

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

McDowell v. Smith

No. 1:24-cv-00500-SAB (PC) (E.D. Cal. May 27, 2025) · No. No. 1:24-cv-00500-SAB (PC) · Decided May 27,
2025

OPINION

(PC) McDowell v. Smith

PER CURIAM.

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5 UNITED STATES DISTRICT COURT

6 EASTERN DISTRICT OF CALIFORNIA

7

8 GIOVANNI MCDOWELL, No. 1:24-cv-00500-SAB (PC)

9 Plaintiff, ORDER GRANTING DEFENDANTS’

MOTION TO STAY MERITS-BASED

10 v. DISCOVERY AND VACATE DEADLINES

11 STEVE SMITH, et al., (ECF No. 52) 12 Defendants. 13 14 Plaintiff is proceeding pro se and in
forma pauperis in this action filed pursuant to 42 15 U.S.C. § 1983. All parties have consented to
Magistrate Judge jurisdiction pursuant to 28 U.S.C 16 § 636(c)(1). 17 Currently before the Court
is Defendants’ motion to stay merits-based discovery and 18 vacate the dispositive motion
deadline, filed May 23, 2025. (ECF No. 52.) 19 The Court is vested with broad discretion to
manage discovery. *Dichter-Mad Family 20 Partners, LLP v. U.S.*, 709 F.3d 749, 751 (9th Cir.
2013) (per curiam); *Hunt v. County of Orange*, 21 672 F.3d 606, 616 (9th Cir. 2012); *Survivor
Media, Inc. v. Survivor Prods.*, 406 F.3d 625, 635 22 (9th Cir. 2005); *Hallett v. Morgan*, 296 F.3d
732, 751 (9th Cir. 2002). Pursuant to Rule 26(c)(1), 23 the Court may, for good cause, issue a
protective order forbidding or limiting discovery. The 24 avoidance of undue burden or expense is
grounds for the issuance of a protective order, Fed. R. 25 Civ. P. 26(c), and a stay of discovery
pending resolution of potentially dispositive issues furthers 26 the goal of efficiency for the courts
and the litigants, *Little v. City of Seattle*, 863 F.2d 681, 685 27 (9th Cir. 1988) (stay of discovery
pending resolution of immunity issue). The propriety of 28 1 | delaying discovery on the merits of
the plaintiff’s claims pending resolution of an exhaustion 2 | motion was explicitly recognized by
the Ninth Circuit. *Albino v. Baca*, 747 F.3d 1162, 1170-71 3 | (9th Cir. 2014) (en banc); see also
Gibbs v. Carson, No. C-13-0860 THE (PR), 2014 WL 172187, 4 at *2-3 (N.D. Cal. Jan. 15, 2014).
5 On April 15, 2025, Defendants filed a motion for summary judgment for Plaintiffs failure 6 | to
exhaust the administrative remedies. (ECF No. 49.) The failure to exhaust is an affirmative 7 |
defense, and Defendant is entitled to judgment on Plaintiffs claims against her if the Court 8 ||

determines the claim is unexhausted. Albino, 747 F.3d at 1166. Thus, the pending exhaustion 9 | motion has the potential to bring final resolution to this action, obviating the need for merits- 10 | based discovery. Gibbs, 2014 WL 172187, at *3. In Albino, the Ninth Circuit recognized that 11 | “[e]xhaustion should be decided, if feasible, before reaching the merits of a prisoner’s claims,” 12 | and “discovery directed to the merits of the suit” should be left until later. Albino, 747 F.3d at 13 | 1170. To the extent that the non-moving party needs specific discovery to address issues raised in 14 | a dispositive motion, the non-moving party may seek redress by Federal Rule of Civil Procedure 15 | 56(d). Albino, 747 F.3d at 1170-71; Wyatt v. Terhune, 315 F.3d 1108, 1115 n.7 (9th Cir. 2003) 16 | (overruled on other grounds by Albino, 747 F.3d at 1168-69). 17 On the basis of good cause, it is HEREBY ORDERED that: 18 1. All merits-based discovery is stayed until a final ruling on Defendants’ pending 19 motion for summary judgment; 20 2. The discovery and dispositive motions deadlines are vacated; and 21 3. If necessary, the Court will reset the deadlines following resolution of the pending 22 motion for summary judgment. 23 24

95 IT IS SO ORDERED. FA. ee

26 | Dated: _ May 27, 2025

STANLEY A. BOONE

27 United States Magistrate Judge 28 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23
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