

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
9 AT TACOMA

10 William James Mathew Wallace II,

11 Plaintiff,

12 v.

13 Pierce County Sheriff's Department et  
14 al.,

15 Defendants.

CASE NO. 3:19-cv-05329-RBL-  
DWC

ORDER

16 The District Court has referred this action, filed pursuant to 42 U.S.C. §1983, to United  
17 States Magistrate Judge David W. Christel. Plaintiff, proceeding *pro se* and *in forma pauperis*,  
18 filed this civil rights Complaint pursuant to 42 U.S.C. § 1983.

19 Before the Court are several motions filed by Plaintiff: (1) Motion Requesting Copies of  
20 all Documents Related to this Case (“Motion for Copies”) (Dkt. 21); (2) Motion to Consolidate  
21 and Add Exhibit to Complaint (“Motion to Consolidate”) (Dkt. 22); and (3) Motion for  
22 Extension of Time to File Amended Complaint (“Motion for Extension”) (Dkt. 23). The Court  
23 has not yet served Plaintiff’s Complaint. *See* Dkts. 13, 17.  
24

1 The Court denies Plaintiff's Motion for Copies (Dkt. 21) and his renewed requests for  
2 copies in his Motion to Consolidate (Dkt. 22) and Motion for Extension (Dkt. 23). The Court  
3 grants in part Plaintiff's request for a status update (Dkts. 21, 22). The Court denies Plaintiff's  
4 Motion to Consolidate (Dkt. 22). The Court grants Plaintiff's Motion for Extension (Dkt. 23) and  
5 directs Plaintiff to file an amended complaint on or before August 1, 2019. The Court denies  
6 Plaintiff's requests for subpoenas (Dkts. 22, 23).

7 **I. Motion for Copies (Dkt. 21)**

8 On June 17, 2019, Plaintiff filed the Motion for Copies, wherein he requests copies of all  
9 documents related to this case. Dkt. 21. Plaintiff states he has been removed from the  
10 Washington Department of Corrections and placed in the custody of the Los Angeles County  
11 Sheriff's Department, so he is no longer in possession of his files. Dkt. 21.

12 To receive copies from the Court, the requesting party must pay \$0.50 per page. As  
13 Plaintiff has not provided the necessary payment, his Motion for Copies (Dkt. 21) is denied. The  
14 Clerk's Office is directed to send Plaintiff copies of the Court's fee schedule and the copying  
15 charge letter. Plaintiff is also advised that it is his responsibility to keep copies of any of his own  
16 pleadings and legal documents. The Court notes Plaintiff renews his request for copies in his  
17 Motion to Consolidate (Dkt. 22) and Motion for Extension (Dkt. 23), which the Court also  
18 denies.

19 **II. Deprivation of Property/Access to the Courts (Dkts. 21, 22, 23)**

20 In all three Motions, Plaintiff asks the Court to assist him in obtaining his records/legal  
21 documents. *See* Dkts. 21, 22. In the Motion to Consolidate, Plaintiff alleges the Los Angeles  
22 County Jail has denied him access to the law library and asks the Court to notify the Los  
23 Angeles County Jail of his *pro se* status. Dkt. 22. In the Motion for Extension, Plaintiff alleges  
24

1 his mail was tampered with, and he no longer has access to his legal documents. Dkt. 23 at 1-2.  
2 Plaintiff attaches a grievance he filed related to his mail. Dkt. 23 at 3-6.

3 Here, it appears Plaintiff attempts to raise a new, separate, deprivation of property claim  
4 and/or access to the courts claim. Plaintiff is advised if he seeks to raise claims which occurred  
5 after he filed this case, he must file a separate cause of action. An amended complaint may not  
6 change the nature of a suit by alleging new, unrelated claims. *George v. Smith*, 507 F.3d 605,  
7 607 (7th Cir. 2007) (no “buckshot” complaints); *see also* Fed. R. Civ. P. 20(a)(2) (joinder of  
8 defendants not permitted unless both commonality and same transaction requirements are  
9 satisfied). The Clerk’s Office is directed to send Plaintiff a copy of the appropriate forms for  
10 filing a 42 U.S.C. 1983 civil rights complaint and for service.

