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6 UNITED STATES DISTRICT COURT
7 FOR THE EASTERN DISTRICT OF CALIFORNIA
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9 STEVEN R. MILLER,

10 Plaintiff,

11 v.

12 ALBERT NAJERA, *et al.*,

13 Defendants.
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Case No. 1:20-cv-00234-NONE-JDP

ORDER DENYING PLAINTIFF'S MOTION
FOR AN INDEFINITE EXTENSION

ECF No. 12

FINDINGS AND RECOMMENDATIONS
THAT THIS CASE BE DISMISSED AS
DUPLICATIVE OF CASE NUMBER 1:19-
CV-01077-AWI-BAM

OBJECTIONS DUE IN THIRTY DAYS

18 Plaintiff Steven R. Miller is a federal prisoner proceeding without counsel in this civil
19 rights action brought under 42 U.S.C. § 1983 and *Bivens v. Six Unknown Named Agents*, 403
20 U.S. 388 (1971). On April 13, 2020, the court ordered that plaintiff show cause why this case
21 should not be dismissed as duplicative of case number 1:19-CV-01077-AWI-BAM. ECF
22 No. 7. On May 18, 2020, plaintiff asked for an indefinite extension of time to respond, citing
23 lockdowns resulting from COVID-19. ECF No. 8. The court granted plaintiff an additional 60
24 days. ECF No. 11. On July 17, 2020, plaintiff again moved for an indefinite extension of
25 time, citing ongoing COVID-19 lockdowns that hinder legal research. ECF No. 12.

26 While the court is sympathetic to the difficulties imposed by ongoing lockdowns, these
27 circumstances do not warrant additional time. Plaintiff's complaint in this case appears nearly
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1 identical to his first amended complaint in case number 1:19-CV-01077-AWI-BAM. *Compare*
2 ECF No. 4 in Case No. 1:19-CV-01077-AWI-BAM with ECF No. 1 in Case No. 1:20-cv-
3 00234-NONE-JDP. If plaintiff has an explanation for why he is pursuing the same complaint
4 in two separate cases, he should be able to offer that explanation without extensive legal
5 research. Moreover, plaintiff will still have another chance to offer such an explanation in his
6 objections to this order. Plaintiff’s motion for an extension, ECF No. 12, therefore lacks good
7 cause and is denied.

8 The court also recommends that this case be dismissed as duplicative. As mentioned in
9 the court’s order to show cause, ECF No. 7, a plaintiff has “no right to maintain two separate
10 actions involving the same subject matter at the same time in the same court and against the
11 same defendant.” *Walton v. Eaton Corp.*, 563 F.2d 66, 70 (3d Cir. 1977). To see whether an
12 action is duplicative, we “examine whether the causes of action and relief sought, as well as the
13 parties or privies to the action, are the same.” *Adams v. California Dep’t of Health Servs.*, 487
14 F.3d 684, 689 (9th Cir. 2007). As noted above, this action appears nearly identical to that in
15 case number 1:19-cv-01077-AWI-BAM—a case with the same subject matter, causes of
16 action, relief, and parties.

17 We submit these findings and recommendations to the district judge presiding over this
18 case under 28 U.S.C. § 636(b)(1)(B) and Rule 304 of the Local Rules of Practice for the United
19 States District Court, Eastern District of California. Within 30 days of the date of service of
20 the findings and recommendations, plaintiff may file written objections with the court and
21 serve a copy on all parties. That document should be captioned “Objections to Magistrate
22 Judge’s Findings and Recommendations.” The district judge will review the findings and
23 recommendations under 28 U.S.C. § 636(b)(1)(C).

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IT IS SO ORDERED.

Dated: July 23, 2020


UNITED STATES MAGISTRATE JUDGE

No. 205.