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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LAWRENCE CHRISTOPHER SMITH,
Plaintiff,
v.
CHANELO, *et al.*,
Defendants.

Case No. 1:16-cv-01356-NONE-BAM (PC)
ORDER DENYING PLAINTIFF’S MOTIONS
TO AMEND THE COMPLAINT
(ECF Nos. 41, 46)
ORDER DENYING PLAINTIFF’S MOTION
FOR JOINDER OF CLAIMS
(ECF No. 45)
ORDER DENYING PLAINTIFF’S MOTION
FOR STAY OR MODIFICATION OF
DISCOVERY AND SCHEDULING ORDER
BASED ON CAUSE
(ECF No. 51)

I. Procedural History

Plaintiff Lawrence Christopher Smith (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On May 23, 2018, the undersigned issued findings and recommendations recommending that: (1) this action proceed on Plaintiff’s first amended complaint only as to the excessive force claim against Defendants Sotelo, P. Chanelo, D. Wattree, K. Hunt, L. Castro, A. Gonzalez, E. Ramirez, and R. Rodriguez, on March 13, 2013; (2) the Court sever the misjoined claims, into three separate cases and such cases be opened, for excessive force for the incidents of: September 9, 2013 against Defendant D. Knowlton; November 15, 2013 against Defendants E. Weiss, O.

1 Hurtado, and F. Zavleta; and February 6, 2014 against Defendants D. Gibbs and D. Hardy;
2 (3) Plaintiff's improperly joined claims of February 4, 2015, February 25, 2015, and September 2,
3 2015 be dismissed without prejudice to re-filing; and (4) the remaining claims and defendants be
4 dismissed for failure to state a cognizable claim. (ECF No. 16.) The District Judge adopted the
5 findings and recommendations in full on June 20, 2018, and the misjoined claims were opened as
6 separate actions. (ECF No. 18); see Smith v. Knowlton, Case No. 1:18-cv-00851-NONE-BAM;
7 Smith v. Weiss, Case No. 1:18-cv-00852-NONE-BAM; and Smith v. Gibbs, Case No. 1:18-cv-
8 00854-NONE-BAM.

9 On June 22, 2018, the Court ordered Plaintiff to submit service documents for Defendants
10 Castro, Chanelo, Gonzalez, Hunt, Ramirez, Rodriguez, Sotelo, and Wattree. (ECF No. 19.) On
11 July 9, 2018, Plaintiff submitted partially completed service documents, together with a motion
12 for relief from judgment and a proposed second amended complaint. (ECF Nos. 20, 21.) On
13 August 6, 2018, Plaintiff filed a motion to amend the complaint and lodged a proposed
14 supplemental complaint. (ECF No. 22, 23.) On September 10, 2018, Plaintiff filed a notice of
15 errata, a further proposed supplemental complaint, and a motion for reconsideration of judgment.
16 (ECF No. 24.) On March 26, 2019, the Court denied all of the pending motions, finding that
17 Plaintiff continued to raise the same arguments regarding the existence of a conspiracy against
18 him between nearly 100 defendants employed at multiple correctional institutions, county law
19 enforcement and prosecutorial offices, and state courts. As the Court had repeatedly considered
20 these arguments and again found no basis for allowing Plaintiff to proceed against all of the
21 proposed defendants in a single action, the Court found no grounds that would warrant
22 reconsideration of the earlier decision to sever this case and dismiss the otherwise unrelated
23 claims. (ECF No. 27.)

24 On March 18, 2020, the Court issued an order denying Plaintiff's motion for relief from
25 judgment, filed April 25, 2019, construing it as another motion for reconsideration and finding
26 that Plaintiff was again attempting to reintroduce improperly joined defendants and claims in a
27 single action. (ECF No. 58.)

