likely affect the
14 analysis of the qualified immunity issue in this case. Therefore, a stay of these proceedings may
15 be the best use of the parties' time and judicial resources. This court seeks the parties' positions
16 on the imposition of a stay pending the Ninth Circuit's Rico decision.

17 Accordingly, IT IS HEREBY ORDERED that within twenty days of the date of this order,
18 each party shall file either: (1) a statement that the party finds a stay pending the Rico decision
19 appropriate, or (2) a short memorandum of points and authorities explaining why a stay is not
20 appropriate.

21 Dated: June 12, 2019

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25 DEBORAH BARNES
26 UNITED STATES MAGISTRATE JUDGE

27 DLB:9/DB/prisoner-civil rights/matt1915.rico stay

28 ² The appeal was released from mediation on May 6, 2019. Appellants' opening brief is due July 1, 2019.