

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-01441-WJM-MJW

ARNELL SHELTON,

Plaintiff,

v.

D. BERKEBILE, FCC Warden and
JENNIFER COULTER,

Defendants.

MINUTE ORDER

Entered by Magistrate Judge Michael J. Watanabe

It is hereby ORDERED that Defendants' Motion to Vacate Scheduling Conference (Docket No. 36) is DENIED. The Scheduling Conference remains set for November 6, 2014, at 10:00 a.m. Defendants shall have up to and including November 3, 2014, to file a proposed scheduling order.

Defendants correctly point out that, where the doctrine of qualified immunity applies as a defense, a stay of discovery is ordinarily appropriate pending resolution of that claimed defense. *Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985). But the defense of qualified immunity applies only to suits for monetary damages and suits against persons in their individual capacities; in suits for injunctive or declaratory relief, and official-capacity suits, a stay of discovery is inappropriate because qualified immunity has no relevance. *Rome v. Romero*, 225 F.R.D. 640 (D. Colo. 2004). Here, the Amended Complaint does not identify whether its claims are sought against Defendants in their individual capacities or their official—but either way, it seeks only injunctive relief. Accordingly, the defense of qualified immunity appears inapplicable.

Date: October 29, 2014
