

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ADRIAN M. REQUENA,

Plaintiff,

v.

CASE NO. 13-3043-SAC

WENDY NEWKIRK, et al.,

Defendants.

MEMORANDUM AND ORDER

This matter is before the Court on the motion to stay discovery filed by defendants Crofts and Newkirk (Doc. 88) and on plaintiff's response (Doc. 89)¹. Defendants seek a stay of discovery pending the resolution of their motion to dismiss, or, in the alternative, for summary judgment (Doc. 85). Defendants note that their motion rests on grounds including the defenses of Eleventh Amendment immunity and qualified immunity.

The District of Kansas has a general policy that a pending dispositive motion does not require a stay of discovery. *See Wolf v. United States*, 157 F.R.D. 296, 297-98 (D. Kan. 1994). There are four exceptions to this policy, namely, discovery may be stayed if the case is likely to be resolved through the dispositive motion; the facts to be developed through discovery would not affect the resolution of the dispositive motion; the discovery would be unduly burdensome; or the dispositive motion presents issues concerning a defendant's immunity from suit. *Citizens for Objective Public Education Inc. v. Kansas State Bd. of Educ.*, 2013 WL 6728323, *1 (D. Kan. Dec. 19, 2013);

¹ This pleading, titled as Opposition to Dismissal or in the Alternative Summary Judgment, was docketed as a motion to stay.

see also Kutilek v. Gannon, 132 F.R.D. 296, 297-98 (D. Kan. 1990).

The Court has considered the record and agrees that discovery should be stayed pending the resolution of defendants' motion to dismiss or for summary judgment. The argument offered by defendants rests largely on immunities, and plaintiff has not identified specific discovery that he seeks.

IT IS, THEREFORE, BY THE COURT ORDERED defendants' motion to stay discovery (Doc. 88) is granted, and plaintiff's opposition (Doc. 89) is denied.

IT IS FURTHER ORDERED plaintiff is granted to and including **January 3, 2020**, to respond to the motion of defendants Crotts and Newkirk to dismiss or for summary judgment.

IT IS SO ORDERED.

DATED: This 10th day of December, 2019, at Topeka, Kansas.

S/ Sam A. Crow
SAM A. CROW
U.S. Senior District Judge