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

SERGEI PORTNOY, et al.,

Plaintiffs,

CIV S-10-1680 FCD KJM PS

vs.

UNITED STATES,

ORDER AND

Defendant.

FINDINGS AND RECOMMENDATIONS

_____/

Plaintiffs are proceeding in this action pro se. Plaintiffs have requested authority pursuant to 28 U.S.C. § 1915 to proceed in forma pauperis. This proceeding was referred to this court by Local Rule 72-302(c)(21).

Plaintiffs have submitted the affidavit required by § 1915(a) showing that plaintiffs are unable to prepay fees and costs or give security for them. Accordingly, the request to proceed in forma pauperis will be granted. 28 U.S.C. § 1915(a).

In this action, plaintiffs raise claims arising out of the adjudication of plaintiff Elena Portnoy’s immigration status. Plaintiffs have filed several lawsuits regarding this matter, including cases in the Ninth Circuit Court of Appeals and in the United States District Court for the Northern District of California, as well as in the United States District Court for the Eastern District of California. In the Eastern District of California, plaintiffs’ previous cases regarding

1 Elena Portnoy's immigration status are (1) Portnoy, et al. v. United States, et al., case No. CIV
2 S-05-0649 DFL KJM PS, filed on April 4, 2005 and dismissed on September 26, 2006; (2)
3 Portnoy, et al. v. United States, et al., case No. CIV S-08-1266 MCE GGH PS, filed on June 6,
4 2008 and dismissed on April 6, 2009; and (3) Portnoy, et al. v. United States, et al. case No.
5 CIV S-09-1935 GEB DAD PS, filed on July 16, 2009 and dismissed on August 6, 2009.

6 This action is duplicative of the actions previously filed by plaintiffs. Plaintiffs
7 continue to attack the basis upon which plaintiff Elena Portnoy's immigration status has been
8 adjudicated. As in plaintiffs' prior actions filed in this district, it is evident plaintiffs cannot
9 plead an adequate basis for subject matter jurisdiction or overcome the bar of res judicata arising
10 from plaintiffs' previous litigation. The court will therefore recommend this action be dismissed
11 with prejudice.

12 Accordingly, IT IS HEREBY ORDERED that plaintiffs' request to proceed in
13 forma pauperis is granted; and

14 IT IS HEREBY RECOMMENDED that this action be dismissed with prejudice.

15 These findings and recommendations are submitted to the United States District
16 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within
17 fourteen days after being served with these findings and recommendations, any party may file
18 written objections with the court and serve a copy on all parties. Such a document should be
19 captioned "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the
20 objections shall be served and filed within fourteen days after service of the objections. The
21 parties are advised that failure to file objections within the specified time may waive the right to
22 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

23 DATED: July 6, 2010.

24 
25 U.S. MAGISTRATE JUDGE

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