

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ADRIAN MOON, CASE NO. 1:12-cv-01243-MJS (PC)
Plaintiff, ORDER DENYING PLAINTIFF'S MOTIONS
v. TO CONSOLIDATE
C. REECE, et al., (ECF Nos. 5 and 13)
Defendants.

I. PROCEDURAL HISTORY

On July 30, 2012, Plaintiff Adrian Moon, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983. (ECF No. 1.) Plaintiff has consented to Magistrate Judge jurisdiction. (ECF No. 10.)

On December 26, 2012, Plaintiff's Complaint was screened and dismissed, without leave to amend, for failure to state a cognizable claim. (ECF No. 17.) On July 30, 2012 and August 23, 2012, Plaintiff filed motions to consolidate various other civil cases with this present action. (ECF Nos. 5 and 13.) The motions to consolidate are now before the

1 Court.

2 **II. CONSOLIDATION OF ACTIONS**

3 Plaintiff moves to consolidate the following cases with the instant action: Moon v.
4 Junious, et al., No. 1:12-cv-00096-GSA; Moon v. Mullin, et al., No. 2:11-cv-03277-EFB;
5 Moon v. Leroy Baca, et al., No. 2:12-cv-05754-UA-MLG; and Jones v. Grounds, et al., No.
6 5:12-cv-02946-LHK.

7 Federal Rule of Civil Procedure 42(a) permits the Court to consolidate actions
8 involving a common question of law or fact, and consolidation is proper when it serves the
9 purposes of judicial economy and convenience. “The district court has broad discretion
10 under this rule to consolidate cases pending in the same district.” Investors Research Co.
11 v. United States District Court for the Central District of California, 877 F.2d 777 (9th Cir.
12 1989). In determining whether to consolidate actions, the Court weighs the interest of
13 judicial convenience against the potential for delay, confusion, and prejudice caused by
14 consolidation. Southwest Marine, Inc., v. Triple A. Mach. Shop, Inc., 720 F. Supp. 805,
15 807 (N.D. Cal. 1989).

16 Plaintiff argues that the cases he seeks to consolidate share common questions of
17 law and fact with those raised in the present action. However, the motions advocating
18 consolidation do not explain the alleged relationship or how consolidation would result in
19 economy and convenience. The Court can not determine whether the cases share
20 common questions of law or fact because there is no operative complaint in this action.
21 The original complaint was dismissed with leave to amend for failure to comply with the
22 pleading requirements of Federal Rule of Civil Procedure 8(a)(2).

23 A review of the case dockets show that the majority of these cases are unlikely
24

1 candidates for consolidation. Moon v. Mullin, et al., No. 2:11-cv-03277-EFB was dismissed
2 on September 6, 2012. A similar motion to consolidate that case with the instant action
3 was also denied for failure to demonstrate a commonality of law and facts. Plaintiff's
4 appeal of the judgment is pending. Moon v. Leroy Baca, et al., No. 2:12-cv-05754-UA-
5 MLG and Jones v. Grounds, et al., No. 5:12-cv-02946-LHK are cases outside the Eastern
6 District of California. The former case was also dismissed along with Plaintiff's appeal in
7 that action. Plaintiff is not a party to the latter case. A motion to dismiss was recently filed
8 in it. Finally, Moon v. Junious, et al., No. 1:12-cv-00096-GSA is currently active in this
9 district. The Court in that case recently denied a similar motion to consolidate.
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11 Plaintiff's motions to consolidate fail to demonstrate that any of the aforementioned
12 cases include common questions of law or fact or that any economy or convenience would
13 be achieved through consolidation. Each of the identified cases have advanced
14 procedurally, some to judgment, and would likely cause delay and confusion rather than
15 economy or convenience.
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17 **III. CONCLUSION AND ORDER**

18 Accordingly, Plaintiff's motions to consolidate, filed July 30, 2012 and August 23,
19 2012, are HEREBY ORDERED DENIED, without prejudice.
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21 IT IS SO ORDERED.
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23 Dated: January 18, 2013

24 /s/ Michael J. Seng
25 UNITED STATES MAGISTRATE JUDGE
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