

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

TONY L. MUTSCHLER ,

Plaintiff

v.

CAPT. S.M. DOWNS,

Defendant

: Civil No. 3:15-cv-2015

: (Judge Mariani)

MEMORANDUM

Plaintiff Tony L. Mutschler, an inmate currently confined at the State Correctional Institution at Coal Township, Pennsylvania, filed this civil action pursuant to 42 U.S.C. § 1983. The matter proceeds on an amended complaint against one defendant, Sean Downs, a correctional officer at Mutschler's former place of confinement, the State Correctional Institution at Frackville. (Doc. 26.) On March 8, 2017, Defendant filed a motion for summary judgment based on Plaintiff's failure to exhaust his administrative remedies. (Doc. 46.) Plaintiff has filed a motion to enlarge the time to oppose this motion. (Doc. 51.) Also pending is Defendant's motion to stay any further discovery pending the resolution of his motion for summary judgment. (Doc. 49.) Both motions will be granted.

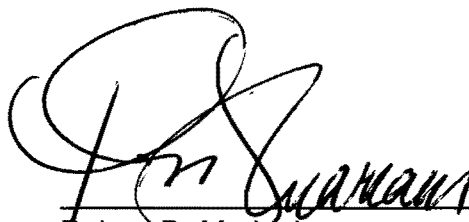
It is well established that the court has broad discretion to stay discovery pending resolution of a potentially dispositive motion. *In re Orthopedic Bone Screw Prod. Liab. Litig.*, 264 F.3d 344, 365 (3d Cir. 2001). A stay is proper where the likelihood is that the

motion may result in the narrowing or outright elimination of discovery and this outweighs any likely harm from the delay. *19th St. Baptist Church v. St. Peters Episcopal Church*, 190 F.R.D. 345, 349 (E.D. Pa. 200). The United States Court of Appeals for the Third Circuit has found that a motion to stay discovery is appropriate when, if the pending dispositive motion is granted, it would make discovery futile. See *Mann v. Brenner*, 375 F. App'x 232, 239-40 (3d Cir. 2010).

In the instant case, Defendant Downs has seeks the dismissal of the above matter based upon Plaintiff's failure to exhaust his administrative remedies. If the motion is granted, surely any further discovery requests will be moot. Moreover, Plaintiff has not opposed this motion. As such, both judicial economy and the lack of prejudice to Plaintiff at this stage warrant that the stay be granted until the pending motion for summary judgment is resolved.

A separate Order shall issue.

Date: March 29, 2017


Robert D. Mariani
United States District Judge