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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Drayden D. Shumpert,
Plaintiff
v.
D. Madrid, et al.,
Defendants

2:15-cv-02273-JAD-GWF

Order Staying Case

[ECF Nos. 14, 27, 28, 31]

10 Pretrial detainee Drayden D. Shumpert asserts a single claim for excessive force against a
11 pair of correctional officers. Defendants move to stay this case until the criminal case pending
12 against Shumpert in state court—which is based on the same altercation as this case—is resolved.¹
13 Because Shumpert’s excessive-force claim implicates rulings that are likely to be made in the
14 pending state criminal proceeding, I stay this case until the criminal proceedings are concluded.

15 **Discussion**

16 Shumpert asserts a single claim for excessive force against Clark County Detention Center
17 (CCDC) correctional officers (COs) D. Madrid and M. Hines.² Shumpert alleges that on February 7,
18 2015, COs Hines and Madrid entered his cell, and CO Hines tackled him, stomped on his head, and
19 kicked him in the stomach.³ On February 26, 2015, Shumpert was charged in Nevada state court
20 with two felony counts of battery by a prisoner.⁴ The state-court records show that the criminal
21 charges arise from the altercation complained of in this case: the state alleges that Shumpert

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25 ¹ ECF No. 31.

26 ² ECF No. 1-1.

27 ³ *Id.* at 4.

28 ⁴ ECF No. 31-3.

1 unlawfully used force against COs Madrid and Hines on February 7, 2015.⁵ Shumpert filed this
2 civil-rights case almost ten months after the criminal charges against him were filed. Defendants
3 argue that, because any judgment in this case would affect the validity of a potential state-court
4 conviction, this case should be stayed until Shumpert’s criminal case has ended.⁶

5 The United States Supreme Court held in *Heck v. Humphrey* that a prisoner cannot bring a
6 civil-rights claim for damages if “a judgment in favor of the plaintiff would necessarily imply the
7 invalidity of his conviction or sentence” due to the officers’ alleged misconduct.⁷ In other words, “if
8 a criminal conviction arising out of the same facts stands and is fundamentally inconsistent with the
9 unlawful behavior for which § 1983 damages are sought, the §1983 action must be dismissed.”⁸ The
10 lawfulness of the correctional officers’ and Shumpert’s use of force will likely be determined in
11 Shumpert’s criminal case. Because Shumpert’s criminal battery case may result in Shumpert’s
12 excessive-force claim being barred by *Heck*, I exercise my discretion to temporarily stay this case
13 until the criminal case has ended.⁹

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22 ⁵ ECF No. 31-1.

23 ⁶ ECF No. 31.

24 ⁷ *Heck v. Humphrey*, 512 U.S. 477, 487 (1994).

25 ⁸ *Smithhart v. Towery*, 79 F.3d 951, 952 (9th Cir. 1996).

26 ⁹ *Wallace v. Kato*, 549 U.S. 384, 393–94 (2007); *see also Peyton v. Burdick*, 358 Fed.Appx. 961 (9th
27 Cir. 2009) (“[B]ecause [plaintiff’s] claims implicate rulings that are likely to be made in the pending
28 state court criminal proceeding . . . the district court should have stayed the section 1983 action until
the criminal case . . . is ended”) (internal citations and quotation marks omitted).

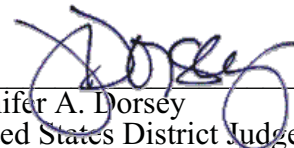
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Conclusion

Accordingly, IT HS HEREBY ORDERED that this case is **STAYED** pending final judgment in *Nevada v. Drayden Shumpert*, Nevada Eighth Judicial District Court, Clark County Nevada, Case number C-15-304633-1. Either party may move to lift the stay once Shumpert’s criminal case is resolved.

IT IS FURTHER ORDERED that all other pending motions [ECF Nos. 14, 27, 28] are **DENIED** without prejudice to their refiling within 20 days after the stay is lifted.

Dated this 11th day of January, 2017.



Jennifer A. Dorsey
United States District Judge