

1 I. Background

2 Petitioners were jointly tried and convicted of the murder of a
3 single victim and related offenses. The record pertinent to both
4 cases is lengthy. Petitioner Nichols raises issues relating to
5 alleged due process violations resulting from the admission of
6 identifications of all co-defendants; these issues are also raised
7 by Petitioner Trice. Both cases are ready for decision.

8 II. Analysis

9 Fed. R. Civ. P. 42(a) provides:

10 a) Consolidation. If actions before the court
11 involve a common question of law or fact, the
12 court may:

- 12 1) join for hearing or trial any or all matters
13 at issue in the actions;
13 2) consolidate the actions; or
14 3) issue any other orders to avoid unnecessary
14 cost or delay.

15 A trial court has broad discretion to consolidate in whole or in
16 part cases pending in the same district. Investors Research Co. v.
17 United States District Court, 877 F.2d 777 (9th Cir. 1989).

18 However, it is necessary that the actions have a common question of
19 law or fact. Enterprise Bank v. Saettele, 21 F.3d 233, 235 (8th
20 Cir. 1994). The purpose of consolidation is not only to enhance
21 efficiency of the trial court by avoiding unnecessary duplication of
22 evidence and procedures, but also to avoid inconsistent
23 adjudications. E.E.O.C. v. HBE Corp., 135 F.3d 543, 551 (8th Cir.
24 1998). Consolidation is inappropriate if it leads to inefficiency,
25 inconvenience, or unfair prejudice to a party. Fed. R. Civ. P.
26 42(b). The Court should weigh the interests of judicial convenience
27 against any potential for delay, confusion, and prejudice caused by
28 consolidation. Southwest Marine, Inc. v. Triple A Machine Shop,

1 Inc., 720 F.Supp. 805, 807 (N.D. Cal. 1989).

2 Consolidation may be ordered on motion of any party to the
3 action or on the Court's own motion. Devlin v. Transportation
4 Communications International Union, 175 F.3d 121, 130 (2nd Cir.
5 1999).

6 Here, the identity issues raised by Petitioner Nichols are also
7 raised by Petitioner; the actions contain common questions of law
8 and fact. Consolidation would be efficient and would also avoid the
9 risk of inconsistent adjudications. No potential for delay,
10 confusion, or prejudice from consolidation appears. Thus, the Court
11 will direct that the cases be consolidated.

12 III. Disposition

13 Accordingly, it is ORDERED that:

14 1) Actions 1:11-cv-00951-LJO-SKO-HC and 1:13-cv-01561-AWI-BAM-
15 HC are CONSOLIDATED for all purposes;

16 2) The parties are DIRECTED to file all future papers in action
17 number 1:11-cv-00951-LJO-SKO-HC; and

18 3. The Clerk of Court is DIRECTED to file all future papers in
19 action number 1:11-cv-00951-LJO-SKO-HC, and to close action number
20 1:13-cv-01561-AWI-BAM-HC.

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23 IT IS SO ORDERED.

24 Dated: September 2, 2014

/s/ Sheila K. Oberto
25 UNITED STATES MAGISTRATE JUDGE