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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARK ANTHONY JONES and
CHRISTINE JONES,

Plaintiffs,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

1:08-cv-00069-LJO-SMS-PC (Lead Case)
1:08-cv-01383-LJO-SMS-PC

ORDER CONSOLIDATING ACTIONS
AND DESIGNATING LEAD CASE AS
1:08-cv-00069-LJO-SMS-PC

ORDER FOR CLERK TO
ADMINISTRATIVELY CLOSE CASE
1:08-cv-01383-LJO-SMS-PC

ORDER FOR LEAD CASE TO PROCEED ON
ORIGINAL COMPLAINT FILED DECEMBER
5, 2007

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I. RELEVANT PROCEDURAL HISTORY

On December 5, 2007, plaintiffs Christine Jones and Mark Jones ("Co-plaintiffs"), husband and wife, filed a civil rights action pursuant to 42 U.S.C. § 1983 at the United States District Court for the Northern District of California. On January 8, 2008, the case was transferred to the Eastern District of California and opened under case number 1:08-cv-00069-LJO-SMS-PC. On September 16, 2008, the Court severed the Co-plaintiffs' claims and directed the Clerk to open a new action for Christine Jones. (Doc. 3.) As a result, Mark Anthony Jones proceeded in case 1:08-cv-00069-LJO-SMS-PC and Christine Jones proceeded in case 1:08-cv-01383-LJO-SMS-PC. The Court ordered Co-plaintiffs to each file an amended complaint bearing his or her own case number. On October 17, 2008, Mark Jones filed an amended complaint in his case 1:08-cv-00069-LJO-SMS-PC. On

1 December 11, 2008, Christine Jones filed an amended complaint in her case 1:08-cv-01383-LJO-
2 SMS-PC.

3 On October 20, 2008, Co-plaintiffs filed objections to the Court's severance order. On
4 November 7, 2008, the Court issued an order addressing the objections and affirming the Court's
5 severance order. Upon reconsideration, the Court finds it prudent to consolidate the two cases, based
6 on the fact that the same defendants are named in both cases, and the allegations in both cases are
7 based upon the same incident.

8 **II. CONSOLIDATION**

9 The court may consolidate multiple actions pending before the court where such actions
10 involve a common question of law or fact. Fed. R. Civ. P. 42(a). "When actions involving a
11 common question of law or fact are pending before the court, it may order a joint hearing or trial of
12 any or all of the matters in issue in the actions; it may order all the actions consolidated; and it may
13 make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay."
14 Fed. R. Civ. P. 42(a). Consolidation may be ordered on motion of any party or on the court's own
15 motion whenever it reasonably appears that consolidation would aid in the efficient and economic
16 disposition of a case. See In re Air Crash Disaster at Florida Everglades on December 29, 1972, 549
17 F.2d 1006 (5th Cir. 1977). The grant or denial of a motion to consolidate rests in the trial court's
18 sound discretion, and is not dependant on party approval. Investors Research Co. v. United States
19 Dist. Ct., 877 F.2d 777 (9th Cir. 1989); Cantrell v. GAF Corp., 999 F.2d 1007, 1007, 1001 (6th Cir.
20 1993). In determining whether to consolidate actions, the court weighs the interest of judicial
21 convenience against the potential for delay, confusion, and prejudice caused by consolidation.
22 Southwest Marine, Inc., v. Triple A. Mach. Shop, Inc., 720 F. Supp. 805, 807 (N.D. Cal. 1989).

23 **III. SUMMARY OF MARK ANTHONY JONES' ALLEGATIONS**

24 Plaintiff Mark Anthony Jones brings a civil rights action pursuant to 42 U.S.C. § 1983,
25 against defendants James Tilton (Director of the California Department of Corrections), Kenneth
26 Clark (Warden), SSU Officer Couch, and two Unknown SSU Officers. Plaintiff, an inmate at SATF,
27 claims his rights were violated under the First, Eighth, and Fourteenth Amendments, due process,
28 and equal protection when prison officials failed to provide him with a "Notice of Visit Termination"

1 form after his wife, Christine Jones, was denied a visit with him at SATF on September 14, 2007,
2 when officers failed to process the Form 602 prison grievances he filed, and when his visitation
3 rights were suspended.

4 **IV. SUMMARY OF CHRISTINE JONES' ALLEGATIONS**

5 Plaintiff Christine Jones brings a civil rights action pursuant to 42 U.S.C. § 1983 against
6 defendants James Tilton (Director of the California Department of Corrections), Kenneth Clark
7 (Warden), SSU Officer Couch, and two Unknown SSU Officers. Plaintiff alleges that on September
8 14, 2007, prison officials at SATF violated her rights under the Fourth, Eighth, and Fourteenth
9 Amendments when they searched her, seized her property, failed to properly train employees, and
10 failed to provide her with a "Notice of Visit Termination" form after she was denied a visit with her
11 husband, Mark Anthony Jones, an inmate incarcerated at SATF.

12 **V. DISCUSSION**

13 Mark Anthony Jones and Christine Jones bring allegations involving common questions of
14 law and fact. Fed. R. Civ. P. 42(a). Both actions arise from the same incident which allegedly
15 occurred on September 14, 2007, during which Christine Jones was denied visitation with her
16 husband Mark Anthony Jones at SATF. Moreover, both plaintiffs name the same five defendants.
17 Therefore, to avoid unnecessary costs and delay, the Court in its discretion shall order these two
18 actions consolidated, and the lead case shall proceed on the original complaint filed December 5,
19 2007, by Co-plaintiffs.

20 **VI. CONCLUSION AND ORDER**

21 Based on the foregoing, IT IS HEREBY ORDERED that:

22 1. The following two actions are consolidated into a single action:

23 Mark Anthony Jones v. CDC, 1:08-cv-00069-LJO-SMS-PC; and

24 Christine Jones v. CDC, 1:08-cv-01383-LJO-SMS-PC;

25 2. The lead case is designated as Jones v. CDC, 1:08-cv-00069-LJO-SMS-PC, and all
26 further pleadings involving the above two cases shall be filed under case number
27 1:08-cv-00069-LJO-SMS-PC only;

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- 3. The Clerk of Court is DIRECTED to:
 - (1) file, docket, and serve a copy of this order in both cases;
 - (2) administratively close case 1:08-cv-01383-LJO-SMS-PC; and
 - (3) reinstate Christine Jones as Co-plaintiff in lead case 1:08-cv-00069-LJO-SMS-PC;
- 4. The lead case shall proceed on the original complaint filed December 5, 2007, by Co-plaintiffs; and
- 5. The Court shall screen the original complaint forthwith.

IT IS SO ORDERED.

Dated: August 31, 2009

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE