

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

Case No.	EDCV 17-0013-JAK (AGR) EDCV 17-0927-JAK (AGR)	Date	September 5, 2017
Title	Christopher Lancaster v. Lt. Gabby, et al. Christopher Lancaster v. Warden Richard Ives, et al.		

Present: The Honorable	John A. Kronstadt, United States District Judge		
Andrea Keifer	n/a		n/a
Deputy Clerk	Court Reporter / Recorder		Tape No.
Attorneys Present for Plaintiff:	Attorneys Present for Defendants:		
None	None		

**Proceedings:** In Chambers: **(1) GRANTING PLAINTIFF'S REQUEST TO ADD WARDEN IVES AS A DEFENDANT IN CASE NO. EDCV 17-13-JAK (AGR); and (2) DISMISSING WITHOUT PREJUDICE CASE NO. EDCV 17-927 AS DUPLICATIVE**

***Procedural History***

On January 5, 2017, Plaintiff filed a civil rights complaint in Case No. EDCV 17-13-JAK (AGR) in this court. He alleged various violations while housed at USP-Victorville. Warden Richard B. Ives was not named as a defendant.

On December 19, 2016, Plaintiff filed a nearly identical complaint in the Southern District of California, which transferred the action to this court on May 12, 2017. The case was assigned Case No. EDCV 17-927-JAK (AGR). The complaint covered the same events, asserted the same claims and sought the same compensatory damages as the complaint in EDCV 17-13. The one notable difference was that Warden Richard B. Ives was named as a defendant.

***Minute Order Dated May 19, 2017 and Plaintiff's Response***

On May 19, 2017, the magistrate judge issued a minute order that recited the procedural history and gave Plaintiff two options:

1. If Plaintiff did not wish to add Ives as a defendant in Case No. EDCV 17-13, Plaintiff was required to file a Notice stating that he did not wish to add Ives as a defendant.
2. If Plaintiff wished to add Ives as a defendant in Case No. EDCV 17-13, Plaintiff was required to file a First Amended Complaint naming Ives as a defendant and adding allegations as to why he should be liable for the various violations alleged. The court would then dismiss without prejudice Case No. EDCV 17-927 as wholly duplicative of Case No. EDCV 17-13.

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On June 26, 2017, Plaintiff filed a document entitled “Motion for Leave to File an Amended Complaint.” Plaintiff states that he simply forgot to add Richard B. Ives as a defendant (presumably in Case No. EDCV 17-13), and also wishes to delete his request for nominal damages. Plaintiff requested that the court grant leave to file an amended complaint.

***Order***

The Clerk is directed to file Plaintiff’s Motion for Leave to File an Amended Complaint in both Case No. EDCV 17-13 and Case No. EDCV 17-927.

IT IS ORDERED that Plaintiff’s motion to add Defendant Richard B. Ives as a defendant in Case No. EDCV 17-13 is GRANTED on the following terms and conditions:

1. Plaintiff shall file a First Amended Complaint ***within 30 days after the entry of this order*** that adds Richard B. Ives as a defendant. The First Amended Complaint must bear the docket number EDCV 17-13-JAK (AGR), be labeled “First Amended Complaint”; and be complete in and of itself without reference to the original complaint or any other pleading, attachment or document. Local Rule 15-2. Plaintiff is advised that the First Amended Complaint supersedes the original complaint and becomes the operative complaint. The Clerk is directed to send Plaintiff a blank Central District civil rights complaint form and a copy of the complaint in EDCV 17-927-JAK (AGR).

IT IS FURTHER ORDERED that the Case No. 17-927 is DISMISSED WITHOUT PREJUDICE as duplicative of Case No. EDCV 17-13 JAK (AGR) now that Ives is a defendant in the earlier-filed case. *See Adams v. Cal. Dep’t of Health Servs.*, 487 F.3d 684, 692 (9th Cir. 2007) (finding district court could opt to dismiss without prejudice later-filed complaint as duplicative of pending complaint in the interest of judicial economy and comprehensive disposition of litigation), *overruled in part on other grounds, Taylor v. Sturgell*, 553 U.S. 880, 891 n.3 (2008).

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