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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JERRY W. BAKER, et al.,

Plaintiffs,

No. CIV S-10-1585 KJM P

vs.

WAYNE WENHOLZ, et al.,

Defendants.

ORDER

_____ /

Plaintiffs are Solano County Jail 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 this court’s experience, an action brought by multiple inmate plaintiffs proceeding pro se presents procedural problems that cause delay and confusion. Delay often arises from the transfer of inmates to other facilities or institutions, the changes in address that

1 occur when inmates are released, and the difficulties faced by inmates who attempt to
2 communicate with each other and with unincarcerated individuals.

3 Accordingly, the court will order that plaintiffs' claims be severed. Plaintiff
4 Baker will proceed in this action, while plaintiff Wenzholz will proceed in a separate action to be
5 opened by the Clerk of the Court. Each plaintiff will proceed with his own action and will be
6 solely responsible for his own action.

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

11 Each plaintiff will be directed to file a request for leave to proceed in forma
12 pauperis or pay the filing fee within thirty days. Each plaintiff is cautioned that even if he is
13 granted leave to proceed in forma pauperis, he will incur liability for the \$350.00 filing fee
14 which will be collected from his prison trust account either all at once or in installments.¹ See 28
15 U.S.C. § 1915(b).

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

- 17 1. The claims of plaintiff Wenzholz are severed from the claims of plaintiff
18 Baker;
- 19 2. Plaintiff Baker shall proceed as the sole plaintiff in case No. CIV S-10-1585

20 KJM P;

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

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

2 a. Open a separate civil action for plaintiff Wenzholz;

3 b. Assign that action to the magistrate judge to whom the instant case is
4 assigned and make appropriate adjustment in the assignment of civil cases to
5 compensate for such assignment;

6 c. File and docket a copy of this order in the action opened for plaintiff
7 Wenzholz;

8 d. Place a copy of the complaint filed June 23, 2010 in the action opened
9 for plaintiff Wenzholz;

10 e. Strike from the caption of each plaintiff's complaint the name of the
11 other plaintiff;

12 f. Send each plaintiff an endorsed copy of his complaint bearing the
13 amended caption and the case number assigned to his own individual action.

14 4. Each plaintiff's complaint is dismissed;

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

18 6. Each plaintiff is granted thirty days from the date of service of this order to file
19 an amended complaint. Each plaintiff shall also file an application to proceed in forma pauperis
20 or pay the filing fee within thirty days of service. Each plaintiff's documents must bear the
21 docket number assigned to his own individual case, and each complaint must be labeled
22 "Amended Complaint." Each plaintiff must file an original and two copies of his amended
23 complaint. Failure to file an amended complaint, and either an application to proceed in forma

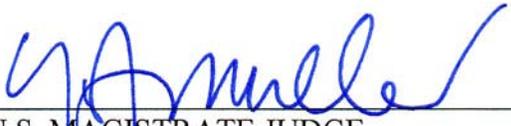
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1 pauperis or the filing fee in accordance with this order will result in a recommendation that the
2 plaintiff's action be dismissed.

3 DATED: June 29, 2010.

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6 U.S. MAGISTRATE JUDGE

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8 bake1585.2

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