

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

Allan Fletcher v. Stephanie Clendenin, et al.

Fletcher · No. 1:22-cv-01150-EPG (PC) · Decided March 16, 2023

OPINION

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA
9 10 ALLAN FLETCHER, Case No. 1:22-cv-01150-EPG (PC) 11 Plaintiff, ORDER DENYING
PLAINTIFF’S MOTION 12 TO CONSOLIDATE, WITHOUT v. PREJUDICE 13 (ECF No. 9) 14
STEPHANIE CLENDENIN, et al., 15 Defendants. 16 17 Allan Fletcher (“Plaintiff”) is a civil
detainee proceeding pro se and in forma pauperis in 18 this civil rights action filed pursuant to 42
U.S.C. § 1983.

Plaintiff alleges that his legal mail is 19 being opened pursuant to rules and regulations
promulgated and/or enforced by Defendants. 20 On March 3, 2023, Plaintiff filed a motion to
consolidate (ECF No. 9), which is now before 21 the Court. Plaintiff alleges that he was made
aware of a similar case also proceeding in the 22 Eastern District that was filed by another civil
detainee, Patrick Neill.¹ Plaintiff alleges both 23 cases involve the same defendants unlawfully
opening clearly marked legal mail outside the 24 plaintiff’s presence.

Both cases also involve the same policy and regulations that were used to 25 justify opening the
legal mail outside of the plaintiff’s presence. Plaintiff argues that the cases 26 should be
consolidated because both cases present substantially similar factual and legal issues 27 1 The
Court grants Plaintiff’s request for judicial notice of *Neill v. Department of State Hospitals, E.D.*

CA, Case No. 1:22-cv-01010, for the purpose of determining whether the cases should be
consolidated. 28 1 | and both cases are in the same procedural stage. In support of his motion
Plaintiff submits a 2 | declaration from Patrick Neill, who states that he agrees that the cases
should be consolidated. 3 | Cd. at 8). 4 Federal Rule of Civil Procedure 42(a) provides: 5 If actions
before the court involve a common question of law or fact, the court may: 6 (1) join for hearing or
trial any or all matters at issue in the 7 actions; (2) consolidate the actions; or 8 (3) issue any other
orders to avoid unnecessary cost or delay.

9 | Fed. R. Civ. P. 42(a). 10 The decision of whether to consolidate cases under Rule 42 is within
the broad discretion 11 | of the Court. *Pierce v. County of Orange*, 526 F.3d 1190, 1203 (9th Cir.
2008) (“A district court 12 | generally has ‘broad’ discretion to consolidate actions.”).

In determining whether to consolidate 13 | actions, the Court “weighs the interest of judicial
convenience against the potential for delay, 14 | confusion and prejudice caused by consolidation.”

Sw. Marine, Inc. v. Triple A Mach. Shop, 15 | Inc., 720 F. Supp. 805, 807 (N.D. Cal. 1989). 16 The Court has reviewed the cases, and there are strong similarities between them.

17 || However, actions involving multiple plaintiffs proceeding pro se in which one or more of the
18 | plaintiffs are detained can present procedural problems and can cause delay and confusion. 19
| Moreover, the defendants have not yet appeared in either case and thus are not yet able to weigh
20 | in on the benefits and disadvantages of consolidation.

Therefore, the Court will deny Plaintiffs 21 | motion, without prejudice to Plaintiff or Defendant(s)
filing a motion to consolidate at a later 22 | stage of the proceedings. 23 Accordingly, IT IS
ORDERED that Plaintiff's motion to consolidate (ECF No. 9) is 24 | DENIED without prejudice.
95 IT IS SO ORDERED. 26 | Dated: _ March 16, 2023 hey — 07 UNITED STATES
MAGISTRATE JUDGE 28