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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SYLVESTER OWINO and JONATHAN GOMEZ, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

CORECIVIC, INC., a Maryland corporation,

Defendant.

Case No.: 17-CV-1112 JLS (NLS)

ORDER STAYING CASE AND DEFERRING RULING ON MOTION TO DISMISS

(ECF No. 18)

Presently before the Court in the above-captioned action is Defendant CoreCivic, Inc.’s Motion to Dismiss Complaint, (“MTD,” ECF No. 18). Pending before the Court in the related case *Gonzalez v. CoreCivic, Inc.*, 17-cv-2573-JLS (NLS), is a Motion to Consolidate the present case (*Owino*) with *Gonzalez*. The Motion to Consolidate is set for hearing on March 22, 2018. The Court **STAYS** the present case until the Motion to Consolidate is resolved and **DEFERS RULING ON** Defendant’s Motion to Dismiss.

Courts have the power to stay proceedings sua sponte. *Ali v Trump*, 241 F. Supp. 3d 1147, 1152 (W.D. Wash. 2017); *Fed. Home Loan Mortg. Corp. v. Karma*, No. 14-00137 ACK-KSC, 2016 WL 922780, at *8–9 (D. Haw. Mar. 9, 2016). The issues involved in the pending proceedings need not be “controlling of the action before the court” for the court

1 to issue a stay. *Leyva v. Certified Grocers of Cal., Ltd.*, 593 F.2d 857, 864 (9th Cir. 1979).
2 Indeed, for a court to issue a stay, the parties in the two cases need not be the same and the
3 issues need not be identical. *See Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936).

4 In determining whether to grant a motion to stay, “the competing interests [that] will
5 be affected by the granting or refusal to grant a stay must be weighed.” *Lockyer v. Mirant*
6 *Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005) (citing *CMAX, Inc. v. Hall*, 300 F.2d 265, 268
7 (9th Cir. 1962)). Those interests include: (1) “the possible damage which may result from
8 the granting of a stay,” (2) “the hardship or inequity which a party may suffer in being
9 required to go forward,” and (3) “the orderly course of justice measured in terms of the
10 simplifying or complicating of issues, proof, and questions of law which could be expected
11 to result from a stay.” *Id.*

12 Here, as to the first factor, the Court finds no damage to Defendant from the
13 imposition of a stay in *Owino*. The Court anticipates Defendant will file an opposition to
14 the Motion to Consolidate in *Gonzalez*, regardless of whether or not the Court were to rule
15 on the pending Motion to Dismiss in the present case. The only damage Defendant faces
16 is a short delay in the resolution of its Motion to Dismiss. As to the second factor, the
17 Court finds no hardship to either party in being required to go forward. The Motion to
18 Dismiss is briefed by both Parties and a stay will not harm the Parties. As to the third
19 factor, the Court finds the stay may lead to the simplification of issues. If the Court grants
20 the Motion to Consolidate, it is logical that Defendant will file a Motion to Dismiss in
21 *Gonzalez*, and the present Motion to Dismiss will be moot. If the Court denies the Motion
22 to Consolidate, the stay in *Owino* will be lifted and the Court will rule on the Motion to
23 Dismiss. The Court finds the imposition of a stay will promote judicial economy. It is
24 logical for the Court to determine whether the two cases will be consolidated before the
25 Court determines whether one of the cases should be dismissed. The Court exercises its
26 inherent power to stay the proceeding in order to promote the efficiency of its docket. *See*
27 *Landis*, 299 U.S. at 254 (holding a court has the inherent power to stay proceedings in order
28 “to control the disposition of the causes on its docket with economy of time and effort for

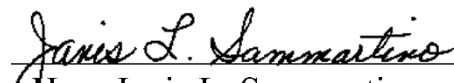
1 itself, for counsel, and for litigants.”); *Levy*, 593 F.2d at 863–64 (“A trial court may, with
2 propriety, find it is efficient for its own docket and the fairest course for the parties to enter
3 a stay of an action before it, pending resolution of independent proceedings which bear
4 upon the case.”).

5 **CONCLUSION**

6 The Court **STAYS** the present case and **DEFERS RULING** on the Motion
7 to Dismiss, (ECF No. 18), until the Motion to Consolidate is resolved.

8 **IT IS SO ORDERED.**

9 Dated: February 16, 2018

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11 Hon. Janis L. Sammartino
12 United States District Judge
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