

Pro se Plaintiffs Roger Liverman and Aaron Liverman (“Plaintiffs”) have sued various individuals and entities, including “Denton County, Texas Denton County Criminal District Attorney”² and Denton County Criminal District Attorney Paul Johnson (“Johnson”), Assistant Criminal District Attorneys Lara Tomlin (“Tomlin”), Rick Daniel (“Daniel”), and Lindsey Sheguit (“Sheguit”) (collectively the “District Attorney Defendants”), and Defendant Hall, who according to the record is the daughter of Plaintiff Roger Liverman and the sister of Plaintiff Aaron Liverman. Plaintiffs’ claims against the District Attorney Defendants have been dismissed. *See* Dkt. 50.

The Magistrate Judge properly found that Defendant Hall’s motion to dismiss should be granted because she is a private citizen and not a state actor, and thus no claim can be stated against her under Section 1983. Accordingly, Plaintiffs’ pleadings against Defendant Hall present no federal question claims over which this Court has subject matter jurisdiction. The Magistrate Judge also correctly concluded that lacking subject matter jurisdiction, the Court should decline to exercise pendent jurisdiction over Plaintiffs’ state-law malicious prosecution claim.

Accordingly, Defendant Hall’s Motion to Dismiss (Dkt. 52) is **GRANTED**, and her Motion to Strike (Dkt. 52) is **DENIED** as moot.

Plaintiffs’ interlocutory appeal of the Court’s Order dismissing the District Attorney Defendants. *See* Dkt. 60. Plaintiffs appeal, case number 17-40325, is currently pending before the Fifth Circuit Court of Appeals. The Magistrate Judge properly found that a stay is not warranted here because the issues in Defendant Hall’s motion to dismiss are not “substantially intertwined” with the issues and claims in Plaintiffs’ appeal. *See* Dkt. 61 (citing *Hinojosa v. Livingston*, 2014 WL 3588474, at *3 (S.D. Tex. 2014)).

² Plaintiffs’ complaint (Dkt. 1) alleges that Defendant Denton County is a “governmental entity.” *Id.* at 4. However, Denton County has not entered an appearance in this lawsuit; nor is it clear that Denton County been properly served with process.

The case as to Defendant Katheryn Payne Hall shall be dismissed with all costs to be borne by the party incurring same.

It is SO ORDERED.

SIGNED this 15th day of June, 2017.


AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE