

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

OBIDIAH FRANCOIS, ET AL

CIVIL ACTION

VERSUS

NO. 13-2640

CITY OF GRETNA, ET AL

SECTION: "C" (3)

ORDER & REASONS

Before this Court is a Motion to Stay Criminal Prosecution filed by Plaintiff, Matthias Francois. Rec. Doc. 40. Additionally, before this court is Plaintiff's Motion to Lift Stay in these proceedings. Rec. Doc. 41. Defendant, City of Gretna filed an Opposition to Plaintiff's Motion to Stay Criminal Prosecution. Rec. Doc. 44. Plaintiff filed a Response/Reply to Defendant's Opposition. Rec. Doc. 45. For the following reasons the Court finds that the Motion to Stay (Rec. Doc. 40) is **DENIED as MOOT** and the Motion to Lift Stay (Rec. Doc. 41) is **GRANTED**.

Plaintiff and his brother Obadiah Francois were arrested on October 24, 2012 and charged with violations of La. R.S. 14:59A(5) (Criminal Mischief - Filing a False Police Report) and La. R.S. 14:285A (Harassing Phone Calls). Rec. Docs. 25 and 25-1. On May 7, 2013,

Plaintiff and his brother filed a 42 U.S.C. §1983 complaint against Gretna alleging a violation of their Fourth Amendment rights when Gretna arrested them and seized their cell phones. Rec. Doc. 4. On June 24, 2013, Gretna filed a Motion to Stay Proceedings pending the resolution of the underlying criminal proceedings. Rec. Doc. 10. The Motion to Stay was granted by this Court on July 30, 2013. Rec. Doc. 22. Plaintiff's subsequent requests to lift the stay were denied March 20, 2014 (Rec. Doc. 27), October 17, 2014 (Rec. Doc. 38), and October 27, 2014 (Rec. Doc. 39).

On or about May 23, 2014 the La. R.S. 14:59 charge against Mr. Francois was formally dismissed without prejudice. Rec. Doc. 36-1 at 1. However, on May 22, 2014 a grand jury in the 24th Judicial District Court for the parish of Jefferson formally indicted Mr. Francois on three additional counts arising from the October 24, 2012 arrest, specifically, violations of La. R.S. 14:122 (Public Intimidation- two counts) and La. R.S. 14:126.1 (False Swearing for Purposes of Violating Public Health and Safety). Rec. Doc. 26-1 at 10. A hearing was held November 10, 2014 in the 24th Judicial District Court before Judge Henry G. Sullivan, Jr. in which Plaintiff withdrew his plea of "Not Guilty" and entered a plea of "Guilty." Rec. Doc. 44-1. Plaintiff was sentenced to imprisonment at hard labor for a term of five years. *Id.* The remaining charges were ultimately dismissed as part of the plea agreement between Plaintiff and the District Attorney. Rec. Doc. 44 at 2.

Given that the criminal proceedings against Plaintiff that were pending in the 24th Judicial District Court have been resolved, there are no criminal proceedings to stay. Plaintiff's Motion to Stay (Rec. Doc. 40) is moot. Further, since those state criminal proceedings were the reason for imposing the stay in this instant matter, the court will lift the stay in this instant proceeding.

For the reasons set forth above,

IT IS ORDERED that Plaintiff's Motion to Stay Criminal Prosecution (Rec. Doc. 40) is **DENIED as MOOT.**

IT IS FURTHER ORDERED, that Plaintiff's Motion to Lift Stay (Rec. Doc. 41) is **GRANTED.**

New Orleans, Louisiana, this 12th day of December, 2014.


HELEN G. BERRIGAN
UNITED STATES DISTRICT JUDGE