

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CHARLES S. MANLEY, JR. ) 3:11-cv-00636-RCJ-WGC
Plaintiff, ) MINUTES OF THE COURT
vs. ) October 2, 2013
STATE OF NEVADA, et al., )
Defendants. )

PRESENT: THE HONORABLE WILLIAM G. COBB, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: KATIE LYNN OGDEN REPORTER: NONE APPEARING

COUNSEL FOR PLAINTIFF(S): NONE APPEARING

COUNSEL FOR DEFENDANT(S): NONE APPEARING

MINUTE ORDER IN CHAMBERS:

Before the court is Defendants' Motion to Stay Discovery. (Doc. # 127.) Defendants seek to stay the discovery served as to Defendants Baker, McDaniel and Zimmer (attached as Exhibits A, E and G to Defendants' motion) pending the disposition of Defendants' partial motion to dismiss (Doc. # 122). The basis of Defendants' motion is that Plaintiff "has failed to exhaust his administrative remedies as to his claims against Defendants Baker, McDaniel and Zimmer, as required by the Prison Litigation Reform Act (PLRA) 42 U.S.C. § 1997e(a)." (Doc. # 127 at 3.)

Defendants' motion was filed on September 30, 2013. Plaintiff Manley has not yet had an opportunity to respond to Defendants' motion. However, because the deadline to respond to the discovery served on Defendants Baker, McDaniel and Zimmer is on or about October 19, 2013, and because good cause appears to exist with respect to Defendants' motion, the court will address the Defendants' motion.

As just stated, a preliminary review of Defendants' partial motion to dismiss (Doc. # 122) suggests that good cause may exist for granting the motion. It appears, based upon the information submitted by Defendants, that as to these Defendants Plaintiff may have failed to exhaust his administrative remedies prior to commencing the pending action. More specifically, in count one of Plaintiff's amended complaint, Plaintiff alleges Defendants McDaniel and Baker failed to investigate or correct the alleged misconduct of the officers whom he alleges were involved in his escort from his cell. (Id., at 5.) However, based upon the information submitted by Defendants with their partial motion to dismiss, it preliminarily appears there is no grievance that these defendants failed to investigate or failed to take any action with respect to his cell extraction and subsequent escort from his housing unit to the Ely State Prison infirmary.

