

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

NICOLE HARRIS, Personal
Representative of the
estate of Jkhary Craft, deceased,

Plaintiff,

Case No. 12-CV-13763

vs.

HON. GEORGE CARAM STEEH

OFFICER EDWARD LASSEIGNE,
et al,

Defendants.

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ORDER STAYING PROCEEDINGS

On December 13, 2013, this court issued an order granting in part and denying in part defendants' motions for summary judgment, finding that defendant Lasseigne was not entitled to qualified immunity on plaintiff's claims brought under 42 U.S.C. § 1983. Lasseigne, the sole remaining defendant, has filed a notice of appeal, but has not requested a stay of the proceedings in this court.

Lasseigne's immediate appeal of the court's order was filed pursuant to 28 U.S.C. § 1291, in accordance with Mitchell v. Forsyth, 472 U.S. 511, 528-530 (1985). The decision of Yates v. City of Cleveland, 941 F.2d 444, 449 (6th Cir. 1991) addressed the potential for abuse by defendants in this situation, noting that a Forsyth appeal "brings with it a concomitant responsibility on the part of the defendant to exercise 'a reasonable modicum of diligence in the exercise of that right.'" Id. (citing Kennedy v. City of Cleveland, 797 F.2d 297, 301 (6th Cir. 1986)). Thus, a district court that

determines that such an appeal is frivolous, filed for the purpose of delaying trial, may “certify an appeal as frivolous and begin the trial...” Id. (citing Apostol v. Gallion, 870 F.2d 1335, 1338 (7th Cir. 1989)). Because the court does not consider Lasseigne’s action to be frivolous, despite the absence of a request, all proceedings in the district court case are hereby **STAYED** and the matter is administratively closed pending appeal.

IT IS SO ORDERED.

Dated: January 22, 2014

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

<p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p style="text-align: center;">Copies of this Order were served upon attorneys of record on January 22, 2014, by electronic and/or ordinary mail.</p> <p style="text-align: center;"><u>s/Marcia Beauchemin</u> Deputy Clerk</p>
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