IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

TOBY ROBERTO MACKALL,

Plaintiff,

v. Civil Action No. RDB-17-0774

UNITED STATES DEPARTMENT OF DEFENSE,

Defendant.

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TOBY ROBERTO MACKALL,

Plaintiff,

v. Civil Action No. RDB-17-0865

CLARK W. LEMASTERS, JR., TIMOTHY D. LUEDECKING, MYRON L. BELL, and MATTHEW D. TOBIN,

Defendants.

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MEMORANDUM ORDER

Currently pending in these related actions filed by *pro se* Plaintiff Toby Roberto Mackall ("Plaintiff" or "Major Mackall") against Defendants United States Department of Defense ("Department of Defense"), Clark W. LeMasters, Jr., Timothy D. Luedecking, Myron L. Bell, and Matthew D. Tobin (collectively, "Defendants") are several motions, including Defendant Department of Defense's Motions to Consolidate Cases (RDB-17-0774, ECF No. 5; RDB-17-0865, ECF No. 5). Plaintiff filed an Opposition to Defendant's

Motions to Consolidate. (RDB-16-0774, ECF No. 6; RDB-17-0865, ECF No. 7.) The parties' submissions have been reviewed, and no hearing is necessary. *See* Local Rule 105.6 (D. Md. 2014). For the reasons that follow, Civil Action No. RDB-17-0774 and Civil Action No. RDB-17-0865 shall be consolidated, and this case shall proceed as set forth below.

DISCUSSION

I. Motions to Consolidate

Under Fed. R. Civ. P. 42(a), actions before the court may be consolidated when they "involve a common question of law or fact." Fed. R. Civ. P. 42(a). "District courts have broad discretion under F[ed]. R. Civ. P. 42(a) to consolidate causes pending in the same district." *A/S J. Ludwig Mowinckles Rederi v. Tidewater Const. Co.*, 559 F.2d 928, 933 (4th Cir. 1977).

Both of Plaintiff's Complaints in Civil Action No. RDB-17-0774 and Civil Action No. RDB-17-0865 assert claims arising from an active shooter event in Major Mackall's unit at Fort Hood, Texas. Specifically, he brings claims challenging his removal from a leadership position after the event, and a subsequent investigation into the event. The Individual Defendants named in Civil Action No. RDB-17-0865 were within the chain of command that ultimately made the decision to remove Plaintiff from his position. Plaintiff's claim in Civil Action No. RDB-17-0774 against the Department of Defense then asserts that he "was removed from leadership position prior to an investigation" in violation of his 5th and 14th Amendment rights. In addition, both cases involve common issues of law concerning this Court's jurisdiction to resolve Plaintiff's claims.

Because these cases involve common questions of fact and law, they will be consolidated. Accordingly, Defendant Department of Defense's Motions to Consolidate (RDB-16-0774, ECF No. 5; RDB-17-0865, ECF No. 5) are GRANTED.

II. Pending Motions

There are also pending Motions to Dismiss, Motions for Partial Summary Judgment, and Motions to Stay Motion for Summary Judgment. These motions will be resolved jointly subsequent to consolidation of the two cases.

The Clerk of this Court is directed to docket the following Motions from Civil Action No. RDB-17-0865 into the consolidated RDB-17-0774 case, where the Motions will remain pending:

1. Plaintiff's Complaint (ECF No. 1);
2. Defendants' Motion to Dismiss (ECF No. 10), Response in Opposition (ECF No. 12), and Reply (ECF No. 18);
3. Plaintiff's Motion for Partial Summary Judgment (ECF No. 19); and
4. Defendants' Motion to Stay (ECF No. 20), Response in Opposition (ECF No. 21), and Reply (ECF No. 22).

CONCLUSION

For the reasons stated above, it is hereby ORDERED this 14th day of November, 2017, that:

1. Defendant Department of Defense's Motions to Consolidate Cases (RDB-16-0774, ECF No. 5; RDB-17-0865, ECF No. 5) are GRANTED;
2. Civil Action No. RDB-17-0774 and Civil Action No. RDB-17-0865 are CONSOLIDATED, with RDB-17-0774 designated as the lead case;

3. The Clerk of this Court SHALL DOCKET the Plaintiff's Complaint (ECF No. 1); Defendants' Motion to Dismiss (ECF No. 10), Response in Opposition (ECF No. 12), and Reply (ECF No. 18); Plaintiff's Motion for Partial Summary Judgment (ECF No. 19); and Defendants' Motion to Stay (ECF No. 20), Response in Opposition (ECF No. 21), and Reply (ECF No. 22) in Civil Action No. RDB-17-0774, where the Motions shall remain Pending;
4. The Clerk of this Court shall CLOSE Civil Action No. RDB-17-0865;
5. The Clerk of this Court SHALL TRANSMIT a copy of this Memorandum Order to the Parties and Counsel of record; and
6. The parties are directed to make any future filings in Civil Action No. RDB-17-0774 ONLY.

Richard D. Bennett
United States District Judge