

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

TRAVIS R. MCPEEK,

Plaintiff,

vs.

CO MEYERS, CORRECTIONAL OFFICER
AT MIKE DURFEE STATE PRISON, IN HIS
INDIVIDUAL AND OFFICIAL CAPACITY;
CO LUCERO, CORRECTIONAL OFFICER
AT MIKE DURFEE STATE PRISON, IN HIS
INDIVIDUAL AND OFFICIAL CAPACITY;
UM KLIMEK, EAST CRAWFORD UNIT
MANAGER AT MIKE DURFEE STATE
PRISON, IN HIS INDIVIDUAL AND
OFFICIAL CAPACITY; LT. DYKSTRA,
OFFICER AT MIKE DURFEE STATE
PRISON, IN HIS INDIVIDUAL AND
OFFICIAL CAPACITY; UNKNOWN MAIL
ROOM OFFICER(S), CORRECTIONAL
OFFICER(S) AT MIKE DURFEE STATE
PRISON, IN HIS/HER INDIVIDUAL AND
OFFICIAL CAPACITY; WARDEN BRENT
FLUKE, WARDEN AT MIKE DURFEE
STATE PRISON, IN HIS INDIVIDUAL AND
OFFICIAL CAPACITY; WARDEN DARIN
YOUNG, WARDEN AT THE "HILL"/OR
SIOUX FALLS PRISON, IN HIS
INDIVIDUAL AND OFFICIAL CAPACITY;
MARK PAYER, JAIL
ADMINISTRATOR/OFFICER AT YANKTON
COUNTY JAIL, IN HIS INDIVIDUAL AND
OFFICIAL CAPACITY;

Defendants.

4:20-CV-04078-RAL

ORDER GRANTING DOC DEFENDANTS'
MOTION TO STAY DISCOVERY AND
ORDER ON MISCELLANEOUS MOTIONS

Plaintiff Travis P. McPeek filed a pro se lawsuit under 42 U.S.C. § 1983. Doc. 1.

Defendants CO Meyer, CO Lucero, UM Klimek, Lt. Dyrstra, Unknown Mail Room Officers,

Warden Brent Fluke, and Warden Darin Young (DOC Defendants) move to stay discovery until this Court rules on the their forthcoming motion for summary judgment based on qualified immunity. Doc. 36.

“Qualified immunity is an immunity from suit, not simply from liability” and protects officials from pretrial discovery. Janis v. Biesheuvel, 428 F.3d 795, 800 (8th Cir. 2005) (citing Mitchell v. Forsyth, 472 U.S. 511, 526 (1985)). “Unless the plaintiff’s allegations state a claim of violation of clearly established law, a defendant pleading qualified immunity is entitled to dismissal before the commencement of discovery.” Mitchell, 472 U.S. at 526 (citing Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982)). Because DOC Defendants claim they are filing a motion for summary judgment based on qualified immunity, staying discovery is appropriate.

McPeek moves to subpoena witnesses that will testify to his allegations regarding prison conditions. Doc. 34. Next, McPeek moves to compel DOC Defendants to answer his interrogatories. Doc. 41. Because discovery regarding McPeek’s claims against the DOC Defendants has been stayed, his motions, Docs. 34, 41, are denied. Finally, McPeek moves to file inmates’ affidavits, Doc. 39, which will be granted.

Accordingly, it is

ORDERED that DOC Defendants’ motion to stay discovery, Doc. 36, is granted. It is further

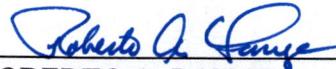
ORDERED that McPeek’s motions for subpoena and to compel, Docs. 34, 41, are denied.

It is finally

ORDERED that McPeek's motion to submit affidavits, Doc. 39, is granted.

DATED April 28th, 2021.

BY THE COURT:



ROBERTO A. LANGE
CHIEF JUDGE