

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Khalafala Khalafala,

Plaintiff,

vs.

Travis Miller, et al.,

Defendants.

AND RELATED CASES

) No. CV-10-984-PHX-ROS

) No. CV-10-986-PHX-ROS

) No. CV-10-1259-PHX-ROS

) No. CV-10-2552-PHX-ROS

) No. CV-10-2553-PHX-ROS

) **ORDER**

Pending before the Court is a Report and Recommendation (“R&R”) regarding a Motion to Consolidate in CV-10-984. (Doc. 48). For the following reasons, the R&R will be adopted in full.

BACKGROUND

Plaintiff has approximately ten civil rights suits pending against a variety of defendants. Plaintiff’s suits stem from his detention in the Florence Detention Center and the Pinal County Jail. The defendants in the various suits include numerous Pinal County officials as well as Immigration and Customs Enforcement officials. The Pinal County officials filed a motion to consolidate, asking the Court to consolidate CV-10-986 and CV-10-1259 with CV-10-984. (Doc. 41). Magistrate Judge Irwin filed a R&R recommending the motion to consolidate be denied. The Pinal County officials filed objections to the R&R. (Doc. 49). The Pinal County officials later filed a second motion to consolidate asking the

1 Court to consolidate CV-10-2552 and CV-10-2553 with CV-10-984.

2 **ANALYSIS**

3 **I. Standard of Review**

4 A district court “must make a de novo determination of those portions of the report
5 . . . to which objection is made,” and “may accept, reject, or modify, in whole or in part, the
6 findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). A court need
7 review only those portions objected to by a party, meaning a court can adopt without further
8 review all unobjected to portions. *See United States v. Reyna-Tapia*, 328 F.3d 1114, 1121
9 (9th Cir.2003).

10 **II. Consolidation is Not Appropriate**

11 Federal Rule of Civil Procedure 42(a) allows a court to consolidate “actions involving
12 a common question of law or fact.” This rule grants courts the Court “*broad* discretion” to
13 determine whether consolidation is appropriate. *Investors Research Co. v. U.S. Dist. Court*
14 *for Cent. Dist. of Cal.*, 877 F.2d 777, 777 (9th Cir. 1989) (emphasis added). “In determining
15 whether or not to consolidate cases, the Court should weigh the interest of judicial
16 convenience against the potential for delay, confusion and prejudice.” *Zhu v. UCBH*
17 *Holdings, Inc.*, 682 F. Supp. 2d 1049, 1052 (N.D. Cal. 2010) (quotation omitted). *See also*
18 *Johnson v. Manhattan Ry. Co.*, 289 U.S. 479, 496 (1933) (consolidation is appropriate “as
19 a matter of convenience and economy in administration”). Here, the relevant factors weigh
20 against consolidation.

21 Plaintiff’s suits may involve some common questions of law and fact in that they all
22 stem from his treatment while detained in the Florence Detention Center and the Pinal
23 County Jail. But the suits involve different events, often different defendants, and often
24 different types of claims. Judicial convenience would not be served by consolidating these
25 suits. As Magistrate Judge Irwin pointed out, consolidating Plaintiff’s suits would likely
26 result in “a completely unwieldy case.” (Doc. 48 at 7). Moreover, consolidating the suits
27 “would likely cause greater delay and expense than it would avoid.” (Doc. 48 at 7-8). The
28

1 R&R will be adopted in full.¹

2 After the R&R on the first motion to consolidate was filed, Defendants filed a second
3 motion to consolidate. The same analysis applies to that request as to the first request.
4 Consolidation would be a greater burden on the Court and significantly increase the
5 likelihood of delay and confusion.

6 Accordingly,

7 **IT IS ORDERED** the Report and Recommendation (Doc. 48) in CV-10-984 is
8 **ADOPTED**. The Motion to Consolidate (Doc. 41) in CV-10-984 is **DENIED**.

9 **IT IS FURTHER ORDERED** the Motion to Consolidate (Doc. 50) in CV-10-984
10 is **DENIED**.

11 **IT IS FURTHER ORDERED** the Motion to Consolidate (Doc. 39) in CV-10-986
12 is **DENIED**.

13 **IT IS FURTHER ORDERED** the Motion to Consolidate (Doc. 39) in CV-10-1259
14 is **DENIED**.

15 **IT IS FURTHER ORDERED** the Motion to Consolidate (Doc. 18) in CV-10-2552
16 is **DENIED**.

17 **IT IS FURTHER ORDERED** the Motion to Consolidate (Doc. 27) in CV-10-2553
18 is **DENIED**.

19 Dated this 11th day of May, 2011.

20
21
22
23
24
25

Roslyn O. Silver
Chief United States District Judge

26
27
28

¹ The R&R also addressed the Pinal Officials' request to sever certain claims. Having reviewed the issue *de novo*, the Court agrees with Magistrate Judge Irwin that "[s]evering actions poses special problems in pleadings, particularly if amendments are sought." (Doc. 48 at 8). Severance is not appropriate.