UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

TEDDY NORRIS DAVIS, *et al*,	§	
	§	
Plaintiffs,	§	
VS.	§	CIVIL NO. 2:12-cv-166
	§	
BILLY PIERCE, *et al*,	§	
	§	
Defendants.	§	

WILLIAM CASEY,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL NO. 2:14-cv-13
	§	
LORIE DAVIS, *et al*,	§	
	§	
Defendants.	§	

RAYMOND COBB,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL NO. 2:14-cv-22
	§	
CLINT MORRIS, *et al*,	§	
	§	
Defendants.	§	

ORDER CONSOLIDATING CASES

Several inmates, who either are or were Texas inmates housed at McConnell Unit in Beeville, Texas, have filed three civil rights cases in this Court. The plaintiffs in these cases challenge the same policies and practices of the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), which they assert have conflicted with their right to practice their Native American faith in violation of the Religious Land Use and

Institutionalized Persons Act (RLUIPA), 42 U.S.C. § 2000cc, *et seq.*, and the First Amendment. This matter is now before the Court for sua sponte consideration as to whether these actions should be consolidated for trial.

I. BACKGROUND

On May 21, 2012, Teddy Norris Davis filed a civil rights action alleging that the TDCJ has implemented policies that prevent him from (1) growing his hair long or alternatively, maintaining a kouplock, which is a continuously growing one inch square section of hair at the base of the skull; (2) wearing a religiously significant "medicine bag" at all times; and (3) smoking a prayer pipe during Native American pipe ceremonies. (2:12cv166, D.E. 1). Robbie Dow Goodman was later granted leave to join as a plaintiff. (2:12cv166, D.E. 16). On January 10, 2014 and January 21, 2014, respectively, William Casey and Raymond Cobb filed separate civil rights actions in which they also challenged, pursuant to RLUIPA and the First Amendment, the same policies. (2:14cv13, D.E. 1; 2:14cv22, D.E. 1).

In each of the three actions filed by inmates who practice the Native American faith, the Court only allowed the RLUIPA grooming policy claim to survive past summary judgment. (2:12cv166, D.E. 231; 2:14cv13, D.E. 91; 2:14cv22, D.E. 38). Specifically, the Court ruled in each case that a fact issue exists as to whether TDCJ's grooming policy is the least restrictive means of maintaining the TDCJ's compelling security and costs interests. (*Id.*). In the first civil rights action, Plaintiff Davis's claims were dismissed for lack of subject matter jurisdiction since he had been released from TDCJ custody. (2:12cv166,

D.E. 248). Each of the cases filed by Plaintiffs Goodman, Casey, and Cobb are now ready to be set for trial on their respective RLUIPA grooming policy claims.

II. DISCUSSION

Federal Rule of Civil Procedure 42(a) provides that if actions "involve a common question of law or fact," the court may "join for hearing or trial any or all matters at issue in the actions," "consolidate the actions," or "issue any other order to avoid unnecessary cost or delay." Fed. R. Civ. P. 42(a). Consolidation does not merge the suits into a single action or change the rights of the parties; rather, consolidation is "intended only as a procedural device used to promote judicial efficiency and economy" and "the actions maintain their separate identities." *See Frazier v. Garrison I.S.D.,* 980 F.2d 1514, 1532 (5th Cir.1993).

The decision to consolidate actions under Rule 42(a) is "entirely within the discretion of the district court as it seeks to promote the administration of justice." *Gentry v. Smith,* 487 F.2d 571, 581 (5th Cir.1973). Factors for the court to consider in deciding if consolidation is appropriate include the following: "(1) whether the actions are pending before the same court, (2) whether common parties are involved in the cases, (3) whether there are common questions of law and/or fact, (4) whether there is risk of prejudice or confusion if the cases are consolidated, and if so, is the risk outweighed by the risk of inconsistent adjudications of factual and legal issues if the cases are tried separately, and (5) whether consolidation will conserve judicial resources and reduce the time and cost of trying the cases separately." *In re Enron Corp. Securities, Derivative & "ERISA" Litigation*, Civ. A. Nos. H–01–3624, H–04–0088, H–04–0087, H–03–5528, 2007 WL 446051, at *1 (S.D. Tex. Feb.7, 2007).

In the instant matter, all three actions are pending in this Court with two of the actions assigned to the undersigned and the third action assigned to Magistrate Judge B. Janice Ellington by consent. Judge Ellington agrees the cases should be consolidated and proceed before the undersigned. The cases involve common issues of law and fact, and Defendant Lorie Davis is the common remaining defendant in each case. Should the cases proceed separately, there is a risk of inconsistent adjudications of the factual and legal issues. Furthermore, there is little risk of prejudice or confusion if the cases are consolidated. Finally, consolidation will conserve judicial resources and reduce time and cost of trying the cases separately. The Court concludes, therefore, that these cases shall be consolidated for trial.

III. CONCLUSION

For the foregoing reasons, IT IS HEREBY ORDERED that the Clerk of Court shall consolidate Civil Actions 2:14-CV-13 and 2:14-CV-22 with 2:12-CV-166. The consolidated action shall proceed before the undersigned with the oldest case, Cause No. 2:12-CV-166, being the lead case. The Clerk, therefore, is DIRECTED to REASSIGN 2:12-CV-166 to the undersigned and to administratively close Cause Nos. 2:14-CV-13 and 2:14-CV-22. All future pleadings shall be filed in Cause No. 2:12-CV-166.

SIGNED and ENTERED this 2nd day of March, 2018.

NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE