

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

C.K.-W., et al.,)	
)	
Plaintiffs,)	Case No. 4:22-cv-00191-MTS
)	
v.)	
)	
WENTZVILLE R-IV SCHOOL)	
DISTRICT,)	
)	
Defendant.)	

MEMORANDUM IN SUPPORT OF MOTION FOR STAY

I. INTRODUCTION

Plaintiffs are purported current students of Wentzville R-IV School District (the "District") and non-profit affiliates of the NAACP who have filed suit under 42 U.S.C. § 1983, challenging the District's temporary removal of certain books¹ from its school libraries pursuant to District policy and regulations. (*See* Doc. 6). In essence, Plaintiffs challenge the constitutionality of the District's policies wherein access to the Subject Books in District libraries is temporarily halted pending committee review and Board vote, and seek to return these books into circulation. However, the factual posture of this matter is still evolving, and a number of the Amended Complaint's fact allegations were either inaccurate when alleged or no longer accurate. For example, the Complaint alleges that *The Bluest Eye* remains unavailable in District libraries. (Doc. 6, ¶ 75). This allegation is no longer true—the Board voted to return *The Bluest Eye* into circulation on February 25, 2022, and access was restored thereafter. (Doc. 28-12, ¶ 24-25). The

¹ *The Bluest Eye*, by Toni Morrison; *Fun Home: A Family Tragicomic*, by Alison Bechdel; *All Boys Aren't Blue*, by George M. Johnson; *Heavy: An American Memoir*, by Kiese Laymon; *Lawn Boy*, by Jonathan Evison; *Gabi, A Girl in Pieces*, by Isabel Quintero; *Modern Romance: An Investigation*, by Aziz Ansari; and *Invisible Girl: A Novel* by Lisa Jewell (collectively, the "Subject Books").

Complaint also alleges that *Fun Home*, *All Boys*, and *Heavy* have been "permanently removed from circulation" (Doc. 6, ¶ 86), which is not accurate—these books are currently in committee review. (See Doc. 28-12, ¶¶ 40-41). The District anticipates completion of review and a Board vote on these books by May 19, 2022, or June 16, 2022 at the latest. The Complaint acknowledges that the Board has voted to retain *Gabi* (Doc. 6, ¶ 100), but further alleges that *Modern Romance* and *Invisible Girl* have been removed from circulation and not returned. (Doc. 6, ¶ 99). *Modern Romance* and *Invisible Girl* have been returned to circulation upon withdrawal of their respective formal challenges. (Doc. 28-12, ¶¶ 33, 35-36). Finally, the District formed a review committee for *Lawn Boy*, but review was delayed by logistical difficulties in obtaining enough copies of the book for the entire committee. (Doc. 28-12, ¶ 27-28). The District has since re-ordered copies of *Lawn Boy* from another provider and again expects completion of review and a Board vote on the book by May or June 2022. How the Board ultimately votes on *Fun Home*, *All Boys*, *Heavy* and *Lawn Boy* may significantly affect the issues to be tried before the Court and the discovery of the parties. Thus, instead of expending the Court's (and the parties') time and resources on matters that may not be in controversy in one or two months, the Court should exercise its broad discretion and issue a stay of proceedings in this case pending the Board's decisions on the retention of these particular Subject Books. This case is still in its very early stages and a stay will not unduly prejudice nor tactically disadvantage Plaintiffs.

II. LEGAL STANDARD

"[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). "Generally, courts consider the following factors in determining whether to grant a stay: "(1) whether a stay would

unduly prejudice or present a clear tactical disadvantage to the non-moving party; (2) whether a stay will simplify the issues in question and trial of the case; and (3) whether discovery is complete and whether a trial date has been set." *Middleton, Inc. v. Minn. Mining & Mfg.*, No. 4:03-cv-40493, 2004 U.S. Dist. LEXIS 16812, at *11 (S.D. Iowa Aug. 24, 2004) (internal citations and quotations omitted).

III. ARGUMENT

A. A stay would not unduly prejudice or tactically disadvantage Plaintiffs.

The District does not see any undue prejudice or tactical disadvantage to Plaintiffs arising from a relatively brief stay in proceedings, particularly at this early juncture in litigation. To the contrary, as explained below, both parties would benefit from a simplification of the issues for trial and avoiding unnecessary discovery. The mere fact that there may be a delay in proceedings is insufficient to weigh against the granting of a stay. *CRST Expedited, Inc. v. Swift Transp. Co. of Ariz., LLC*, No. 17-CV-25-CJW, 2018 U.S. Dist. LEXIS 139447, at *9 (N.D. Iowa Aug. 17, 2018). This factor therefore weighs in favor of staying proceedings pending the Board's vote on the remaining Subject Books still under committee review.

B. A stay is likely to simplify the issues to be adjudicated by the Court.

Again, only *Fun Home*, *All Boys*, *Heavy* and *Lawn Boy* are currently under committee review; the remaining Subject Books have already been returned to circulation. Accordingly, Plaintiffs' requested relief of returning *The Bluest Eye*, *Gabi*, *Modern Romance* and *Invisible Girl* to District library shelves is already moot. It may well be the case that the District's Board will also vote retain *Fun Home*, *All Boys*, *Heavy* and *Lawn Boy* once the committee review process is completed, which would render Plaintiffs' claims as to those specific books moot as well. In such an event, the Court would be left to adjudicate purely legal questions regarding the District's

policies and regulations, significantly narrowing the issues for trial while also avoiding at least one to two months of unnecessary discovery. If the District's Board ultimately votes to not retain one or more of the remaining books under review, this would still elucidate the actual issues for trial and the parties could then schedule and plan any necessary discovery depending on which of the Subject Books were not retained—the District would also imagine that Plaintiffs would want to replead their Complaint at that point as well. Under these circumstances, the balance of factors clearly weighs in favor of a relatively brief stay of proceedings in order to simplify and clarify the issues for trial and discovery.

C. A stay is appropriate in this stage of litigation.

The present procedural posture of this case is plainly conducive to the granting of a limited stay. This matter has been pending for less than two months. Discovery has not been planned or initiated, and no trial date has been set. Indeed, as previously noted, staying proceedings pending the Board's vote on the remaining Subject Books is likely to make discovery more efficient and narrow the issues for trial. Thus, the third factor weighs in favor of granting a stay.

Conclusion

As all of the pertinent factors weigh in favor of a stay of proceedings pending the committee review and Board vote on the remaining Subject Books, the Court should grant the District's Motion to Stay.

Respectfully submitted,

EDCOUNSEL, LLC

By: /s/ J. Drew Marriot

J. Drew Marriot, #63059

dmarriott@edcounsel.law

Matthew D. Wilson #59966

mwilson@edcounsel.law

2833B E. Battlefield St., Ste. 100

Springfield, Missouri 65804

(417) 755-7190

(855) 876-4740 (facsimile)

ATTORNEYS FOR DEFENDANT

Dated: April 15, 2022