


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED

APR 27 2017


CLERK

TODD D. LINSON,

Plaintiff,

vs.

JOSH KLIMEK, TAMMY DEJONG,

Defendants.

4:16-CV-04167-RAL

AMENDED ORDER GRANTING
MOTION TO STAY DISCOVERY

Plaintiff Todd D. Linson ("Linson") filed a pro se civil rights lawsuit pursuant to 42 U.S.C. § 1983. Doc. 1. This Court screened Linson's complaint, directed service of his complaint, and requested that the parties file proposed scheduling orders. Doc. 5; Doc 15. Defendants now move to stay discovery until the court determines the issue of qualified immunity. Doc. 20.

Pursuant to Rule 26(c), "the court has discretion to stay discovery on other issues until the critical issue has been decided." 8A Charles Alan Wright, Arthur R. Miller, and Richard L. Marcus, *Federal Practice and Procedure* § 2040 (3d ed.); *Steinbuch v. Cutler*, 518 F.3d 580, 588 (8th Cir. 2008) (citing *Lakin v. Prudential Sec., Inc.*, 348 F.3d 704, 713 (8th Cir. 2003)); *see also* *Maune v. Int'l Bhd. of Elec. Workers*, 83 F.3d 959, 963 (8th Cir. 1996) (upholding the district court's granting of a party's request to stay discovery). Because the qualified immunity issue may be dispositive, the court grants defendants' motion to stay discovery.

Linson argues that the court should not grant the motion. He argues that defendants are merely trying to stall the litigation by moving for a protective order because they are not entitled to qualified immunity. Although defendants could have responded to this Court's order or moved for a stay of discovery in a more timely manner, whether defendants are entitled to qualified immunity is unclear at this point. Linson also argues that this Court denied defendants' defense of qualified immunity, but this is not correct.

Accordingly, it is ORDERED,

1. Defendants' motion to stay discovery (Docket 20) is granted.

Discovery will be stayed until the court determines the issue of qualified immunity. If summary judgment is denied, the stay on discovery will be lifted.

2. Defendants shall file their motion for summary judgment by May 25, 2017.

Dated April 27th, 2017.

BY THE COURT:



ROBERTO A. LANGE
UNITED STATES DISTRICT JUDGE