11 **III. Request for Status Update (Dkts. 21, 22)**

12 In both the Motion for Copies (Dkt. 21) and Motion for Consolidation (Dkt. 22), Plaintiff  
13 requests a status update in his two pending cases. Plaintiff is proceeding *pro se* and *in forma*  
14 *pauperis* in two separate civil actions, both filed pursuant to 42 U.S.C. § 1983 and alleging  
15 violations of his civil rights. *See Wallace v. Pierce County Sheriff’s Department*, et al., Case No.  
16 3:19-cv-5329-RBL-DWC (“*Wallace I*”); *Wallace v. Longano et. al*, Case No. 3:19-cv-05330-  
17 RJB-JRC (“*Wallace II*”). The undersigned only has authority as to the case pending before him,  
18 *Wallace I*, thus, Plaintiff’s request is granted in part. The Clerk is directed to provide Plaintiff  
19 with a copy of the docket sheet in the instant action, *Wallace I*.

1 **IV. Motion to Consolidate (Dkt. 22)**

2 Plaintiff requests every document he has provided to the Court be shared between his two  
3 pending cases, *Wallace I* and *Wallace II*.<sup>1</sup> Dkt. 22. The Court interprets this request as a motion  
4 to consolidate this action with a separate action filed by Plaintiff. *See* Dkt. 22; *See also Wallace*  
5 *II*.

6 “If actions before the court involve a common question of law or fact, the court may: (1)  
7 join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or  
8 (3) issue any other orders to avoid unnecessary cost or delay.” Fed. R. Civ. P. 42(a). Under Rule  
9 42, the Court has “broad discretion” to consolidate cases pending in the same district either upon  
10 motion by a party or *sua sponte*. *In re Adams Apple., Inc.* 829 F.2d 1484, 1487 (9th Cir. 1987).  
11 In exercising this discretion, the Court “weighs the saving of time and effort consolidation would  
12 produce against any inconvenience, delay, or expense that it would cause.” *Huene v. United*  
13 *States*, 743 F.2d 703, 704 (9th Cir. 1984).

14 The instant action, *Wallace I*, was filed on March 18, 2019. *Wallace I* at Dkt. 1. Plaintiff  
15 is challenging his conditions of confinement while housed at Pierce County Jail. *Id.* at Dkts. 1,  
16 13. Plaintiff names as defendants Napcare Medical and the Pierce County Jail. *Id.* at Dkt. 13.  
17 Plaintiff alleges he had broken his leg prior to his arrest, upon his placement in the Pierce County  
18 Jail, he did not receive any accommodations for his leg, was housed in an upper bunk, and was  
19 not seen by a medical provider. *Id.* In *Wallace I*, the Court declined to serve Plaintiff’s  
20 Complaint, but provided Plaintiff with leave to file an amended pleading. *Id.* at Dkt. 17.

---

21  
22  
23  
24 <sup>1</sup> Plaintiff also attached a grievance from the Los Angeles County Jail to his Motion to Consolidate. Dkt. 22-1. Plaintiff states the attached grievance shows how he requires the use of a wheelchair daily. Dkt. 22 at 1.

1 Plaintiff filed his second action, *Wallace II*, on April 11, 2019. *Wallace II* at Dkt. 1. In  
2 *Wallace II*, Plaintiff alleges claims against Defendants Frank Longano, Mark Wentworth,  
3 Goodenough, Sandra Thompson, Connor, Watson, James Key, Don McIntyre, Kleemke, Jessica  
4 Fitzpatrick, and Mr. Martin. *See id.* at Dkt. 19. Plaintiff alleges Defendants violated his  
5 constitutional rights when they acted with deliberate indifference to Plaintiff's serious medical  
6 needs while he was incarcerated at Washington Department of Corrections ("DOC") facilities  
7 *See id.*

8 While the two cases require application of § 1983 law and involve Plaintiff's treatment  
9 for his leg, they do not involve the same set of facts or legal issues. For example, the cases  
10 concern different time periods and different defendants. *See Wallace I* at Dkt. 13; *Wallace II* at  
11 Dkt. 19. Moreover, the cases are at different procedural postures. In *Wallace II*, Plaintiff's  
12 complaint has been served and the Court is awaiting the filing of the defendants answer or  
13 another response. *See Wallace II* at Dkt. 21. If the Court were to consolidate the two cases,  
14 resolution of *Wallace II* would be delayed considerably because the Court would require Plaintiff  
15 to file an amended complaint and litigation for both cases would be essentially restarted. The  
16 Court finds the inconvenience and delay that will be caused by consolidation outweighs any time  
17 and effort saved by consolidation. Accordingly, Plaintiff's Motion to Consolidate (Dkt. 22) is  
18 denied.

