

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KIRK WILLIAMS,

Plaintiff,

v.

CYNTHIA SAMPSON and  
SHORELINE POLICE  
DEPARTMENT,

Defendants.

CASE NO. C17-0092-JCC

ORDER

This matter comes before the Court on Defendants’ motion to quash subpoena (Dkt. No. 10) and motion to stay discovery (Dkt. No. 24). Having thoroughly considered the parties’ briefing and the relevant record, the Court finds oral argument unnecessary and hereby GRANTS the motions for the reasons explained herein.

**I. BACKGROUND**

Plaintiff Kirk Williams alleges that Defendant King County Detective Cynthia Sampson forced him to provide a DNA sample pursuant to a court order that she altered. (Dkt. No. 4 at 2.) Williams argues that this violated the Fourth Amendment; the Fourteenth Amendment; article I, section 7 of the Washington Constitution; and Washington Criminal Rule 4.7. (*Id.* at 1.)

On January 31, 2017, Defendants moved to dismiss on the grounds of statute of limitations and improper service. (Dkt. No. 5.) Defendants further moved for summary

1 judgment, arguing that Williams’s claims are barred by *Heck v. Humphrey*<sup>1</sup>; that Defendant  
2 Shoreline Police Department is an entity incapable of suit; and that qualified immunity applies.  
3 (Dkt. No. 11.)

4 On February 13, 2017, Williams subpoenaed King County Superior Court Judge Sharon  
5 Armstrong for documents relating to “the written request to change the order date of motion for  
6 DNA testing who changed the date and I would also want to know was Hon. Sharon Armstrong  
7 the neutral and detached magistrate judge.” (Dkt. No. 7 at 2.) On March 17, 2017, Williams  
8 moved to compel discovery. (Dkt. No. 22.) Williams has not served Defendants with any  
9 discovery requests thus far. (Dkt. No. 24 at 2.)

10 Defendants now seek to quash the subpoena and to stay discovery pending the outcome  
11 of the dispositive motions. (Dkt. Nos. 10, 24.)

## 12 **II. DISCUSSION**

### 13 **A. Motion to Quash**

14 Defendants argue that the subpoena should be quashed because (1) it does not comport  
15 with the requirements of Fed. R. Civ. P. 45 and (2) it is not the proper method by which to  
16 request discovery from an opposing party. (Dkt. No. 10 at 1.)

17 As for Rule 45’s requirements, Defendants note that the subpoena fails to “set out the text  
18 of Rule 45(d) and (e)” as required by Rule 45(a)(1)(A)(iv) and does not allow a “reasonable time  
19 to comply” as required by Rule 45(d)(3)(A)(i). (Dkt. No. 10 at 2-3.) Williams responds that these  
20 are mere technicalities that he can remedy. (Dkt. No. 17 at 2.) He submitted an amended  
21 subpoena along with his response. (*Id.* at 4-11.)

22 Regardless of whether Williams cured the defects in his subpoena, it would still be  
23 inappropriate to issue it. First, Williams has not served Defendants with any discovery requests,  
24 which would be the appropriate way to obtain this information. *See generally* Fed. R. Civ. P. 26;  
25 Fed. R. Civ. P. 34. Moreover, Defendants indicate that they have produced the information

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26 <sup>1</sup> 512 U.S. 477, 114 S.Ct. 2364, 129 L.Ed.2d 383 (1994).

1 Williams sought, thus mooted his request. (Dkt. No. 20 at 1-2.)

2 The motion to quash (Dkt. No. 10) is GRANTED.

3 **B. Motion to Stay**

4 Defendants ask the Court to stay discovery until it has resolved the pending motion to  
5 dismiss (Dkt. No. 5) and motion for summary judgment (Dkt. No. 11). (Dkt. No. 24 at 1.)  
6 Defendants argue that the issues of jurisdiction and immunity raised in their dispositive motions  
7 warrant a stay. (Dkt. No. 24 at 3) (citing *Twin City Fire Ins. Co. v. Employers Ins. of Wausau*,  
8 124 F.R.D. 652, 653 (D. Nev. 1989) (“[A] pending Motion to Dismiss is not ordinarily a  
9 situation that in and of itself would warrant a stay of discovery. Common examples of such  
10 situations, however, occur when jurisdiction, venue, or immunity are preliminary issues.”)).

11 Williams did not respond to Defendants’ motion to stay. The Court considers this “as an  
12 admission that the motion has merit.” W.D. Wash. Local Civ. R. 7(b)(2).

13 Given the early stage of this case, the nature of the arguments raised in the dispositive  
14 motions, and the fact that the dispositive motions have already noted (meaning there will be a  
15 relatively short period of time until the Court rules on them), the Court determines it appropriate  
16 to stay discovery until those motions have been resolved.

17 The motion to stay (Dkt. No. 24) is GRANTED.

18 **III. CONCLUSION**

19 For the foregoing reasons, the Court GRANTS Defendants’ motion to quash subpoena  
20 (Dkt. No. 10) and motion to stay discovery (Dkt. No. 24). Williams’s motions to compel (Dkt.  
21 Nos. 22, 27) are hereby STAYED pending the Court’s resolution of Defendants’ dispositive  
22 motions (Dkt. Nos. 5, 11). The Clerk is DIRECTED to send a copy of this order to Williams.

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1 DATED this 11th day of April, 2017.

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5 John C. Coughenour  
6 UNITED STATES DISTRICT JUDGE  
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