

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

AARON TOBEY,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:11CV154–HEH
)	
JANET NAPOLITANO, in her official)	
capacity as Secretary of Homeland Security,)	
U.S. Department of Homeland Security,)	
Washington, D.C. 20528, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

(Granting Commission Defendants’ Motions to Dismiss; Granting in Part and Denying in Part Federal Defendants’ Motion to Dismiss; Denying as Moot Federal Defendants’ Motion for Stay of Discovery)

THIS MATTER is before the Court on the Commission Defendants’ Motion to Partially Dismiss, and on the Federal Defendants’ Motion to Dismiss (Dk. No. 32), filed on June 27, 2011. For the reasons stated in the accompanying Memorandum Opinion, the Court hereby ORDERS that the Commission Defendants’ Motion to Partially Dismiss (Dk. No. 19), filed on May 13, 2011, is GRANTED, and the Federal Defendants’ Motion to Dismiss (Dk. No. 32), filed on June 27, 2011, is GRANTED IN PART and DENIED IN PART. Accordingly, Counts One, Two, and Three of Plaintiff’s First Amended Complaint are DISMISSED as to all defendants in their official capacities, and Counts One and Three are DISMISSED as to Smith and Jones in their individual capacities.

Also pending before the Court is the Federal Defendants’ Motion for Stay of Discovery Pending a Decision on Dispositive Motion (Dk. No. 51), filed on August 17,

2011. The Federal Defendants ask this Court to “stay discovery until it resolves the pending dispositive motion.” (Fed. Defs.’ Mot. Stay 6.) Because the Court has resolved the Federal Defendants’ Motion to Dismiss, the Motion to Stay is DENIED AS MOOT.

The Clerk is directed to send a copy of this Order to all counsel of record.

It is so ORDERED.



/s/

Henry E. Hudson
United States District Judge

Date: AUG 30, 2011
Richmond, VA