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1 Currently before the Court are several motions filed by Plaintiff, requesting leave to file
2 amended complaints, join claims, and stay or modify the Court's discovery orders. Plaintiff filed
3 a motion to amend, together with a lodged second amended complaint, on September 16, 2019.
4 (ECF Nos. 41, 42.) Defendants filed an opposition on October 7, 2019. (ECF No. 43.) Plaintiff
5 filed a supplemental brief in support of his motion, which the Court construes as an untimely
6 reply, on November 8, 2019. (ECF No. 44.)

7 On December 13, 2019, Plaintiff filed a motion for joinder of claims, another motion to
8 amend the complaint, and a lodged first amended complaint. (ECF Nos. 45–47.) Defendants
9 filed an opposition on January 15, 2020. (ECF No. 50.) Following an extension of time, Plaintiff
10 filed his reply on February 10, 2020. (ECF No. 57.)

11 On January 27, 2020, Plaintiff filed a motion for stay or modification of the discovery and
12 scheduling order based on cause. (ECF No. 51.) Defendants filed an opposition on February 7,
13 2020. (ECF No. 56.) Plaintiff did not file a reply, and the time to do so has expired.

14 All of these motions are deemed submitted. Local Rule 230(1).

15 **II. Motions to Amend and for Joinder of Claims**

16 The complaint in this action originally named over 42 individuals as defendants and dealt
17 with incidents spanning many years. After Plaintiff's failure to properly join claims and
18 defendants pursuant to Federal Rules of Civil Procedure 18 and 20, the Court found it appropriate
19 to sever certain cognizable claims and to dismiss other misjoined claims. (ECF No. 18.)

20 Thereafter, Plaintiff attempted on multiple occasions to have the claims and defendants rejoined,
21 through motions for relief from judgment, motions to amend, and motions for reconsideration.

22 (ECF Nos. 20, 22, 24, 29.) All of these requests and proposed amended and supplemental
23 complaints were denied, as the Court found no support for the existence of a conspiracy among
24 the numerous defendants, and therefore no grounds that would warrant reconsideration of the
25 earlier decision to sever this action and dismiss the otherwise unrelated claims. (ECF Nos. 27,
26 58.)

27 The Court has once again reviewed the submitted motions, proposed amended complaints,
28 Defendants' oppositions, and Plaintiff's replies (both timely and untimely filed). It is clear that

1 each motion, regardless of what the document is titled and regardless of the number assigned to
2 the proposed amended complaint, again seeks the joinder of claims that were previously
3 dismissed or severed from this action. Each of the proposed amended complaints includes no
4 more than conclusory allegations asserting, without factual support, that Defendants have violated
5 various constitutional rights of Plaintiff and that Defendants are engaged in a vast conspiracy
6 across multiple institutions and multiple periods of time. (ECF Nos. 42, 47.)

7 Defendants' argument that granting Plaintiff leave to amend at this juncture would be
8 futile, is well taken. Plaintiff's two motions to amend and his motion for joinder of claims fail to
9 present any new arguments that the Court has not previously considered in Plaintiff's repeated
10 attempts to improperly join all of his claims in one action. Similarly, neither of Plaintiff's
11 proposed amended complaints set forth sufficient allegations to support joining all of these claims
12 in one action, and as to many claims, do not set forth allegations sufficient to state cognizable
13 claims. As such, allowing Plaintiff to file an amended complaint, particularly one which attempts
14 to revive claims already considered and dismissed or severed by this Court, would serve no
15 purpose.

16 As Plaintiff was warned in the Court's prior order, Plaintiff has filed numerous repetitive,
17 misnamed, overlapping, and otherwise harassing filings in this action. Such filings waste the
18 Court's limited resources and delays the resolution of this action. Defendants have also been
19 forced to file numerous oppositions regarding Plaintiff's filings. Plaintiff is warned that filing
20 additional baseless motions, needlessly multiplying the proceedings, wasting judicial resources,
21 or otherwise submitting filings in bad faith or for the purpose of harassment, will subject a party
22 to sanctions. "Rule 11 is intended to deter baseless filings in district court and imposes a duty of
23 'reasonable inquiry' so that anything filed with the court is 'well grounded in fact, legally tenable,
24 and not interposed for any improper purpose.'" Islamic Shura Council of Southern California v.
25 F.B.I., 757 F.3d 870, 872 (9th Cir. 2014) (per curiam) (quoting Cooter & Gell v. Hartmarx Corp.,
26 496 U.S. 384, 393 (1990)).

