

U.S. District Court

Southern District of Florida

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Case Name: Does, 1-5 v. Swearingen

Case Number: [1:18-cv-24145-KMW](#)

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WARNING: CASE CLOSED on 11/23/2020

Document Number: 232(No document attached)

Docket Text:

OMNIBUS PAPERLESS ORDER. THIS MATTER is before the Court *sua sponte* and on Defendant's Supplemental Motion to Dismiss (DE [227]) and Plaintiffs' Motion to Stay (DE [229]).

On November 21, 2022, the Eleventh Circuit Court of Appeals upheld this Court's dismissal of Count II and Count IV(D) of the Second Amended Complaint and remanded the case for this Court to consider Plaintiffs' remaining claims. (DE [219].) The Eleventh Circuit also raised the possibility of an Eleventh Amendment immunity issue to be addressed on remand, which neither Party had previously raised. (*Id.* at 10 n. 1.)

In light of the Eleventh Circuit's ruling, Defendant filed a Supplemental Motion to Dismiss in which he requested that Plaintiffs' two state law claims be dismissed based on Eleventh Amendment immunity. (DE [227].) Plaintiffs filed a response to Defendant's Motion in which they acknowledged that Defendant's legal basis for dismissal of their state law claims was well-taken. (DE [228].)

On August 10, 2023, Plaintiffs filed a Motion to Stay this case pending the outcome of *Harper v. Glass*, 4:21-cv-85 (N.D. Fla. 2021), a case filed in the Northern District of Florida which Plaintiffs explain raises identical challenges to the sex offender registration statute challenged by Plaintiffs in this case. (DE [229].) No opposition has been filed to Plaintiffs' Motion to Stay. Pursuant to Southern District of Florida Local Rule 7.1(c)(1), failure to oppose a motion within the time provided by the rules "may be deemed sufficient cause for granting the motion by default." Moreover, the Court is aware that the bench trial in *Harper v. Glass* concluded this past week, and the Parties are awaiting a ruling.

Upon review of the record and the pending motions, it is ORDERED AND ADJUDGED that:

1. Defendant's Supplemental Motion to Dismiss (DE [227]) is GRANTED. Count V and the state law prong of Count IV(A) of the Second Amended Complaint are dismissed.

2. Plaintiffs' Motion to Stay (DE [229]) is GRANTED. This case is STAYED. Within three days of the decision in *Harper v. Glass*, the Parties shall jointly file a status report discussing the result in *Harper v. Glass* and how this case should proceed.

Signed by Judge Kathleen M. Williams on 11/20/2023. (rm04)