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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

STEWART MANAGO,

Plaintiff,

v.

F. GONZALEZ, et al.,

Defendants.

Case No. 1:12-cv-00488-DLB PC

**ORDER CONSOLIDATING ACTION
WITH CASE NO. 1:11-CV-01269-SMS**

Plaintiff Stewart Manago (“Plaintiff”) is a California state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on March 30, 2012. Upon review of this case, the Court concludes that this action involves a common question of law and fact as those raised in *Manago v. Gonzalez, et al.*, Case No. 1:11-cv-01269-SMS, E.D. Cal., filed on August 1, 2011, and both should be consolidated.

Pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, “[i]f actions before the court involve a common question of law or fact, the court may: (1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay.” In exercising the Court’s discretion, the Court “weights the saving of time and effort consolidation would produce against any inconvenience, delay, or expense that it would cause.” *Huene v. United States*, 743 F.2d 703, 704 (9th Cir. 1984). Consolidation may occur upon motion or *sua sponte*. *In re Adams Apple, Inc.*, 829 F.2d 1484, 1487 (9th Cir. 1987).

The present action, Case No. 1:12-cv-00488-DLB PC, contains common questions of law

1 and fact as Case No. 1:11-cv-01269-SMS. In both actions, Plaintiff complains of being retaliated
2 against for his filing of grievances and reporting prison official misconduct by being placed on
3 management cell watch, being housed with an enemy gang member, and having his legal
4 correspondence from his attorney read outside of his presence. Plaintiff names the same twenty-five
5 Defendants in both actions: F. Gonzalez, M. D. Stainer, K. Holland, T. Steadman, M. Bryant, J.
6 Gutierrez, M. Dunlop, J. Gentry, C. Contreras, J. Tyree, K. Sigston, J. Franco, A. Smith, K. Soto, K.
7 Sampton, G. Stelfer, T. Turmezei, Adame, W. Gutierrez, A. Cantu, A. Ortiz, Webb, B. Powell, R.
8 Harris, and S. Burris. Case No. 11-cv-01269 was recently reopened. Neither complaint was
9 screened pursuant to 28 U.S.C. § 1915A. In the interest of judicial economy, the Court finds that
10 these two actions should be consolidated.

11 Accordingly, in light of the common questions of law and fact of the instant action to the
12 Plaintiff's previously filed action, the Court HEREBY ORDERS that:

- 13 1) The instant action is CONSOLIDATED with Case No. 1:11-cv-01269-SMS. All
14 future filings in this action are to be filed in 1:11-cv-01269-SMS;
- 15 2) The Clerk of the Court is directed to file this order in Case No.1:11-cv-01269-SMS
16 and the instant action; and
- 17 3) The Clerk of the Court is directed to administratively close this action.

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20 IT IS SO ORDERED.

21 Dated: September 13, 2012

/s/ Dennis L. Beck
22 UNITED STATES MAGISTRATE JUDGE