

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

DANIEL FLORES GAYTAN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 07-2563-CM
	)	
MICHAEL B. MUKASEY, et al.,	)	
	)	
Defendants.	)	

**ORDER**

Pursuant to Fed. R. Civ. P. 26, this case comes before the court on the motion (**doc. 9**) of the defendants Michael B. Mukasey, United States Attorney General; Michael Chertoff, Secretary of the Department of Homeland Security; Emilio Gonzalez, Director of the United States Citizenship and Immigration Services (USCIS); Michael Jaromin, District Director, USCIS; and Robert S. Mueller III, Director, Federal Bureau of Investigations (FBI), to stay all further proceeding in this case for 45 days in order to allow the parties to resolve the case without further involvement by the court. Plaintiff does not oppose the requested stay.

The court may stay discovery if: (1) the case is likely to be finally concluded via a dispositive motion; (2) the facts sought through discovery would not affect the resolution of the dispositive motion; or (3) discovery on all issues posed by the complaint would be wasteful and burdensome.<sup>1</sup> The decision whether to stay discovery rests in the sound

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<sup>1</sup> See *Wolf v. United States*, 157 F.R.D. 494, 495 (D. Kan. 1994) (citing *Kutilek v. Gannon*, 132 F.R.D. 296, 297-98 (D. Kan. 1990)).

discretion of the court. As a practical matter, this calls for a case-by-case determination. The court concurs with the parties that a 45-day stay of this case is warranted.

In consideration of the foregoing, and upon good cause shown,

IT IS HEREBY ORDERED:

1. Defendants' motion to stay (**doc. 9**) is granted.
2. All further proceeding in this case are stayed until **April 4, 2008**. If all issues in this case have not been resolved and the case is still pending on April 4, 2008, the parties shall submit a joint report advising the court as to the status of the case by **April 11, 2008**.

Dated this 20th day of February, 2008, at Kansas City, Kansas.

s/James P. O'Hara  
James P. O'Hara  
U.S. Magistrate Judge