

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-01248-REB-MEH

TODD A. AURIT,

Plaintiff,

v.

CHARLES OLIN, SOTMP, Therapist,  
ROBBIE BOLTON, SOTMP, Therapist,  
JOE STROMMEL, Mgr. SOTMP,  
BURL MCCLULLAR, Prog. Mgr. SOTMP,  
RUSTY LANDER, MHD, SOTMP, Cord [*sic*],  
SHANE MARTIN, Head of Mental Health,  
JOHN EVANS, Case Mgr., and  
CAROL MORTON, Case Mgr.,

Defendants.

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**ORDER GRANTING MOTION TO STAY**

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**Michael E. Hegarty, United States Magistrate Judge.**

Pending before the Court is Defendants' Motion to Stay Proceedings [docket #56]. The motion is briefed and has been referred to this Court for disposition [docket #57]. Oral argument would not materially assist the Court in adjudicating this motion. For the reasons stated below, Defendants' Motion to Stay is **granted**.

**I. Background**

Plaintiff instituted this action on June 11, 2008, but amended the complaint pursuant to court order on August 5, 2008. In essence, Plaintiffs allege that Defendants violated his constitutional rights by classifying him as a sex offender. *See* Amended Complaint [docket #10]. On January 23, 2009, Defendants responded to the Amended Complaint by filing a Motion to Dismiss. *See* docket

#33. Among other defenses, Defendants claim that they enjoy qualified immunity from suit in this matter. Upon review, this Court converted the Motion to Dismiss to a Motion for Summary Judgment and allowed additional briefing. On May 7, 2009, this Court issued a Report and Recommendation that the District Court grant the Motion for Summary Judgment and dismiss Plaintiff's claims [docket #51]. The recommendation remains pending before the District Court. On July 23, 2009, Defendants filed the within Motion to Stay, requesting that, "in the interests of judicial economy," the proceedings of the case be stayed pending disposition of their Motion for Summary Judgment. *See* docket #56 at ¶ 5. The Plaintiff responded to the motion reasserting his constitutional claims. Docket #59.

## **II. Discussion**

The Supreme Court has emphasized the broad protection qualified immunity affords, giving officials "a right, not merely to avoid 'standing trial,' but also to avoid the burdens of 'such pretrial matters as discovery.'" *Behrens v. Pelletier*, 516 U.S. 299, 308 (1996) (quoting *Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985)); *see also Crawford-El v. Britton*, 523 U.S. 574, 598 (1998). Consequently, courts should resolve the purely legal question raised by a qualified immunity defense at the earliest possible stage in litigation. *Albright v. Rodriguez*, 51 F.3d 1531, 1534 (10th Cir. 1995); *see also Medina v. Cram*, 252 F.3d 1124, 1127-28 (10th Cir. 2001).

In this case, Defendants filed a motion to dismiss the claims set forth in Plaintiffs' Amended Complaint alleging, among other defenses, that the individual Defendants enjoy qualified immunity from the Plaintiff's claims. The Court has broad discretion to stay proceedings as an incident to its power to control its own docket. *See Clinton v. Jones*, 520 U.S. 681, 706-07 (1997) (citing *Landis v. North American Co.*, 299 U.S. 248, 254 (1936)). Because Defendants' Motion to Dismiss raises

a legal question of this Court's jurisdiction over the subject matter of the dispute, the question should be resolved as early as possible in the litigation. *See Albright*, 51 F.3d at 1534. Moreover, the Court finds that allowing discovery to proceed in this matter against the government defendants would not serve the interests of judicial economy and efficiency. Consequently, the Court will grant a temporary stay of the proceedings in this matter pending the disposition of the Motion for Summary Judgment.

### **III. Conclusion**

Accordingly, for the reasons stated above, it is hereby ORDERED that Defendants' Motion to Stay Proceedings [filed July 23, 2009; docket #56] is **granted**. The proceedings of this case are hereby stayed pending the District Court's ruling on Defendants' Motion to Dismiss, converted to a Motion for Summary Judgment. The Final Pretrial Conference scheduled for October 5, 2009 is **vacated**. The parties are directed to submit a status report within five days of the entry of any order adjudicating the pending Motion for Summary Judgment.

Dated at Denver, Colorado, this 14th day of August, 2009.

BY THE COURT:

A handwritten signature in black ink, reading "Michael E. Hegarty". The signature is written in a cursive, flowing style.

Michael E. Hegarty  
United States Magistrate Judge