19 Because Plaintiff has been filing documents which he seeks to file in both *Wallace I* and  
20 *Wallace II*, the Court finds it appropriate to provide Plaintiff with the following filing directions:

- 21 • On the top right side of each document submitted to the Court, Plaintiff must  
22 clearly indicate the case number.

- 1 • Plaintiff cannot file the same document in both cases; therefore, each filing should  
2 indicate only one case number on the top right side.
- 3 • As the two cases involve different facts and different defendants, Plaintiff must  
4 only file documents which relate to the specific facts of the case in which the  
5 document is filed.
- 6 • If any filing does not comply with these instructions, the Court will not consider  
7 the filing.

8 The Clerk is directed to file this Order in *Wallace II*, 3:19-cv-05330-RJB-JRC.

9 **V. Motion for Extension (Dkt. 23)**

10 Plaintiff filed the Motion for Extension, seeking an extension of time to file his amended  
11 complaint. Dkt. 23. Plaintiff states he did not receive the Court's May 16, 2019 Order until June  
12 18, 2019. Dkt. 23 at 1-2. Attached to the Motion for Extension, Plaintiff filed a grievance from  
13 the Los Angeles County Jail wherein he complained his mail was tampered with. Dkt. 23 at 3-6.  
14 Plaintiff's request for an extension is granted, Plaintiff shall file an amended complaint on or  
15 before August 1, 2019.

16 **VI. Requests for Subpoena (Dkts. 22 and 23)**

17 Plaintiff requests the Court subpoena his records from Naphcare and the Pierce County  
18 Jail. Dkts. 22, 23. As the Court stated in its May 16, 2019 Order (Dkt. 17), the Court has  
19 determined Plaintiff's Complaint shall not be served at this time but has given Plaintiff an  
20 opportunity to file an amended complaint. To the extent Plaintiff is seeking discovery from  
21 Defendants, his request is premature. In this case, the discovery period will begin when the Court  
22 enters a pre-trial scheduling order, which will occur after an answer has been filed by  
23 Defendants. As the Court has not yet served Plaintiff's Complaint or entered a pre-trial  
24

1 scheduling order, the discovery period has not yet begun. Accordingly, Plaintiff's request for a  
2 subpoena (Dkts. 22, 23) is denied without prejudice as premature.

3 **VII. Instructions to the Clerk**

4 The Court directs the Clerk to provide Plaintiff with copies of: this Order, the appropriate  
5 forms for filing a 42 U.S.C. § 1983 civil rights complaint and for service, the Pro Se Instruction  
6 Sheet, the Court's fee schedule, copying charge letter, and the docket sheet in the instant action.  
7 The Clerk is also directed to file this Order in *Wallace II*, 3:19-cv-05330-RJB-JRC.

8 **CONCLUSION**

9 The Court denies Plaintiff's Motion for Copies (Dkt. 21) and his renewed requests for  
10 copies in his Motion to Consolidate (Dkt. 22) and Motion for Extension (Dkt. 23). The Court  
11 grants in part Plaintiff's request for a status update (Dkts. 21, 22). The Court denies Plaintiff's  
12 Motion to Consolidate (Dkt. 22). The Court grants Plaintiff's Motion for Extension (Dkt. 23) and  
13 directs Plaintiff to file an amended complaint on or before August 1, 2019. The Court denies  
14 Plaintiff's requests for subpoenas (Dkts. 22, 23).

15 Dated this 27th day of June, 2019.

16 

17 \_\_\_\_\_  
David W. Christel  
United States Magistrate Judge