

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

TEDDY NORRIS GREY HAWK DAVIS,	§	
TDCJ-CID #168949,	§	
and	§	
ROBBIE DOW GOODMAN	§	CASE NO. 2:12-cv-166
TDCJ-CID #758386,	§	(consolidated with Case No. 2:12-cv-169)
Plaintiffs,	§	
v.	§	
	§	
RICK THALER, ET AL.	§	

ORDER CONCERNING PARTIES AND ORDER ON PENDING MOTIONS

On June 21, 2012, an evidentiary hearing was conducted in this prisoner civil rights action. At the hearing, the following issues were clarified concerning plaintiff's pending motions and the proper parties to this litigation:

(1) Robbie Dow Goodman, TDCJ-CID # 758386, is added as a plaintiff to this lawsuit, and the Clerk is instructed to note such on the docket, and to include Mr. Goodman in the style of this case. The motion for joinder of party (D.E. 5), is GRANTED.

(2) Plaintiff Goodman is granted leave to proceed *in forma pauperis*, and a separate collection order will be entered.¹

(3) Plaintiff Davis orally moved to voluntarily dismiss defendants Ed Hernandez and Chaplain Jones. That motion is granted, and the Clerk is instructed to remove the names of these individuals from the docket.

¹ Pursuant to the Prison Litigation Reform Act ("PLRA"), each prisoner-plaintiff must pay the court filing fee regardless of whether prisoners join in one action or each file an individual action. *See* 28 U.S.C. § 1915(b)(1); Boribourne v. Berge, 391 F.3d 852, 854-56 (7th Cir. 2004) (the PLRA obliges prisoners in a joint action seeking to proceed i.f.p. to pay one filing fee per prisoner, rather than splitting one filing fee); Hubbard v. Haley, 262 F.3d 1194, 1197-98 (11th Cir. 2001) (PLRA did not permit group of prisoners proceeding i.f.p. in § 1983 action against correction officials to join claims and thereby divide single mandatory filing fee among them, regardless of prisoners' contention that federal joinder rule governed and that their claims arose out of the same transaction or occurrence and involved common questions of law).

(4) Plaintiff Davis orally moved to amend the original complaint to sue the following individuals in their individual and official capacities:

- (i) Clint Morris, Program Analyst for Designated Units. Defendant Morris is alleged to have prohibited the traditional pipe ceremonies at the McConnell Unit, despite a 2008 TDCJ-CID policy that specifically authorizes the pipe ceremonies;
- (ii) Madeleine Ortiz, Director of Rehabilitative Programs. The Chaplaincy Department falls under Ms. Ortiz' supervision, and she is alleged to have approved the decision to prohibit traditional pipe ceremonies, in conflict with the policy; and
- (iii) Shawna Mitchell, McConnell Unit Chaplain. Chaplain Mitchell is alleged to have refused to follow the 2008 policy that permits traditional pipe ceremonies.

The motion to amend is granted, and the Clerk is instructed to add these individuals as defendants on the docket.

(5) Plaintiff Davis moved orally to withdraw his retaliation claims and related request for injunctive relief concerning those retaliation claims. That motion is granted, and accordingly, the letter motion for a restraining order (D.E. 11) is denied as moot.

(6) Defendant Rick Thaler is sued in his official capacity only for injunctive relief.

(7) Plaintiff's motion to consolidate (D.E. 15) is denied as moot because a consolidation order was entered on June 12, 2012 (D.E. 14).

ORDERED this 22nd day of June, 2012.


B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE