

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

HEALTH FREEDOM DEFENSE
FUND, INC., RYAN BLASER, on his
own behalf and as natural guardian for
and on behalf of his minor children,
K.B.B. and K.S.B., MICHELLE
SANDOZ, on her own behalf and as
natural guardian for and on behalf of her
minor children, R.S. and E.S.,
BARBARA MERCER, an individual,
EMILY KNOWLES, on her own behalf
and as natural guardian for and on behalf
of her minor children, A.G.K. and
A.T.K., and KENDALL NELSON, an
individual,

Plaintiffs,

v.

CITY OF HAILEY, IDAHO, a municipal
corporation, and MARTHA BURKE, in
her official capacity as the Mayor of the
City of Hailey, as well as in her personal
capacity for purposes of Section 1983
claims asserted herein.
Defendants.

Case No. 1:21-cv-00212-DCN

ORDER

Pending before the Court is the parties' Joint Stipulation for Stay and to Administratively Close this Case. Dkt. 3. For the reasons below, the Court agrees that this case must not proceed. However, the Court will not merely stay this case or "administratively close" it, as requested. Instead, the Court will dismiss this case without prejudice.

On May 14, 2021, Plaintiffs filed this case alleging that the city of Hailey, Idaho's mask mandate was unlawful. Dkt. 1. That same day, the Mayor of Hailey rescinded the mask

mandate, and the Hailey City Council shortly thereafter approved the rescission. Dkt. 3, at 2. In the instant Stipulation, the parties agree that these events occurred, and they specifically agree that the mask mandate of which Plaintiffs complained is no longer in effect. *Id.* Indeed, there is no local mask mandate currently in effect in Hailey. *Id.* For this reason, the parties wish to stay and administratively close this case.

Under these circumstances, the Court cannot hold this case on its docket because this case is moot.¹ “Under Article III of the Constitution, a live controversy [must] persist throughout all stages of the litigation” or else the case must be deemed moot and dismissed. *All. for the Wild Rockies v. Savage*, 897 F.3d 1025, 1031 (9th Cir. 2018) (cleaned up). “A case that becomes moot at any point during the proceedings is no longer a ‘Case’ or ‘Controversy’ for purposes of Article III, and is outside the jurisdiction of the federal courts.” *United States v. Sanchez-Gomez*, 138 S. Ct. 1532, 1537 (2018) (cleaned up).

For example, in *Herndon v. Little*, a recent case decided by this Court, the plaintiffs claimed that the state of Idaho’s COVID-19 orders were unlawful because they infringed some of their rights. No. 1:20-cv-00205-DCN, 2021 WL 66657, at *4, 7 (D. Idaho Jan. 7, 2021). However, the claims became moot when the state rescinded the complained-of restrictions. *Id.* (“In a word, this case is moot and must be dismissed”). Although it was possible the restrictions would be imposed again, nothing indicated that they would be, leaving those hypothetical future restrictions “for future days and future cases.” *Id.* at *7.

The same is true here. Any future objectionable mask mandate in the city of Hailey is

¹ Nor does the Court see any reason to maintain this case on its docket.

simply hypothetical. Unless and until any type of a mask mandate is reimposed, there is no longer a justiciable issue. This case is moot. Therefore, the Court cannot maintain this case on its docket because it lacks jurisdiction. That said, “[i]n the unlikely event that the complained-of [mask mandate is] imposed once more, Plaintiffs would be within their rights to file a new” case. *See id.*

Accordingly, IT IS HEREBY ORDERED that this case is DISMISSED WITHOUT PREJUDICE and CLOSED.



DATED: June 9, 2021

A handwritten signature in black ink, appearing to read "David C. Nye".

David C. Nye
Chief U.S. District Court Judge