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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER S. RIDER,

Plaintiff,

v.

JAMES YATES, et al.,

Defendants.

CASE NO. 1:07-CV-01401-LJO-DLB (PC)

ORDER DISMISSING ACTION AS
DUPLICATIVE AND DIRECTING CLERK
OF COURT TO CLOSE CASE

Plaintiff Christopher S. Rider (“Plaintiff”) is a California state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on September 14, 2007.

The instant action is proceeding on Plaintiff’s second amended complaint against Defendants Huckabee, Rangel, and Deathridge. (ECF No. 39.) Plaintiff had not responded to the Court’s order to submit service documents for the United States Marshal to effect service of process on Defendants. The Court ordered Plaintiff to show cause why this action should not be dismissed. On July 7, 2010, Plaintiff filed his response to the order to show cause. Plaintiff indicated that he was proceeding in two identical actions before this Court. Upon review of this case, the Court has concluded that the action submitted involves defendants, issues, and factual allegations that are identical to those raised in *Christopher S. Rider v. Yates, et al.*, Case No. 1:07-cv-1340-LJO-MJS, E.D. Cal., filed on September 12, 2007.

“After weighing the equities of the case, the district court may exercise its discretion to dismiss a duplicative later-filed action, to stay that action pending resolution of the previously

1 filed action, to enjoin the parties from proceeding with it, or to consolidate both actions.” *Adams*
2 *v. California Dept. of Health Services*, 487 F.3d 684, 688 (9th Cir. 2007). “Plaintiffs generally
3 have ‘no right to maintain two separate actions involving the same subject matter at the same
4 time in the same court and against the same defendants.’” *Id.* (quoting *Walton v. Eaton Corp.*,
5 563 F.2d 66, 70 (3d Cir. 1977) (en banc)). “[A] suit is duplicative if the claims, parties, and
6 available relief do not significantly differ between the two actions.” *Id.* at 689.

7 The present action, Case No. 1:07-cv-01401-LJO-DLB, is duplicative of Case No. 1:07-
8 cv-1340-LJO-MJS. Plaintiff brings the same cause of action, regarding the same issues and
9 factual allegations, in the same court. The only difference between the two is that Defendants
10 Rangel and Huckabee have appeared in the other action. Both actions included the same claims
11 of violation of the First Amendment.

12 Accordingly, in light of the duplicative nature of the instant action to the Plaintiff’s
13 previously filed action, the Court HEREBY ORDERS that the instant action is DISMISSED as
14 duplicative and that the Clerk of Court is DIRECTED to close this action.

15 IT IS SO ORDERED.

16 **Dated: July 9, 2010**

/s/ Lawrence J. O’Neill
UNITED STATES DISTRICT JUDGE