

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-00649-LTB-MEH

DAVID EARL ANTELOPE,

Plaintiff,

v.

DR. KELLAR, and
UNITED STATES OF AMERICA,

Defendants.

MINUTE ORDER

Entered by Michael E. Hegarty, United States Magistrate Judge, on November 23, 2010.

Defendants' Motion to Stay Pending Ruling on Motion for Summary Judgment [filed November 19, 2010; docket #165] is **granted**. Defendant Keller raises qualified immunity in the pending motion for summary judgment. (*See* docket #159 at 8.) The Supreme Court established that evaluating the defense of qualified immunity is a threshold issue, and "[u]ntil this threshold immunity question is resolved, discovery should not be allowed." *Siegert v. Gilley*, 500 U.S. 226, 233 (1991) (citing *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982)); *Workman v. Jordan*, 958 F.2d 332, 336 (10th Cir. 1992) (same); *see also Behrens v. Pelletier*, 516 U.S. 299, 308 & 310 (1996) (noting that discovery can be particularly disruptive when a dispositive motion regarding immunity is pending). Plaintiff's Eighth Amendment claim against both Defendants arises from the same facts, thus engaging in discovery regarding the United States would likely intrude on the protections against discovery in place for Defendant Keller. Accordingly, this matter is hereby **stayed** pending the Court's adjudication of Defendants' Motion for Summary Judgment. The parties are directed to file a status report indicating what changes to the schedule are needed within **five business days** of an order on the pending motion.

The Final Pretrial Conference scheduled for December 1, 2010, is hereby **vacated**.