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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BARRY S. JAMESON, et al.,	CASE NO. 1:03-cv-5593-LJO-MJS (PC)
Plaintiffs,	ORDER SEVERING PLAINTIFF'S CLAIMS
v.	AND DIRECTING CLERK TO OPEN NEW
SCOTT RAWERS, et al.,	CASES FOR PLAINTIFFS SERRANO,
Defendants.	LAMB, AND GAITAN
	(ECF No. 31)

I. Severance of Plaintiffs' Claims

Plaintiffs Barry S. Jameson, Jessie L. Serrano, William Lamb, and Raul Gaitan ("Plaintiffs") are current and former state prisoners proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

Having reviewed the record in this action, the Court determines that each Plaintiff shall proceed separately on his own claims.

Rule 21 of the Federal Rules of Civil Procedure provides that "[o]n motion or on its own, the court may at any time, on just terms, add or drop a party. The court may also sever any claim against a party." Courts have broad discretion regarding severance. See Davis v. Mason County, 927 F.2d 1473, 1479 (9th Cir. 1991).

In the instant action, the four Plaintiffs are current and former prisoners of the State of California. At one point in 2002-03, all of the Plaintiffs were simultaneously housed in Avenal State Prison. At the time the Fifth Amended Complaint was filed in 2006, however,

1 the four Plaintiffs were scattered with one Plaintiff incarcerated at Coalinga and the other
2 three out of prison and living in various cities throughout California. (ECF No. 31 at 49.)

3 In this Court's experience, an action brought by multiple plaintiffs proceeding pro se
4 in which one or more of the plaintiffs is incarcerated presents procedural problems that
5 cause delay and confusion. Delay often arises from the frequent transfer of inmates to
6 other facilities or institutions, the changes in address that occur when inmates are released
7 on parole, and the difficulties faced by inmates who attempt to communicate with each
8 other and other unincarcerated individuals. In this case, the need for the Plaintiffs to agree
9 on all filings made in this action and the need for all filings to contain the original signatures
10 of all four Plaintiffs will lead to delay and confusion.

11 Accordingly, the Court shall order that the Plaintiffs' claims be severed. Plaintiff
12 Jameson will proceed in this action, while Plaintiffs Serrano, Lamb, and Gaitan will proceed
13 in separate civil actions to be opened by the Clerk of the Court. Each Plaintiff shall
14 proceed separately and shall be solely responsible for his own action.

15 The Clerk of the Court will be directed to assign the new actions to the same
16 magistrate judge assigned to the instant action. The Clerk of the Court shall make an
17 appropriate adjustment in the assignment of civil cases to compensate for this
18 reassignment.

19 Since the claims of Plaintiffs Serrano, Lamb, and Gaitan will be severed, each shall
20 be given thirty days to file, in his own action, an amended complaint and a completed
21 application for leave to proceed in forma pauperis, using the forms provided by the Court
22 with this order.

23 Accordingly, based on the foregoing, it is HEREBY ORDERED that:

24 1. Plaintiff Jameson shall proceed as the sole plaintiff in case number 1:03-cv-
25 5593-LJO-MJS (PC);

26 2. The claims of Plaintiffs Serrano, Lamb, and Gaitan are severed from the
27 claims of Plaintiff Jameson;

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- 1 3. The Clerk of the Court is directed to:
- 2 a. Open three separate civil actions for Plaintiffs Serrano, Lamb, and
- 3 Gaitan;
- 4 b. Assign the new actions to the magistrate judge to whom the instant
- 5 case is assigned and make appropriate adjustment in the assignment of civil cases to
- 6 compensate for such assignment;
- 7 c. File and docket a copy of this order in the new actions opened for
- 8 Plaintiffs Serrano, Lamb, and Gaitan;
- 9 d. Place a copy of the Fifth Amended Complaint filed on April 20, 2006
- 10 in the instant action in the new actions opened for Plaintiffs Serrano, Lamb, and Gaitan;
- 11 e. Send Plaintiffs Serrano, Lamb, and Gaitan each an endorsed copy of
- 12 the Fifth Amended Complaint, filed April 20, 2006 bearing the case number assigned to his
- 13 own individual action;
- 14 f. Send Plaintiffs Serrano, Lamb, and Gaitan each a civil rights complaint
- 15 form; and
- 16 g. Send Plaintiffs Serrano, Lamb, and Gaitan each the applications to
- 17 proceed in forma pauperis for a prisoner and non-prisoner;
- 18 4. Within thirty (30) days from the date of service of this order, Plaintiffs
- 19 Serrano, Lamb, and Gaitan shall each file an amended complaint bearing his new case
- 20 number and either pay the filing fee in full or submit a completed application to proceed in
- 21 forma pauperis (prisoner or non-prisoner depending on incarceration status at the time of
- 22 completion) bearing his new case number; and
- 23 5. The failure to comply with this order will result in a recommendation that the
- 24 action be dismissed.

25 IT IS SO ORDERED.

26 Dated: March 7, 2011

1st Michael J. Seng
UNITED STATES MAGISTRATE JUDGE