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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 KEITH WAYNE SEKERKE,
12 Plaintiff,
13 v.
14 ARTURO LEO; MARK O'BRIEN;
15 SHERIFF WILLIAM GORE,
16 Defendants.

Case No.: 19cv0034-GPC(RBB)

**ORDER DENYING MOTIONS TO
JOIN DEFENDANTS AND CLAIMS
[ECF NOS. 21, 26];**

**ORDER GRANTING PLAINTIFF'S
REQUEST FOR COPIES
[ECF NO. 29]**

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18 Plaintiff Keith Wayne Sekerke, an inmate proceeding pro se, has filed a Motion to
19 Join Defendants and Joinder of Claims, construed by the Court as a motion for leave to
20 file a second amended complaint [ECF No. 21]; a Joinder of Claims, which the Court
21 construes as a motion for joinder of claims [ECF No. 26]; and an Ex Parte Notice of
22 Retaliation and Request for Duplicate Orders [ECF No. 29]. For the reasons set forth
23 below, Plaintiff's motions for leave to file a second amended complaint and for joinder of
24 claims are **DENIED WITHOUT PREJUDICE**, and his request for duplicate copies is
25 **GRANTED**.

26 **I. BACKGROUND**

27 In his First Amended Complaint, Plaintiff asserts that he suffers from health
28 conditions requiring pain medications. (First Am. Compl. 4, ECF No. 7.) Sekerke

1 contends that the San Diego Central Jail, where he is currently incarcerated, has a blanket
2 policy of refusing to provide narcotics to inmates in violation of the Eighth and
3 Fourteenth Amendments, and that Defendants Arturo Leon, M.D. (erroneously sued as
4 Arturo Leo), Mark O'Brien, M.D., and Sheriff William Gore violated his right to
5 adequate medical care by complying with this policy. (Id. at 3, 4.) Plaintiff further
6 alleges that he was denied the right to adequate medical care when he developed a
7 MRSA¹ infection the day after arriving at the jail. (Id. at 15.) He claims that the San
8 Diego County Sheriff's Department's policy of refusing to provide bed sheets to cover
9 "well used mattresses" caused his infection. (Id.) He contends that Defendant Gore is
10 responsible for this policy and that Defendant Leon refused to provide any treatment for
11 Plaintiff's condition. (Id.)

12 In his motion for leave to join defendants and file a second amended complaint,
13 Sekerke seeks to add four additional defendants to this action: Barbara Lee, Sheriff
14 Deputy D. Olsen, Sergeant A. Sevilla, and Lieutenant Laura Coyne. (Mot. Join Defs. 1,
15 ECF No. 21.) Plaintiff contends that Lee, as the Sheriff's Department's Medical
16 Administrator, is responsible for the blanket policy of denying narcotic pain medications
17 to all inmates, and she denied him medical treatment that had been prescribed by a jail
18 physician. (Id. at 2-3.) Additionally, Sekerke alleges that following the service of his
19 complaint upon the three defendants currently named in this case, jail employees Olsen,
20 Sevilla, and Coyne retaliated against Sekerke by placing him in administrative
21 segregation. (Id. at 3-5.) Defendant Gore filed an opposition to Plaintiff's motion in
22 accordance with a briefing schedule issued by the Court [ECF No. 24]. Plaintiff filed a
23 reply [ECF No. 27].

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27 ¹ The Merriam-Webster online dictionary defines "MRSA" to mean "methicillin-resistant
28 Staphylococcus aureus." Merriam-Webster, <https://www.merriam-webster.com/dictionary/MRSA> (last visited Oct. 11, 2019).

1 In his motion for joinder of claims, Sekerke seeks to add a claim against Leon,
2 O'Brien, and Lee for denying him copies of his medical records. (Mot. [Joinder Claims]
3 1, ECF No. 26.) He also appears to allege that he has been denied medical treatment in
4 retaliation for filing this lawsuit. (Id. at 1-3.) The Court did not issue a briefing schedule
5 on this motion.

6 Plaintiff's Ex Parte Notice of Retaliation and Request for Duplicate Orders, filed on
7 October 9, 2019, is illegible in part but appears to allege that Sekerke was strip-searched
8 in retaliation for his lawsuits and complaints. (Notice Retaliation & Req. 2-4, ECF No.
9 29.) He also claims that documents are missing from his cell as a result of it being
10 searched and requests copies of "all the filings and court orders since July 2019." (Id. at
11 2, 6.)

