

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-02403-RBJ-MJW

ERNIE J. SAVANNAH,

Plaintiff,

v.

BILL COLLINS and
ROBERT KNAB,

Defendants.

MINUTE ORDER

Entered by Magistrate Judge Michael J. Watanabe

It is hereby ORDERED that Defendants Knab and Collins' Motion to Continue Stay of All Proceedings Pending Interlocutory Appeal and for Protective Order Concerning Plaintiff's Discovery Requests to Defendants (docket no. 60) is DENIED in its entirety for the following reasons. The parties may proceed with discovery consistent with the Rule 16 Scheduling Order dated February 14, 2013 (docket no. 36).

On March 18, 2013, Magistrate Judge Watanabe issued a written Recommendation on the Motion to Dismiss Complaint from Fort Collins Police Officer Bill Collins (docket no. 46). In this Recommendation, Magistrate Judge Watanabe recommended that such motion be granted. This Recommendation was rejected by District Judge R. Brooke Jackson and accordingly the Motion to Dismiss Complaint from Fort Collins Police Officer Bill Collins (docket no. 46) was DENIED. See Judge Jackson's Order dated May 28, 2013 (docket no. 50).

On June 11, 2013, Defendant Officer Collins' filed a Notice of Appeal of Judge Jackson's Order (docket no. 50) to the Tenth Circuit. Based upon this interlocutory appeal, Defendant Officer Collins now seeks a stay of all proceedings and also a protective order arguing that a final decision on the qualified immunity issue should be made by the Tenth Circuit before this court should allow discovery. This court disagrees. A thoughtful and thorough decision was made by Judge Jackson on the qualified immunity issue and it is law of the case as of the date of this minute order. See docket no. 50. Defendant Officer Collins assumes that Judge Jackson's decision on qualified immunity will be reversed on appeal. This court will not make that assumption. This court has discretion to stay discovery or not. See Koch v. Koch Industries, Inc., 203 F.3d 1202, 1238 (10th Cir. 2000); Motley v. Marathon Oil Co., 71

F.3d 1547, 1550 (10th Cir. 1995). In this case and in this court's sound discretion, discovery should not be stayed.

Date: July 9, 2013
