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UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

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11 NICHOLAS STROBL, an individual,

No. 2:13-cv-01436-MCE-EFB

12 Plaintiff,

13 v.

ORDER

14 JOSEPH A. FARROW, in his official
15 capacity as the Commissioner of the
California Highway Patrol; DENNIS
16 PONTIUS, individually and in his
official capacity as an officer of the
California Highway Patrol; MATTHEW
17 STOVER, individually and in his official
capacity as a Sergeant of the California
18 Highway Patrol; ROBERTO GOMEZ,
individually and in his official capacity
19 as an officer of the California Highway
Patrol; and DOES 1-50, inclusive,
20 individually and in their capacities as
law enforcement officers and/or
21 personnel for the California Highway
Patrol,

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Defendants.

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25 Through the present action, Plaintiff Nicholas Strobl seeks damages against
26 three different California Highway Patrol different officers as a result of excessive force
27 allegedly employed by the officers following a fight that occurred at the R15 Bar in
28 Sacramento on May 19, 2012. California Highway Patrol Commissioner Joseph A.

1 Farrow is also named as a Defendant. Plaintiff asserts causes of action premised on
2 violations of 42 U.S.C. §§ 1983 and 1988, along with violations of the
3 Fourth and Fourteenth Amendments to the United States Constitution as well as various
4 pendent state claims. On May 5, 2014, Defendant Farrow filed a Motion to Dismiss
5 Plaintiff's First Amended Complaint on grounds it fails to state a claim against Farrow on
6 which relief can be granted under Federal Rule of Civil Procedure 12(b)(6).¹ (ECF
7 No. 16). The remaining Defendants filed their own Motion to Dismiss ten days later, on
8 May 15, 2014 (ECF No. 18).

9 Both Motions request, as an alternative to dismissal, that Plaintiff's action herein
10 be stayed pending the resolution of misdemeanor criminal charges pending against
11 Plaintiff as a result of the incident underlying this case. According to Defendants, those
12 charges include alleged violations of California Penal Code sections 242 (Battery) and
13 243(b) (Battery against police officer). See People of the State of California v. Nicholas
14 Von Strobl (Sacramento County Superior Court Case No. 12M06946, filed October 22,
15 2012).² Defendants argue that Plaintiff's conviction in those proceedings could affect his
16 ability to maintain the present matter either under the so-called Heck rule or pursuant to
17 the Rooker-Feldman doctrine. In Heck v. Humphrey, 512 U.S. 477 (1994), the Supreme
18 Court refused to permit a litigant to proceed with civil charges if those charges are
19 inconsistent with a litigant's prior criminal conviction, unless that conviction was
20 subsequently reversed. Additionally, under Rooker-Feldman, a federal district court
21 lacks subject matter jurisdiction to hear a direct appeal from the final judgment of a state
22 court, so if the civil charges are tantamount to such an appeal they could be improper on
23 that ground as well. See, e.g., Noel v. Hall, 341 F.3d 1148, 1154 (9th Cir. 2003).
24 Consequently, according to Defendants, under either Heck or Rooker-Feldman, if

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26 ¹ All further references to "Rule" or "Rules" are to the Federal Rules of Civil Procedure unless
27 otherwise noted.

28 ² An online docket sheet for the criminal proceedings is attached as Exhibit A to the Declaration of
Stephen C. Pass filed in support of Defendant Farrow's Motion.

1 Plaintiff is convicted of battery, or of battery against a police officer, that conviction could
2 preclude the claims Plaintiff is making through this lawsuit.

3 Significantly, the Court's own review of the Sacramento Superior Court's current
4 online docket sheet indicates that Plaintiff did in fact go to trial on June 23, 2014, on the
5 pending misdemeanor charges. Following what appears to be a three-day jury trial,
6 Plaintiff was found guilty on June 27, 2014, of both the battery and battery against a
7 police officer charges, as well as on an additional count for violating California Penal
8 Code 148(a)(1) (resisting arrest).

9 Both the criminal charges against Plaintiff and the civil lawsuit he has filed in this
10 Court appear to arise from the same underlying facts. Plaintiff's convictions may well
11 impugn his ability to maintain all or part of this lawsuit depending on the circumstances
12 of that conviction. Consequently, the Court must first decide to what extent Plaintiff's
13 civil claims remain viable after those convictions before determining any of the other
14 issues raised by Defendants in their motions.

15 To that end, the parties are directed to meet and confer within fifteen (15) days
16 after the date this Order is electronically filed. The parties are further directed to file a
17 joint statement with the Court not later than fifteen (15) days after they meet and confer.
18 That statement should advise the Court of the particulars surrounding resolution of
19 Plaintiff's criminal charges, as well as Plaintiff's intentions concerning his continued
20 prosecution of the present action, and whether or not he intends to appeal his
21 misdemeanor convictions, so that the Court can determine how the instant matter should
22 proceed forward. In the meantime, since in the Court's view Plaintiff's criminal
23 convictions will, in all likelihood, significantly affect his ability to maintain the present civil
24 case at this time, Defendants' pending Motions to Dismiss, ECF Nos. 16 and 18, are
25 DENIED without prejudice to being renewed in whole or in part after the implications of
26 Plaintiff's criminal convictions have been addressed.

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1 Finally, any obligation on Defendants' part to answer the currently operative First
2 Amended Complaint is stayed pending further notice from the Court.

3 IT IS SO ORDERED.

4 Dated: January 26, 2015

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MORRISON C. ENGLAND, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT