

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**TIERRA BLANCA RANCH HIGH COUNTRY
YOUTH PROGRAM, et al.,**

Plaintiffs,

v.

No. CIV-15-0850 MCA/LAM

FELIPE GONZALES,

Defendant.

ORDER GRANTING DEFENDANT'S MOTION TO STAY DISCOVERY [Doc. 53]

THIS MATTER is before the Court on *Defendant's Motion and Memorandum in Support of Defendant's Motion For Stay of Discovery and Request for Entry of a Protective Order* (Doc. 53), filed on December 14, 2016. Plaintiffs filed a response to the motion on January 6, 2017. A reply was due on January 20, 2017, but none has been filed. Having considered the motion, response, record of the case, and relevant law, the Court finds that the motion is well-taken and should be **GRANTED**.

Defendant asks the Court to stay discovery in this case pending a ruling on his motion for summary judgment based on qualified immunity (Doc. 51). [Doc. 53 at 3]. Plaintiffs object to a stay of discovery because they contend that they need certain discovery to be able to respond to Defendants' motion for summary judgment. See [Doc. 56 at 2].

The Court finds that Plaintiff's opposition to Defendant's motion to stay discovery is without merit. Once a motion to dismiss or for summary judgment based on qualified immunity is filed, a Defendant is entitled to a stay of discovery. See *Jiron v. City of Lakewood*, 392 F.3d 410, 414 (10th Cir. 2004); *Workman, et al. v. Jordan, et al.*, 958 F. 2d 332, 336 (10th Cir. 1992)

("[W]e reiterate that qualified immunity is not only a defense to liability but also entitlement to immunity from suit and other demands of litigation," citing *Siegert v. Gilley*, 500 U.S. 226, 231 (1991)). While Plaintiffs are correct that they may be entitled to discovery pursuant to Rule 56(d) in order to respond to Defendant's motion for summary judgment, Plaintiffs have already made such a request in response to Defendant's motion for summary judgment. See [Doc. 61] (Plaintiffs' response to Defendant's motion for summary judgment, in which Plaintiffs set forth their Rule 56(d) request for additional discovery). Therefore, Plaintiffs' request for discovery relating to Defendants' summary judgment motion is currently before the presiding judge in relation to Defendant's motion for summary judgment.

IT IS THEREFORE ORDERED that *Defendant's Motion and Memorandum in Support of Defendant's Motion For Stay of Discovery and Request for Entry of a Protective Order* (Doc. 53) is **GRANTED** and discovery is stayed pending a ruling on Defendants' motion to dismiss based on qualified immunity, subject to the presiding judge allowing discovery pursuant to Rule 56(d).

IT IS SO ORDERED.


LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE