

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

STACEY BAILEY,  
PLAINTIFF,

vs.

MANSFIELD INDEPENDENT SCHOOL  
DISTRICT, *et al.*,  
DEFENDANTS.

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CIVIL ACTION NO. 3:18-cv-01161-L

**DEFENDANT VASZAUSKAS' REPLY IN SUPPORT OF HIS  
MOTION TO STAY CASE PENDING INTERLOCUTORY APPEAL**

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TO THE HONORABLE JUDGE OF SAID COURT:

Defendant Dr. Jim Vaszauskas, with agreement of Defendant Mansfield Independent School District (the “District”), files this reply in support of his motion to stay this case pending interlocutory appeal, and would respectfully show the Court as follows:

**ARGUMENT**

In her response to Defendant Vaszauskas’ instant motion, Plaintiff asks this Court to allow her to proceed with discovery for her claims against the District but now recharacterizes the allegations in her First Amended Complaint, which were incorporated by this Court in its November 21, 2019 memorandum opinion. In so doing, Plaintiff fails to show why Plaintiff’s claims are not inextricably intertwined and so closely related that permitting the case to proceed against the District would fail to preserve Dr. Vaszauskas’ qualified immunity. Accordingly, the Court should grant Defendant Vaszauskas’ motion and order this action stayed in its entirety pending the resolution of Defendant Vaszauskas’ appeal to the Fifth Circuit Court of Appeals.

Plaintiff now attempts to frame her allegations against Defendants into two separate and distinct categories. Plaintiff’s efforts have no merit. First, Plaintiff claims that Defendant Vaszauskas “suspended Bailey without any clear explanation,” explaining that Plaintiff’s “claims against Superintendent Vaszauskas . . . arise primarily out of his decision to suspend Bailey . . . .” Doc. 35 at 2, 5–6. Second, although Plaintiff initially asserts that the District “with the approval of its Board of Trustees *and* Superintendent Vaszauskas, issued an official statement for immediate release,” she places blame only on the District: “[I]t was *the Mansfield I.S.D. Board of Trustees* that issued the March 27, 2018 Press Release explaining why Bailey was suspended.” Doc. 35 at 2, 6 (emphasis added). After segregating the alleged wrongful acts by Defendants, Plaintiff concludes that the issuance of the press release “is clearly separate from Superintendent

Vaszauskas' decision to suspend Bailey in September of 2017 and not subject to qualified immunity." Doc. 35 at 6.

But Plaintiff's reframed allegations are belied by her first amended complaint and this Court's November 21, 2019 memorandum opinion, wherein the Court "set[] out the allegations upon which it relies[d] in deciding the pending motion to dismiss, . . . draw[ing] from Plaintiff's First Amended Complaint." *Bailey v. Mansfield Indep. Sch. Dist.*, No. 3:18-cv-1161-L, 2019 WL 6216669, at \*1 (N.D. Tex. Nov. 21, 2019) (citing Doc. 13).

For example, in Plaintiff's live pleading, she alleges that "Since September 8, 2017, Mansfield ISD has punished Plaintiff by placing her on administrative leave for eight months . . . ." Doc. 13 at ¶ 26; *see also Bailey*, 2019 WL 6216669, at \*2 (quoting the same). Plaintiff also alleges that she disclosed to potential employers that "Mansfield ISD had placed her on administrative leave." Doc. 13 at ¶ 50; *see also Bailey*, 2019 WL 6216669, at \*4 (quoting the same). Indeed, Plaintiff's specific allegations with respect to Defendant Vaszauskas' administrative decisions are actually directed at the District because Plaintiff asserts that Defendant Vaszauskas is the District's policymaker.<sup>1</sup> Doc. 13 at ¶ 54 ("Defendant Vaszauskas is a final policy maker for Defendant Mansfield ISD and he made all decisions regarding Plaintiff's administrative leave and subsequent actions.").

Ultimately, the Court agreed with Plaintiff, holding that she sufficiently alleged an equal protection claim against *the District* with respect to placing Plaintiff on administrative leave, noting that it was "Mansfield I.S.D.'s decision to place [Plaintiff] on an eight-month administrative leave . . . ." *Bailey*, 2019 WL 6216669, at \*11, \*12. In fact, the Court even noted that *the District*

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<sup>1</sup> The Court correctly held in its memorandum opinion that Defendant Vaszauskas is not the District's policy maker for purposes of municipal liability under § 1983. *See Bailey*, 2019 WL 6216669, at \*8 n.5.

“failed to advance any justification for placing Bailey on administrative leave for eight months . . . .” *Id.* at \*12.

With respect to Plaintiff’s claims based on the March 27, 2018 press release, the Court specifically highlighted Plaintiff’s assertion that the District “and/or” Defendant Vaszauskas issued “and/or” approved the release. *Bailey v. Mansfield Indep. Sch. Dist.*, No. 3:18-cv-1161-L, 2019 WL 6216669, at \*14 (N.D. Tex. Nov. 21, 2019) (“[The] Statement was issued and/or approved by the Superintendent and/or **the Board.**” (emphasis in the Court’s memorandum opinion) (quoting Doc. 13 at ¶ 33)). It was this allegation that led the Court to conclude:

In this case, Bailey bases section 1983 liability against Mansfield I.S.D. on an actual policy she alleges was issued or approved by the Board of Trustees, and that she alleges in itself violated her constitutionally protected rights, or directed or authorized the deprivation of her federally protected rights, not that an employee violated her rights under a facially valid policy. Accordingly, she need not allege that the Board of Trustees acted with deliberate indifference in order to state a claim against Mansfield I.S.D. under section 1983.

*Bailey*, 2019 WL 6216669, at \*15.

In each case, Plaintiff’s allegations are directed at Defendant Vaszauskas “and/or” the District. This Court even concluded as much, dismissing Defendant Vaszauskas’ motion to dismiss based on qualified immunity: “For the same reasons the court denied Mansfield I.S.D.’s motion to dismiss Bailey’s equal protection claim, it also denies Superintendent Vaszauskas’ motion to dismiss her equal protection claim.” *Id.* at \*18.

Plaintiff cannot escape her allegations or this Court’s ruling in an effort to destroy Defendant Vaszauskas’ qualified immunity defense.<sup>2</sup> Plaintiff’s proposed “limited” discovery

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<sup>2</sup> Without citation to authority, Plaintiff claims in a footnote that Defendant Vaszauskas’ retirement apparently waives his qualified immunity defense. Doc. 13 at 5 n.1 (“Of course, the whole purpose of any qualified immunity to avoid distraction from public responsibilities would presumably be moot upon the Superintendent’s retirement.”). If discovery is not stayed by the Court, Defendant Vaszauskas’ “public responsibilities” will continue by responding to discovery requests to the Defendant and him involving his alleged actions as a government official. Plaintiff directs the Court to no authority that shows a government official’s qualified immunity for alleged acts undertaken while in office is destroyed upon the official’s retirement from office. In any event, Defendant notes that

touches on each of her claims inextricably intertwined between the District “and/or” Defendant Vaszauskas. Indeed, Plaintiff’s proposed discovery is improper because it is “designed to flesh out the merits of [her] claim” before the Fifth Circuit resolves Defendant Vaszauskas’ pending appeal. *See Lion Boulos v. Wilson*, 834 F.2d 504, 507 (5th Cir. 1987) (describing discovery that is “avoidable or overly broad” when permitted before a district court rules on the qualified immunity defense).

Further, Plaintiff’s reliance on this Court’s holding in *Harris v. City of Balch Springs*, 33 F. Supp. 3d 730 (N.D. Tex. 2014), is misplaced. Doc. 35 at 5. As Defendant Vaszauskas raised in the instant motion, Doc. 33 at 7, this Court held in *Harris* that discovery and pretrial matters are not precluded “from proceeding on claims *not related* to those made the subject of an interlocutory appeal.” 33 F. Supp. 3d at 732. (emphasis added). Further this Court held that “[d]iscovery may proceed on those claims that are *legally distinct* and for which a party may not assert the defense of qualified immunity.” *Id.* at 733 (citing *Alice L. v. Dusek*, 492 F.3d 563, 565 (5th Cir. 2007)). (emphasis added).

Plaintiff makes no effort to distinguish other courts in the Fifth Circuit that have “stayed entire actions even when only certain parties claim qualified immunity, particularly where the claims are closely related.” *Gaalla v. Citizens Med. Ctr.*, No. V-10-14, 2011 WL 23233, at \*1 (S.D. Tex. Jan. 4, 2011) (citing *Erleben v. Bloomington Indep. Sch. Dist.*, 1996 WL 61490 (S.D. Tex. Jan. 29, 1996)). In *Gaalla v. Citizens Medical Center*, the court determined that in that case, “[t]he same underlying facts are at issue, and the same causes of action under 42 U.S.C. § 1983 are asserted [against the defendants].” *Id.* at \*2. The court determined that “[i]n light of the close

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the Supreme Court has held that the doctrine of qualified immunity is intended to avoid “distraction of officials from their governmental duties, inhibition of discretionary action, and deterrence of able people from public service” and not simply distraction from official duties. *Harlow v. Fitzgerald*, 457 U.S. 800, 816 (1982).

relationship between the claims against [entity Defendant] and the other [individual] Defendants, it is appropriate to stay this case in its entirety pending resolution of the qualified immunity issues on interlocutory appeal.” *Id.* In the Northern District of Texas, another court distinguished this Court’s holding in *Harris* because, similar to here, the claims were based on alleging that “all defendants violated [the plaintiffs’ and intervenors’] rights under the United States and Texas Constitutions, and . . . there are no claims that are factually and legally distinct to the City. . . .” *Waller v. City of Fort Worth*, No. 4:15-CV-670-Y, 2015 WL 5836041, at \*6 (N.D. Tex. Oct. 2, 2015).

Ultimately, this Court need look no further than its November 21, 2019 memorandum opinion to conclude that Plaintiff’s claims against the District and Defendant Vaszauskas are factually or legally indistinguishable. *Bailey*, 2019 WL 6216669, at \*18 (“For the *same reasons* the court denied Mansfield I.S.D.’s motion to dismiss Bailey’s equal protection claim, it also denies Superintendent Vaszauskas’ motion to dismiss her equal protection claim.” (emphasis added)). Accordingly, Defendant Vaszauskas will suffer irreparable harm if this case is not stayed as he will be forced to participate in discovery and other pretrial proceedings while his entitlement to qualified immunity remains unresolved and pending in the court of appeals. *See* Doc. 32 at 3–4, ¶ 6. Accordingly, the Court should grant Defendant Vaszauskas’ motion and stay the entire case, including those claims against the District, pending Defendant Vaszauskas’ pending appeal to the Fifth Circuit.

### **PRAYER**

For the reasons stated, Defendants respectfully seek a complete stay of this action, including of the pending trial date, of all pending pretrial deadlines and obligations, and of all discovery, and for such other and further relief to which the Defendants have shown themselves to be justly entitled.

Respectfully submitted,

/s/ Thomas E. Myers

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 24, 2020, copies of this pleading were served upon counsel for Plaintiff using the court's CM/ECF system which will provide a notice of electronic filing to the following counsel of record:

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*Via Electronic Delivery:*  
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/s/ Thomas E. Myers  
Thomas E. Myers