UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

SAM DRAKE,

Plaintiff,

v.

MCCOMAS, *et al.*,

Defendants.

Case No. 1:22-cv-01149-JLT-BAM (PC)

ORDER GRANTING DEFENDANTS' MOTION TO STAY DISPOSITIVE MOTION DEADLINE (ECF No. 55)

ORDER STAYING DISPOSITIVE MOTION DEADLINE PENDING RESOLUTION OF PLAINTIFF'S INTERLOCUTORY APPEAL

Plaintiff Sam Drake ("Plaintiff") is a pretrial detainee proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff's second amended complaint on the following claims: (1) violation of the First Amendment based on a facial challenge to Fresno County Jail ("FCJ") Policy #E-120 and #E-410 against Defendants Mims, McComas, and Zanoni; (2) violation of the First Amendment based on an as-applied challenge to FCJ Policy #E-120 and #E-410 against Defendants Enriquez, Keoniyom, Nichols, and Snyder; and (3) violation of Due Process for returning Plaintiff's mail against Defendants Enriquez, Keoniyom, Nichols, and Snyder.

I. Introduction

On January 31, 2025, Plaintiff filed a motion to compel discovery responses. (ECF No. 49.) Defendants filed a response on February 3, 2025, objecting to Plaintiff's motion on the

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grounds that it was untimely. (ECF No. 50.) On February 4, 2025, finding that further briefing on the motion was unnecessary, the Court denied Plaintiff's motion to compel. (ECF No. 51.)

On February 18, 2025, Plaintiff filed a notice of appeal challenging the Court's order denying Plaintiff's motion to compel without allowing Plaintiff to reply to Defendants' response, requesting to rescind his consent to Magistrate Judge jurisdiction, requesting that this action be reassigned to a different Magistrate Judge, and requesting that the Court assign a District Judge for trial of this action. (ECF No. 52.) Plaintiff's appeal is now pending before the United States Court of Appeals for the Ninth Circuit, Case No. 25-1029. (ECF No. 54.) According to the briefing schedule set by the Ninth Circuit, Plaintiff's opening brief is due on March 31, 2025, and Defendants answering brief is due on April 30, 2025. (*Id.*) Pursuant to the Court's amended discovery and scheduling order in this action, the deadline for filing all dispositive motions (other than a motion for summary judgment for failure to exhaust) is March 17, 2025. (ECF No. 46.)

Currently before the Court is Defendants' request to stay or extend dispositive motion deadline, filed February 20, 2025. (ECF No. 55.) Though Plaintiff has not yet had the opportunity to file a response, the Court finds a response unnecessary. The motion is deemed submitted. Local Rule 230(l).

II. Stay of Dispositive Motion Deadline Pending Resolution of Interlocutory Appeal

The district court "has broad discretion to stay proceedings as an incident to its power to control its own docket." *Clinton v. Jones*, 520 U.S. 681, 706 (1997) (citing *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936)). "Generally, stays should not be indefinite in nature." *Dependable Highway Exp., Inc. v. Navigators Ins. Co.*, 498 F.3d 1059, 1066–67 (9th Cir. 2007). If a stay is especially long or its term is indefinite, a greater showing is required to justify it. *Yong v. I.N.S.*, 208 F.3d 1116, 1119 (9th Cir. 2000). The party seeking the stay bears the burden of establishing the need to stay the action. *Clinton*, 520 U.S. at 708.

Defendants contend that if Plaintiff's appeal results in briefing and/or the granting in whole or part of Plaintiff's motion to compel, such an outcome could significantly impact dispositive motions and oppositions from both parties. Defendants intend to file a motion for summary judgment but anticipate complications with the motion and opposition if discovery is

not fully settled. Accordingly, Defendants request that the Court stay the current March 17, 2025 deadline for dispositive motions until Plaintiff's appeal is concluded. Alternatively, Defendants request that the dispositive motion deadline be extended for both parties to April 15, 2025, or another date suitable to the Court. (ECF No. 55.)

The Court finds that the outcome of Plaintiff's interlocutory appeal may result in the granting in whole or in part of Plaintiff's motion to compel, such that it would be premature for the parties to file dispositive motions by the current deadline. Accordingly, the Court finds that, in the interest of judicial economy and to avoid prejudice to the parties, the dispositive motion deadline will be stayed pending resolution of Plaintiff's interlocutory appeal. Following resolution of the appeal, the Court will issue a further order regarding the dispositive motion deadline.

V. Order

Based on the foregoing, IT IS HEREBY ORDERED as follows:

1. Defendants' motion to stay dispositive motion deadline, (ECF No. 55), is GRANTED; and
2. The deadline for filing all dispositive motions (other than a motion for summary judgment for failure to exhaust), is STAYED pending resolution of Plaintiff's interlocutory appeal and will be reset upon further order of the Court.

IT IS SO ORDERED.

Dated: **February 21, 2025**

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE