

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARC CARTER,

Plaintiff,

v.

Case Number 14-13502

Honorable David M. Lawson

ANDREW CARTER, JOSEPH
MONTGOMERY, NICHOLAS KRINGS,
and DEPUTY GALIMBERT,

Defendants.

ORDER ADMINISTRATIVELY CLOSING THE CASE

On March 29, 2017, the Court issued an opinion adopting the report and recommendation of the magistrate judge and denying the defendants' motion for summary judgment. On April 6, 2017, the magistrate judge filed a certification stating that all pretrial proceedings had been completed and the matter was ready for trial. However, on April 18, 2017 the defendants filed a notice of appeal of the Court's decision denying their motion for summary judgment, and that appeal remains pending before the Sixth Circuit.

The Court notes that there are no matters presently pending in this litigation that require the Court's attention, and, in any event, the Court is precluded from addressing any issues of substance in the case until the defendants' appeal is resolved. "The filing of a notice of appeal is an event of jurisdictional significance — it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal." *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982). "It is generally understood that a federal district court and a federal court of appeals should not attempt to assert jurisdiction over a case simultaneously." *Ibid.* In certain circumstances the district court may retain limited power to address aspects of the

case not involved in the appeal, but only when the court’s action “do[es] not threaten the orderly disposition of the interlocutory appeal.” 16A Fed. Prac. & Proc. Juris. § 3949.1 (4th ed. 2016). Because there is no call for further action by the Court in this matter within the immediately foreseeable future, the Court finds that it is prudent to administratively close the case for now. However, this closure shall not be construed as an adjudication on the merits of any claims or defenses by any party.

Accordingly, it is **ORDERED** that this case is **CLOSED** for administrative purposes without prejudice pending the outcome of the defendants’ appeal. This closing does not constitute a decision on the merits.

It is further **ORDERED** that upon the conclusion of the proceedings on appeal, any party may file a motion to reopen the case and restore it to the active docket.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: August 31, 2017

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on August 31, 2017.

s/Susan Pinkowski
SUSAN PINKOWSKI