

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PARKER, et al.)
)
 Plaintiffs)
)
 v.) NO. 1:03CV00213 (EGS)
)
 DISTRICT OF COLUMBIA, et al.)
)
 Defendants)

MOTION TO CONSOLIDATE

COME NOW Plaintiffs in Seegers, et al. v. Ashcroft, et al., No. 1:03CV00834 (RBW), by counsel, and move the court, pursuant to Rule 42(a), Fed.R.Civ.Pro., to consolidate Seegers with the instant case.¹

Rule 42(a) provides in part: "When actions involving a common question of law or fact are pending before the court, . . . it may order all the actions consolidated" In Judicial Watch, Inc. v. United States Department of Energy, et al., 207 F.R.D. 8 (D.D.C. 2002), the court held:

Under Rule 42 of the Federal Rules of Civil Procedure, the Court has discretion to consolidate civil actions when the cases share common issues of law or fact, consolidation would serve the interests of judicial economy, and the parties would not be prejudiced by consolidation.

207 F.R.D. at 8.

¹ This motion is being filed in the instant case following a discussion with Judge Walton's law clerk by below-signed counsel. A motion to consolidate had been filed in Seegers, but below-signed counsel was informed by Judge Walton's law clerk that the motion should be filed in the instant case.

In Mylan Pharmaceuticals Inc., v. Henney, 94 F.Supp.2d 36 (D.D.C. 2000), the court stated:

Consolidation of cases is "permitted as a matter of convenience and economy in administration, but does not merge the suits into a single cause, or change the rights of the parties, or make those who are parties in one suit parties in another." (citation omitted). A court has discretion to consolidate cases under Rule 42(a) if such consolidation will help it manage its caseload with "economy of time and effort for itself, for counsel, and for litigants." (citation omitted).

94 F.Supp.2d at 43.

Consolidation of Seegers with the instant case would serve the interests of judicial economy because Seegers and the instant case have a common question of law in that both cases challenge the constitutionality, under the Second Amendment to the United States Constitution, of: D.C. Code § 7-2502.02(a)(4), which prohibits possession of pistols, even in the home; § 7-2507.02, which requires registered firearms in the home to be disabled; and § 22-4504(a), which prohibits the carrying of firearms, even in one's own dwelling. Although Seegers challenges the above provisions of the D.C. Code on the additional grounds that they violate D.C. Code § 1-303.43 (which is an act of Congress), the Civil Rights Act of 1866 (42 U.S.C. §1981(a)), and the Fifth Amendment, the decision of the court in the instant case will overlap with the decision of the court in Seegers.

Further, the parties in the instant case would not be prejudiced by consolidation. The District of Columbia filed a

motion to dismiss on March 3, 2003, which the plaintiffs in the instant case opposed by memorandum of March 14; the plaintiffs also filed a motion for summary judgment on the same day. On April 3, the District of Columbia requested an extension of time until June 3, 2003 to file its reply to the opposition and to the motion for summary judgment. Consolidating Seegers with the instant case would, therefore, not significantly slow the resolution of the instant case. Further, given that no preliminary injunctive relief has been requested, slowing the proceedings in the instant case would not prejudice the plaintiffs, but would serve the interests of judicial economy.

Counsel for the plaintiffs in the instant case have informed below-signed counsel that they oppose this motion. Counsel for the District of Columbia has informed below-signed counsel that, although no final decision had been made because the Complaint had not been reviewed, the District of Columbia probably would not oppose a motion to consolidate. Below-signed counsel have been unable to consult with counsel for the United States as below-signed counsel do not know the attorney to whom Seegers has been assigned.

CONCLUSION

The court should consolidate Seegers with the instant case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing MOTION TO CONSOLIDATE was mailed, first class postage prepaid, this 17th day of April, 2003 to:

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