27 As Plaintiff's various motions set forth the same baseless arguments previously raised and
28 rejected by this Court, the Court declines to expend its scarce resources in repeating the same

1 analysis in once again denying Plaintiff's motion, and refers Plaintiff to prior orders issued in this
2 action. (See ECF Nos. 27, 58.) Given Plaintiff's repeated attempts to improperly join defendants
3 and claims in a single action, and the Court's repeated orders to the contrary, the Court finds that
4 the instant motion to amend is brought in bad faith. Plaintiff was given multiple opportunities
5 prior to the severance of these claims to set forth allegations and arguments as to why these
6 claims and defendants should be joined, and the Court has consistently found Plaintiff's
7 contentions lacking. Any such further requests will be subject to sanctions.

8 **III. Motion for Stay or Modification of Discovery and Scheduling Order**

9 In his motion, Plaintiff seeks a stay of these proceedings pending resolution of his motion
10 for protective order regarding the taking of his deposition, and pending resolution of his pending
11 motions to amend the complaint. (ECF No. 51.) Plaintiff generally argues that for the
12 substantive reasons set forth in his motions to amend and his motion for protective order, a stay is
13 warranted in this action. Plaintiff further contends that he has had difficulties accessing the law
14 library at his current institution, and that he has not been fed properly by correctional staff. (Id. at
15 12.)

16 Defendants contend that, for reasons explained in their oppositions to Plaintiff's motions
17 to amend and motion for protective order, a stay of this action is not appropriate. (ECF No. 56.)
18 However, Defendants agree that modification of the Court's discovery and scheduling order is
19 appropriate, in that it will allow the Court to rule on the pending motions and for Defendants to
20 take Plaintiff's deposition with a clear understanding of which claims are being asserted and
21 which are being permitted to proceed. (Id.)

22 The Court finds that the motion for stay or modification of the Court's discovery and
23 scheduling order is now moot. On March 18, 2020, the Court issued an order denying Plaintiff's
24 motion for protective order and directing the parties to meet and confer and agree on a date for
25 Plaintiff's deposition, to be taken on or before May 18, 2020. (ECF No. 58.) Thus, the discovery
26 deadline, and the deadlines for the filing of dispositive motions, have already been extended.

27 By the instant order, the Court has resolved the pending motions to amend the complaint,
28 and this case is proceeding only on the Eighth Amendment excessive force claim against

1 Defendants Sotelo, P. Chanelo, D. Wattree, K. Hunt, L. Castro, A. Gonzalez, E. Ramirez, and R.
2 Rodriguez, arising from the incident on March 13, 2013. The deadline for the filing of motions to
3 amend the pleadings has expired during the pendency of these motions, and based on the Court's
4 finding that Plaintiff's repeated motions to amend are futile and filed in bad faith, the Court finds
5 no basis for further extension of that deadline. Similarly, Plaintiff has presented no grounds
6 warranting a stay of this action.

7 **IV. Conclusion and Order**

8 For the reasons stated above, IT IS HEREBY ORDERED as follows:

- 9 1. Plaintiff's motions to amend the complaint, (ECF Nos. 41, 46), are DENIED;
- 10 2. Plaintiff's motion for joinder of claims, (ECF No. 45), is DENIED;
- 11 3. Plaintiff's motion for stay or modification of discovery and scheduling order, (ECF
12 No. 51), is DENIED as moot.

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14 IT IS SO ORDERED.

15 Dated: March 24, 2020

16 /s/ Barbara A. McAuliffe
17 UNITED STATES MAGISTRATE JUDGE
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