

## IN THE UNITED STATES DISTRICT COURT

## FOR THE EASTERN DISTRICT OF CALIFORNIA

T. D. HUDKINS, et al.,

Plaintiffs,

No. CIV S-07-2233 LEW KJM P

vs.

ARNOLD SCHWARZENEGGER, et al.,

Defendants.

ORDER

Plaintiffs are state prisoners proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983.

This court has determined that each plaintiff should proceed separately on his own claim. The Federal Rules of Civil Procedure provide “[p]arties may be dropped or added by order of the court on motion of any party or of its own initiative at any stage of the action and on such terms as are just. Any claim against a party may be severed and proceeded with separately.” Fed. R. Civ. P. 21. Courts have broad discretion regarding severance. See Davis v. Mason County, 927 F.2d 1473, 1479 (9th Cir. 1991).

In the instant action, plaintiffs are individuals in the custody of the California Department of Corrections and Rehabilitation, presently confined at Centinela State Prison. In this court’s experience, an action brought by multiple inmate plaintiffs proceeding pro se

1 presents procedural problems that cause delay and confusion. Delay often arises from the  
2 frequent transfer of inmates to other facilities or institutions, the changes in address that occur  
3 when inmates are released to parole, and the difficulties faced by inmates who attempt to  
4 communicate with each other and with unincarcerated individuals.

5 Accordingly, the court will order that plaintiffs' claims be severed. Plaintiff  
6 Hudkins will proceed in this action, while the other plaintiffs will proceed in separate actions to  
7 be opened by the Clerk of the Court. Each plaintiff will proceed with his own action and will be  
8 solely responsible for his own action.

9 The Clerk of the Court will be directed to assign the new action to the same  
10 district judge and magistrate judge assigned to the instant action. The Clerk of the Court shall  
11 make appropriate adjustment in the assignment of civil cases to compensate for this  
12 reassignment.

13 Each plaintiff will be given thirty days to file, in his own action, an amended  
14 complaint and an application for leave to proceed in forma pauperis, using the forms provided by  
15 the court with this order. Each plaintiff is cautioned that if this action proceeds further it is  
16 probable that each plaintiff will incur a liability in the amount of the \$350.00 filing fee, which  
17 amount will be collected from his prison trust account.<sup>1</sup> See 28 U.S.C. § 1915(b).

18 In accordance with the above, IT IS HEREBY ORDERED that:

19 1. The claims of all plaintiffs except those of plaintiff Hudkins are severed from  
20 this action;

21 2. Plaintiff Hudkins shall proceed as the sole plaintiff in case No. CIV-S-07-2233  
22 LEW KJM P;

23 /////

24 /////

---

25 <sup>1</sup> See Information to Prisoners Seeking Leave to Proceed with a Civil Action in Federal  
26 Court In Forma Pauperis Pursuant to 28 U.S.C. § 1915.

1 3. The Clerk of the Court is directed to:

2 a. Open separate civil actions for each plaintiff other than Plaintiff  
3 Hudkins;

4 b. Assign the new actions to the district judge and magistrate judge to  
5 whom the instant case is assigned and make appropriate adjustment in the  
6 assignment of civil cases to compensate for such assignment;

7 c. File and docket a copy of this order in all of the cases;

8 d. Place a copy of the complaint filed October 19, 2007 in all the new  
9 cases;

10 e. Send each plaintiff an endorsed copy of his complaint bearing the case  
11 number assigned to his own individual action;

12 4. Each plaintiff's complaint is dismissed;

13 5. The Clerk of the Court is directed to send each plaintiff a new form for filing a  
14 civil rights action under 42 U.S.C. § 1983 and a new Application to Proceed In Forma Pauperis  
15 By a Prisoner; and

16 6. Each plaintiff is granted thirty days from the date of service of this order to file  
17 an amended complaint and a an application to proceed in forma pauperis, using the forms  
18 provided by the court with this order. Each plaintiff's documents must bear the docket number  
19 assigned to his own individual case, and each complaint must be labeled "Amended Complaint."  
20 Each plaintiff must file an original and one copy of his amended complaint. Failure to file an

21 ///

22 ///

23 ///

24 ///

25 ////

26 ////

1 amended complaint or an application to proceed in forma pauperis in accordance with this order  
2 will result in a recommendation that the plaintiff's action be dismissed.

3 DATED: October 26, 2007.

4   
5 U.S. MAGISTRATE JUDGE

6 1  
7 hudk2233.2.2  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26