

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

YASIR AFIFI,

Plaintiff,

v.

ERIC H. HOLDER, JR., *et al.*

Defendants.

Civil Action No. 11-00460 (BAH)

ORDER

Plaintiff Yasir Afifi alleges that unknown agents of the Federal Bureau of Investigation violated his constitutional rights by affixing a Global Positioning System (“GPS”) tracking device to his car to monitor his whereabouts without first obtaining a search warrant. Mr. Afifi contends the FBI agents’ alleged conduct “subjected Mr. Afifi to a warrantless search forbidden by the Fourth Amendment,” among other legal violations. Compl. ¶ 48. Accordingly, the plaintiff brought this lawsuit against the Director of the FBI, the Attorney General of the United States, and the unknown agents. *See generally* Compl. The defendants have moved to dismiss the plaintiff’s claims or for summary judgment. *See* ECF No. 7.

Presently before the Court is the plaintiff’s motion to stay this case pending the outcome of United States Supreme Court’s decision in *United States v. Jones*. 2011 U.S. LEXIS 4956 (U.S. June 27, 2011). In *Jones*, the Supreme Court will determine whether government agents violated the Fourth Amendment “by installing [a] GPS tracking device on [a] vehicle without a valid warrant and without [] consent.” *Id.* The plaintiff contends that “resolution of this issue will have a dispositive effect on Plaintiff’s case” and, accordingly, the plaintiff requests a stay of this action pending the Supreme Court’s decision. Pl.’s Mot. for Stay at 1. The plaintiff argues

that a stay will avoid potentially unnecessary pretrial activities and promote judicial economy. Further, the plaintiff argues that a stay will not prejudice the defendants.

The defendants oppose a stay on the grounds that the plaintiff's claims should be dismissed without reaching the Fourth Amendment issue, as detailed in their dispositive motion. Defs.' Opp'n to Pl.'s Mot. for Stay at 2-3. Defendants contend that a stay would "force defendants to wait far longer than should be necessary to resolve this litigation." *Id.* at 3. The defendants concede, however, that "if defendants' pending motion is denied [there might] be a need to await the Supreme Court's disposition of *Jones*." *Id.*

"A trial court has broad discretion to stay all proceedings in an action pending the resolution of independent proceedings elsewhere." *Am. Ctr. for Civil Justice v. Ambush*, No. 09-0233, 2011 WL 2600497, at *4 (D.D.C. July 1, 2011) (citation omitted). "Nevertheless, if, upon a party's request, there is even a fair possibility that the stay for which the movant prays will work damage to someone else, then the movant must make out a clear case of hardship or inequity in being required to go forward." *Id.* (internal quotation marks and alteration omitted).

Here, the defendants have not identified how they will be harmed by a stay. While the defendants claim a stay would force them "to wait far longer than should be necessary to resolve this litigation," a stay, by definition, results in some delay. The defendants, however, do not identify how a delay will specifically injure their interests. Nor is it clear that a stay will actually delay the resolution of this case because the defendants admit that the Court might "need to await the Supreme Court's disposition of *Jones*" in order to resolve this case if their pending dispositive motion is denied in whole or in part. Defs.' Opp'n to Pl.'s Mot. for Stay at 3. On the other hand, if the Court stays this case pending the Supreme Court's ruling in *Jones*, the Court may avoid the need to rule on the issues currently raised in the defendants' pending dispositive

motion. In addition, a stay may avoid potentially unnecessary pretrial activities and discovery. Thus, the Court finds that the interests of justice and efficient judicial administration weigh in favor of staying this case pending the Supreme Court's ruling. Accordingly, it is hereby

ORDERED that this action is STAYED pending the ruling of the United States Supreme Court in *United States v. Jones*, 2011 U.S. LEXIS 4956 (U.S. June 27, 2011); and it is further

ORDERED that the parties shall file a joint report regarding the status of this action within thirty (30) days of the Supreme Court's ruling in *Jones*; and it is further

ORDERED that, if necessary, the defendants shall serve and file an updated version of their dispositive motion within thirty (30) days of the Supreme Court's ruling in *Jones*; and it is further

ORDERED that the plaintiff's opposition to the defendants' updated motion shall be served and filed within fourteen (14) days of service of that motion; and that any reply in further support of the defendants' updated motion shall be filed within seven (7) days thereafter.

SO ORDERED.

DATED: SEPTEMBER 12, 2011

/s/ Beryl A. Howell

BERYL A. HOWELL
United States District Judge