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

STEVEN M. PALMER,

Plaintiff,

vs.

1: 07 CV 0514 LJO WMW PC

FINDINGS AND RECOMMENDATION

C/O CROTTY, et al.,

Defendants.

Plaintiff is a state prisoner proceeding pro se in a civil rights action pursuant to 42 U.S.C. § 1983.

This action was initiated by civil complaint filed by Plaintiff in the Northern District of California on February 3, 2007, and transferred to this district on April 2, 2007. On January 26, 2007, Plaintiff filed civil action no. 1:07 CV 0148 LJO DLB PC. On July 15, 2008, Plaintiff filed, in case number 07-148, a motion titled as a “Motion for Clarification of Motion Sent to Magistrate Judge Dennis L. Beck, June 17, 2008.” In that document, Plaintiff indicates that case number 07-514 and 07-148 are duplicative of each other. Plaintiff appears to seek guidance on which case number he should use on pleadings.

A review of both complaints reveals that the actions are duplicative. The Court will therefore recommend dismissal of this action, case number 1:07 CV 0514 LJO WMW PC,

1 without prejudice. Plaintiff should therefore assert all of his claims in the earlier filed case.

2 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without  
3 prejudice as duplicative.

4 These findings and recommendations are submitted to the United States District Judge  
5 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within thirty days  
6 after being served with these findings and recommendations, any party may file written  
7 objections with the court and serve a copy on all parties. Such a document should be captioned  
8 “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections  
9 shall be served and filed within ten days after service of the objections. The parties are advised  
10 that failure to file objections within the specified time waives all objections to the judge’s  
11 findings of fact. See Turner v. Duncan, 158 F.3d 449, 455 (9<sup>th</sup> Cir. 1998). Failure to file  
12 objections within the specified time may waive the right to appeal the District Court’s order.  
13 Martinez v. Ylst, 951 F.2d 1153 (9<sup>th</sup> Cir. 1991).

14 IT IS SO ORDERED.

15 **Dated: January 12, 2009**

**/s/ William M. Wunderlich**  
**UNITED STATES MAGISTRATE JUDGE**