

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES--GENERAL

Case No. CV 07-3239-TJH (RNBx)

Date: May 11, 2011

Title: Alejandro Rodriguez, et al. v. Timothy S. Robbins, et al.

DOCKET ENTRY

PRESENT:

HON. ROBERT N. BLOCK, UNITED STATES MAGISTRATE JUDGE

Kerri Hays
Deputy Clerk

n/a
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:
None present

ATTORNEYS PRESENT FOR DEFENDANTS:
None present

PROCEEDINGS: (IN CHAMBERS)

Respondents' Ex Parte Application for an Order (1) Partially Staying April 25, 2011 Discovery Order Pending Consideration of Motion for Review, or, in the Alternative, for Modification of the Discovery Order, and (2) Continuing Hearing Date on Protective Order One Week, filed May 4, 2011

As a preliminary matter, the Court notes that petitioners have failed to cite any authority, let alone any Ninth Circuit authority, for the proposition that the standard applicable to an application for a stay pending District Judge review of a Magistrate Judge's non-dispositive ruling on a discovery motion is the same as the standard applicable to an application for a stay pending judicial review of administrative action or to an application for a stay pending appeal.

However, even if that standard applied here, the Court would come out the same way on the four factors as the Magistrate Judge in Martinelli v. Petland, Inc., 2010 WL 4627893 (D. Kan. Nov. 3, 2010). With respect to the first factor, while nothing contained in respondents' motion for review persuades the Court that its ruling was clearly erroneous or contrary to law, it is possible that Judge Hatter will disagree. With respect to the second factor, the Court finds that respondents would suffer irreparable harm if they have to expend time and energy producing documents that the District Judge ultimately concludes should not have been ordered produced. With respect to the third factor, the Court is not convinced that the limited stay sought by respondents, pending Judge Hatter's ruling on their motion for review set for hearing on June 6, 2011, will substantially injure petitioners. Finally, with respect to the fourth factor, like the

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Magistrate Judge in Martinelli, the Court finds that public interest weighs neither in favor of nor against granting a stay.

Therefore, after weighing the equities, the Court has decided to grant respondent's Ex Parte Application for a partial stay of the Court's April 25, 2011 discovery order pending Judge Hatter's ruling on respondents' motion for review. If Judge Hatter denies the motion for review, then the 60-day period for respondents to produce the A-File Materials sought by petitioners for noncitizens detained six months or longer in the Central District from April 21, 2010 and who spent a substantial portion of their time in the Central District, as described in petitioners' proposal as set forth on page 13, lines 7-15 of the Joint Stipulation, shall commence to run on the date of Judge Hatter's denial.

As for the protective order issue, if counsel are unable to agree on the terms of an appropriate protective order that addresses the issues raised by respondent on page 47, lines 21-24 of the Joint Stipulation in the meantime, counsel are ordered to appear in person before the Court on June 14, 2011 at 9:30 a.m. for the purpose of meeting and conferring under the Court's auspices.

IT IS SO ORDERED.

cc: Judge Hatter