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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

TONY ROBERTS,

Plaintiff,

v.

S. HENSLEY, et al.,

Defendants.

Case No.: 15cv1871-LAB (BLM)

**ORDER GRANTING UNOPPOSED
MOTION TO STAY ALL PROCEEDINGS
PENDING PLAINTIFF'S DISCHARGE
FROM ACUTE PSYCHIATRIC
HOSPITALIZATION AND TREATMENT**

[ECF No. 55]

21 On March 3, 2017, the Court accepted on discrepancy a "Motion for Permission to Act as
22 'Next of Friend,' or Alternatively, for Court to Act on its Own, and Stay all Proceedings Pending

1 Mr. Roberts['] Discharge from Acute Psychiatric Hospitalization and Treatment." ECF Nos. 54 &
2 55. The motion was signed by Tommy Boyden, appearing "Next of Friend" on behalf of Plaintiff
3 Tony Roberts on February 23, 2017. ECF No. 55 at 2. Defendants have not opposed the instant
4 motion. See Docket. For the reasons outlined below, the Court **GRANTS** a limited stay of the
5 entire action.

6 **FACTUAL AND PROCEDURAL BACKGROUND**

7 On August 21, 2015, Plaintiff, a prisoner incarcerated at the Richard J. Donovan
8 Correctional Facility ("RJD") proceeding pro se and *in forma pauperis*, commenced this action
9 by filing a Complaint alleging civil rights violations pursuant to 42 U.S.C. § 1983. ECF
10 No. 1. After Defendants filed a motion to dismiss part of Plaintiff's Complaint and Plaintiff filed
11 a notice of non-opposition [see ECF Nos. 22, 30], on July 21, 2016, the District Judge granted
12 Defendants' motion. ECF No. 31. On July 29, 2016, Plaintiff filed a First Amended Complaint
13 ("FAC"), the operative pleading in this case. ECF No. 32. Plaintiff alleges in his FAC that
14 Defendants, various dental officials employed at the California Men's Colony ("CMC") and RJD,
15 were aware of his serious dental needs but "delayed providing dental treatment for
16 approximately 48 months or more." See id. at 2-3. Plaintiff claims that as a result, he developed
17 a total of twenty-seven cavities, toothaches, headaches, mouth lesions, gum disease, and
18 periodontal disease, which exposed him "to a serious risk for heart disease." See ECF No. 31.
19 On August 11, 2016, Defendants answered Plaintiff's FAC, and on August 16, 2016, the Court
20 issued a Scheduling Order Regulating Discovery and Other Pre-Trial Proceedings. ECF Nos. 33
21 & 34.

1 **DISCUSSION**

2 In the instant motion, Mr. Boyden, on behalf of Plaintiff Roberts, asks the Court to stay
3 the proceedings for four to five months or until Plaintiff’s discharge from acute care and
4 treatment. ECF No. 55 at 3, 7. In support, Mr. Boyden declares that on February 20, 2017,
5 Plaintiff Roberts “was admitted for psychiatric hospitalization for . . . treatment for suicidal
6 ideations, and psychic features associated with auditory hallucinations.” Id., Exh. A, Declaration
7 of Tommy D. Boyden (“Boyden Decl.”) at 9. Mr. Boyden further claims that Plaintiff is not able
8 to draft documents, conduct legal research, file pleadings, or respond to the Court’s orders in
9 light of his hospitalization and ongoing treatment, and argues that Plaintiff’s condition renders
10 Plaintiff incapable of protecting his interests and prosecuting his lawsuit at this time. See id. at
11 10; see also ECF No. 55 at 2. Mr. Boyden also contends that the length of the requested stay
12 is minimal, and that if the stay is not granted, the parties’ time and resources would be wasted
13 because Plaintiff “would be unable to assert his rights during the current period and would
14 require revisiting issues that could be addressed in the first instance after the stay.” ECF No. 55
15 at 6.

16 A district court has discretionary power to “stay proceedings as an incident to its power
17 to control its own docket.” Clinton v. Jones, 520 U.S. 681, 706 (1997) (citing Landis v. North
18 American Co., 299 U.S. 248, 254 (1936)). In determining whether to grant a motion to stay,
19 “the competing interests which will be affected by the granting or refusal to grant a stay must
20 be weighed.” Lockyer v. Mirant Corp., 398 F.3d 1098, 1110 (9th Cir. 2005). These interests
21 include: (1) the possible damage which may result from the granting of a stay, (2) the hardship
22 or inequity which a party may suffer in being required to go forward, and (3) the orderly course

1 of justice measured in terms of the simplifying or complicating of issues, proof, and questions
2 of law which could be expected to result from a stay. Id. “[S]tays should not be indefinite in
3 nature,” and in considering a stay order, the court should “balance the length of any stay against
4 the strength of the justification given for it.” See Dependable Highway Exp., Inc. v. Navigators
5 Ins. Co., 498 F.3d 1059, 1066 (9th Cir. 2007); Young v. I.N.S., 208 F.3d 1116, 1119 (9th Cir.
6 2000). “The proponent of a stay bears the burden of establishing its need.” Clinton, 520 U.S.
7 at 709.

8 In balancing the competing interests of the parties, the Court concludes that Plaintiff has
9 established that his medical condition and hospitalization render him unable to prosecute his
10 case at this time, and that the requested stay is warranted. Having consulted with the Chambers
11 of District Judge Larry A. Burns, the court **GRANTS** the unopposed motion to stay all
12 proceedings pending Plaintiff’s discharge from acute psychiatric hospitalization. Accordingly, the
13 Court stays the action until **June 30, 2017**. Plaintiff must file a report as to his medical status
14 on or before **July 1, 2017**.

15 **IT IS SO ORDERED.**

16
17 Dated: 3/13/2017


18 Hon. Barbara L. Major
19 United States Magistrate Judge
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