

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-03071-REB-MEH

JUSTIN RUEB, a/k/a Justin Joseph Rueb,

Plaintiff,

v.

BROWN,
DENNIS BURBANK,
DANIEL DENT,
DOE (3 "John Doe" mailroom officers),
SUSAN JONES, and
ARISTEDES ZAVARAS,

Defendants.

ORDER GRANTING MOTION TO STAY

Michael E. Hegarty, United States Magistrate Judge.

Before the Court is Defendants' Motion to Stay Discovery and Vacate Dispositive Motions Deadline Pending Qualified Immunity Determination [filed May 11, 2011; docket #29]. The motion has been referred to this Court for disposition [docket #30]. 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 initiated this action on December 17, 2010. Upon initial review, Judge Babcock ordered dismissal of Claim One, but allowed Claim Two to proceed. In Claim Two, Plaintiff alleges generally that Defendants, knowing Plaintiff had filed grievances and that a lawsuit was imminent, ordered mailroom staff to tamper with an envelope containing Plaintiff's civil rights complaint on

December 28, 2008, causing delivery of Plaintiff's complaint to be delayed. *See* Complaint, docket #1. As a result, Plaintiff alleges violations of the First and Fourteenth Amendments, as well as a conspiracy claim, pursuant to 42 U.S.C. § 1983. *Id.* On May 2, 2011, this Court held a scheduling conference in this case, at which a schedule for discovery and dispositive motions deadlines were set. On May 11, 2011, Defendants responded to the Complaint by filing a Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6), in which Defendants raise the affirmative defense of qualified immunity. *See* docket #28. Simultaneously with that motion, Defendants filed the present Motion to Stay, asserting that, "[u]ntil the threshold question [of qualified immunity] is resolved, discovery should not be allowed." *See* docket #29 at ¶ 8.

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 have filed a motion to dismiss the remaining Claim Two raised in Plaintiff's 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. Consequently, the Court will grant a temporary stay of the proceedings in this matter pending the disposition of the Motion to Dismiss.

III. Conclusion

Accordingly, for the reasons stated above, it is hereby ORDERED that Defendants' Motion to Stay Discovery and Vacate Dispositive Motions Deadline Pending Qualified Immunity Determination [filed May 11, 2011; docket #29] is **granted**. All proceedings of this case are hereby stayed pending the District Court's ruling on Defendants' Motion to Dismiss. The parties are directed to submit a status report within five days of the entry of any order adjudicating the pending Motion to Dismiss.

Dated at Denver, Colorado, this 17th day of May, 2011.

BY THE COURT:

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

Michael E. Hegarty
United States Magistrate Judge