Easley v. Cooper et al Doc. 58

Granted.
Karen L. Litkovitz
9/27/17

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF OHIO**
**WESTERN DIVISION**

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| **DAVE EASLEY,** | : | |
| | : | |
| **Plaintiff,** | : | **Case No. 1:16-cv-00338** |
| | : | |
| **v.** | : | **Judge Barrett** |
| | : | |
| **RANDY RICKY COOPER, *et al.*,** | : | **Magistrate Judge Litkovitz** |
| | : | |
| **Defendants.** | : | |

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**DEFENDANTS'[1] MOTION REQUESTING A STAY OF THE DISPOSITIVE MOTION DEADLINE**

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Defendants Bauer, Clark, Cooper, Davis, Dillow, Felts, Greene, Miller, Rogers, Sammons, Smith and the State of Ohio[2], by and through their counsel, respectfully move this Court to grant a stay of the dispositive motion deadline, which is currently set for October 2, 2017, (Doc. 47), until a decision on Defendants' Motion for Judgment on the Pleadings (Doc. 52) is rendered.

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[1] The docket reflects that service has been returned unexecuted on *Harris and Ison,* accordingly this Court does not have personal jurisdiction on these Defendants, See *Allmon v. Bureau of Prisons, et al.*, 2009 U.S. Dist. LEXIS 127183 at *16, USDC (Dist. Colorado, 2009). Under O.R.C. § 109.361, the Ohio Attorney General may appear in any civil action in order to protect the interest of the State even though no request for appearance has been made by the officer or employee. Such appearance does not waive personal service and any defenses available at law. Here, Service of Process has been Ordered upon Defendants, Harris and Ison [Doc.: #5]. The Clerk received notification that Harris is no longer employed with ODRC and that Ison is no longer at said institution; accordingly service was returned and documented in the Court's docket. It is anticipated that service may be at some point be executed upon them, and thus the Ohio Attorney General could be statutorily obligated to offer representation under O.R.C. § 109.361.

[2] *Id.*

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