

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 MITCHELL LEE VARNELL,

11 Plaintiff,

12 v.

13 WASHINGTON DEPARTMENT OF
CORRECTIONS,

14 Defendant.
15

CASE NO. 3:15-CV-05443-BHS-DWC

ORDER TO SHOW CAUSE

16 Before the Court is Defendants' Motion for Summary Judgment, filed on February 7,
17 2017. Dkt. 130. On February 1, 2017, Plaintiff filed a Notice of Appeal, appealing the Order
18 Denying Plaintiff's Motion for Preliminary Injunction. *See* Dkts. 32, 106, 120, 124, 126, 127,
19 128. Plaintiff's appeal is limited to his request for cushioned transportation seats. *See id.*

20 While the filing of an interlocutory appeal does not automatically stay proceedings in the
21 district court, the district court has broad discretion to decide whether a stay is appropriate to
22 "promote economy of time and effort for itself, for counsel, and for litigants." *Filtrol Corp. v.*
23 *Kelleher*, 467 F.2d 242, 244 (9th Cir. 1972) (quotations and citations omitted). "A trial court
24

1 may, with propriety, find it is efficient for its own docket and the fairest course for the parties to
2 enter a stay of an action before it, pending resolution of independent proceedings which bear
3 upon the case.” *Mediterranean Enterprises, Inc. v. Ssangyong Corp.*, 708 F.2d 1458, 1465 (9th
4 Cir. 1983); *Leyva v. Certified Grocers of California Ltd.*, 593 F.2d 857, 863–64 (9th Cir.1979);
5 *Ass'n of Irrigated Residents v. Fred Schakel Dairy*, 634 F. Supp. 2d 1081, 1094 (E.D. Cal. 2008);
6 *Jenkins v. Vail*, 2009 WL 3415902, at *1 (E.D. Wash. Oct. 21, 2009) (staying motion for
7 summary judgment pending Court of Appeals ruling on order denying motion for temporary
8 restraining order).

9 Here, the argument raised in Defendants’ Motion for Summary Judgment regarding
10 whether Defendants were deliberately indifferent to Plaintiff’s medical needs when they
11 transported Plaintiff in a car with cushioned seats relates to the same issue addressed by the
12 Court in its Order Denying Plaintiff’s Motion for Preliminary Injunction. *See* Dkts. 106, 124.
13 Because the Ninth Circuit’s ruling on the interlocutory appeal could impact the Court’s
14 disposition of the pending proceedings, waiting until the issues on appeal are decided will avoid
15 unnecessary litigation and provide direction to this Court. *See Jenkins*, 2009 WL 3415902 at 1.
16 Thus, a stay of this matter pending the Ninth Circuit’s decision on appeal would serve the
17 interests of fairness and “promote economy of time and effort” for the Court and the parties.
18 *Kelleher*, 467 F.2d at 244.

19 Accordingly, the parties are directed to show cause on or before April 28, 2017 why this
20 matter should not be stayed, pending the outcome of Plaintiff’s appeal of the Order Denying
21 Plaintiff’s Motion for Preliminary Injunction.

22 The Clerk’s Office is directed to re-note Defendants’ Motion for Summary Judgment
23 (Dkt. 130) for April 28, 2017.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Dated this 11th day of April, 2017.



David W. Christel
United States Magistrate Judge