12 II. DISCUSSION

13 A. Motion for Leave to File a Second Amended Complaint and Motion for 14 Joinder of Claims

15 Plaintiff cannot add new defendants or claims to this case by filing a Joinder of
16 Claims or an Ex Parte Notice of Retaliation. Adding parties requires amending the
17 pleadings. See 4 James Wm. Moore et al., Moore's Federal Practice ¶ 20.02[2][a][ii], at
18 20-13 (3d ed. 2019) ("Plaintiff may [bring in additional parties] only by amending the
19 complaint."). If Plaintiff wishes to add defendants or claims to this case, he must file a
20 motion for leave to file an amended complaint pursuant to Rule 15 of the Federal Rules
21 of Civil Procedure. A motion to amend a pleading must be accompanied by a copy of the
22 proposed amended pleading. See S.D. Cal. Civ. R. 15.1.b.; see also Spadafore v.
23 Gardner, 330 F.3d 849, 853 (6th Cir. 2003). Here, Plaintiff has filed a document
24 construed by the Court as a motion for leave to file a second amended complaint but has
25 failed to provide a copy of his proposed amended complaint. Accordingly, his motion for
26 leave to file a second amended complaint and related motion for joinder of claims are
27 **DENIED WITHOUT PREJUDICE.** If Plaintiff wishes to add defendants and claims to

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1 this case, he must refile a motion for leave to file a second amended complaint and must
2 attach a copy of the proposed second amended complaint to the motion.

3 Additionally, Plaintiff should note that prisoners are not permitted to raise all their
4 claims in a single action under Rule 20 of the Federal Rules of Civil Procedure simply
5 because multiple incidents of allegedly wrongful conduct involve prison officials in the
6 same prison. See, e.g., Reed v. Hinshaw, No. 1:11-cv-00340-AWI-SAB (PC), 2013 WL
7 3198611, at *2 (E.D. Cal. June 21, 2013). Rule 20 permits multiple parties to be joined
8 as defendants in a single action only if claims are asserted against them jointly or
9 severally, or arise "out of the same transaction, occurrence, or series of transactions or
10 occurrences" and "any question of fact or law common to all defendants will arise in the
11 action." Fed. R. Civ. P. 20(a)(2). Unrelated claims that involve different defendants
12 must be brought in separate lawsuits. See Reed, 2013 WL 3198611, at *2 (citing George
13 v. Smith, 507 F.3d 605, 607 (7th Cir. 2007)). Moreover, although Rule 15 permits a
14 party to serve a supplemental pleading setting forth "any transaction, occurrence, or event
15 that happened after the date of the pleading to be supplemented[,]" (see Fed. R. Civ. P.
16 15(d)), a supplemental pleading may not introduce a "separate, distinct and new cause of
17 action." Planned Parenthood of S. Arizona v. Neely, 130 F.3d 400, 402 (9th Cir. 1997)
18 (citation omitted). Supplemental pleadings are a particular concern in prisoner cases, in
19 which "joining unrelated claims could result in avoidance of a filing fee or circumvent
20 the [Prison Litigation Reform Act]'s three strikes rule." Singleton v. Kernan, Case No.:
21 3:16-cv-2462-BAS-NLS, 2017 WL 4021536, at *3 (S.D. Cal. Sept. 12, 2017) (citations
22 omitted).

23 **B. Request for Copies**

24 Sekerke claims that documents are missing from his cell as a result of it being
25 searched and requests copies of "all the filings and court orders since July 2019." (Notice
26 Retaliation & Req. 2, 6, ECF No. 29.) Plaintiff's request is **GRANTED**. The Clerk of
27 Court shall provide Plaintiff with copies of the Court's orders docketed at ECF Nos. 18,
28 22, and 23. The Court further **DIRECTS** Defendant Gore to provide Plaintiff with an

1 additional copy of his motion to dismiss [ECF No. 13] and Defendants Leon and O'Brien
2 to provide Plaintiff with an additional copy of their answer [ECF No. 16].

3 **III. CONCLUSION**

4 For the reasons discussed above, Plaintiff's motions for leave to file a second
5 amended complaint [ECF No. 21] and motion for joinder of claims [ECF No. 26] are
6 **DENIED WITHOUT PREJUDICE**. If Plaintiff wishes to add defendants and claims to
7 this case, he must file a motion for leave to file a second amended complaint by
8 November 12, 2019, and must attach a copy of the proposed second amended complaint
9 to the motion. Plaintiff is advised that the second amended complaint must be clearly
10 captioned as such, shall be complete in itself without reference to the prior pleadings, and
11 shall contain copies of all exhibits referred to in the second amended complaint. See S.D.
12 Cal. Civ. R. 15.1.a. Defendants not named and any claim not realleged in the second
13 amended complaint will be considered waived. See, e.g., Hal Roach Studios, Inc. v.
14 Richard Feiner & Co., Inc., 896 F.2d 1542, 1546 (9th Cir. 1989) ("[A]n amended
15 pleading supersedes the original."). If Plaintiff fails to file a motion for leave to file a
16 second amended complaint within the time allotted, or if the proposed second amended
17 complaint fails to comply with these general rules of pleading, the First Amended
18 Complaint, already on file with the Court, will remain as the operative pleading in this
19 matter.

20 Plaintiff's request for copies [ECF No. 29] is **GRANTED**. The Clerk of Court
21 shall provide Plaintiff with copies of the Court's orders docketed at ECF Nos. 18, 22, and
22 23. Defendant Gore shall provide Plaintiff with an additional copy of his motion to

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1 dismiss [ECF No. 13] and Defendants Leon and O'Brien shall provide Plaintiff with an
2 additional copy of their answer [ECF No. 16].

3 **IT IS SO ORDERED.**

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5 Dated: October 11, 2019


6 Hon. Ruben B. Brooks
7 United States Magistrate Judge

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