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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FRANCISCO ROSALES,

CASE NO. 1:11-cv-00508-LJO-SKO PC

Plaintiff,

ORDER (1) DIRECTING CLERK'S OFFICE TO FILE COMPLAINT FROM THIS ACTION IN CASE NUMBER 1:10-CV-02402-GBC AS AN AMENDED COMPLAINT, AND (2) DISMISSING THIS ACTION, WITHOUT PREJUDICE, AS DUPLICATIVE OF CASE NUMBER 1:10-CV-02402-GBC

v.

J. WALKER, et al.,

Defendants.

(Doc. 1)

_____ /

Plaintiff Francisco Rosales, state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on March 25, 2011. In this action, Plaintiff alleges a claim for denial of medical care, in violation of the Eighth Amendment, against Defendants Walker, Umi, Miller, Arnold, Enenmoh, Crum, Allison, Taylor, and Sanchez. Plaintiff also filed an earlier suit against Defendants Walker, Umi, Hene, Miller, Arnold, Enenmoh, and Crum for denial of medical care, in violation of the Eighth Amendment. While the complaints are not identical, the allegations in both actions are so substantially similar, including reliance in both cases on documents pertaining to inmate appeal log number SAT-33-09-16769, that the Court concludes Plaintiff is attempting to litigate the same claims in two separate actions.

Therefore, the earlier-filed action shall proceed and this action shall be dismissed as duplicative. In the interest of justice, the complaint in this action shall be filed in the other action as an amended complaint.

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1 Accordingly, it is HEREBY ORDERED that:

- 2 1. The Clerk's Office shall file the complaint from this action in case number 1:10-cv-
3 02402-GBC as an amended complaint; and
4 2. This action is dismissed, without prejudice, as duplicative of case number 1:10-cv-
5 02402-GBC.

6
7 IT IS SO ORDERED.

8 **Dated:** February 22, 2012

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