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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF CALIFORNIA
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8 ERIC LEBRON SPRINGS,
9 Plaintiff,
10 v.
11 UNITED STATES OF AMERICA,
12 Defendant.
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Case No. 1:23-cv-01493-CDB (PC)

**ORDER TO SHOW CAUSE WHY THIS
CASE SHOULD NOT BE DISMISSED AS
DUPLICATIVE OF CASE NUMBER 1:23-
CV-01192-GSA (PC)**

(Doc. 1)

21-DAY DEADLINE

14 Plaintiff Eric Lebron Springs is proceeding pro se in this civil rights action pursuant to 42
15 U.S.C. § 1983.¹ Plaintiff filed the Complaint initiating this action and a Motion to Proceed in
16 Forma Pauperis on October 20, 2023. (Docs. 1-2).

17 Previously, on August 10, 2023, Plaintiff filed a civil rights complaint in *Springs v. D.*
18 *Prince*, Case No. 1:23-cv-01192-GSA (PC) (Doc. 1). It appears that Plaintiff's complaint in the
19 instant action advances nearly identical allegations as advanced in the *Springs v. D. Prince* action
20 noted above regarding correctional officers' use of physical force upon Plaintiff on April. 4, 2023.
21 (Docs. 1, 8, 9).

22 **DISCUSSION**

23 "Plaintiffs generally have 'no right to maintain two separate actions involving the same
24 subject matter at the same time in the same court and against the same defendant.'" *Adams v.*
25 *Cal. Dep't of Health Servs.*, 487 F.3d 684, 688 (9th Cir. 2007) (quoting *Walton v. Eaton Corp.*,
26 563 F.2d 66, 70 (3d Cir. 1977)), overruled on other grounds by *Taylor v. Sturgell*, 553 U.S. 880,
27

28 ¹ Plaintiff's complaint does not cite 42 U.S.C. § 1983, but instead, purports to assert a
claim pursuant to the Federal Tort Claims Act. 28 U.S.C. § 1346(b). (Doc. 1 p. 1).

1 904 (2008).

2 “To determine whether a suit is duplicative, we borrow from the test for claim
3 preclusion.” *Adams*, 487 F.3d at 688. “[T]he true test of the sufficiency of a plea of ‘other suit
4 pending’ in another forum [i]s the legal efficacy of the first suit, when finally disposed of, as ‘the
5 thing adjudged,’ regarding the matters at issue in the second suit.” *Id.* (second alteration in
6 original) (quoting *The Haytian Republic*, 154 U.S. 118, 124 (1894)). “Thus, in assessing whether
7 the second action is duplicative of the first, we examine whether the causes of action and relief
8 sought, as well as the parties . . . to the action, are the same.” *Adams*, 487 F.3d at 689; *see also*
9 *Serlin v. Arthur Andersen & Co.*, 3 F.3d 221, 223 (7th Cir. 1993) (“[A] suit is duplicative if the
10 claims, parties, and available relief do not significantly differ between the two actions.”) (citation
11 and internal quotation marks omitted).

12 “After weighing the equities of the case, the district court may exercise its discretion to
13 dismiss a duplicative later-filed action, to stay that action pending resolution of the previously
14 filed action, to enjoin the parties from proceeding with it, or to consolidate both actions.” *Adams*,
15 487 F.3d at 688.

16 In the instant complaint, Plaintiff raises a claim against the United States of America for
17 an alleged assault and battery perpetrated by Lieutenant D. Prince, Lieutenant J. Martinez, Officer
18 J. Neal, Officer M. Miramontez, and Officer Venezuela. (Doc. 1 p. 3). Plaintiff requests
19 \$155,000.00 in compensatory damages for pain and suffering, Post Traumatic Stress Disorder
20 (“PTSD”), severe emotional distress, and insomnia because of the alleged assault. *Id.* at 6. The
21 complaint alleges that the assault occurred on April 4, 2023, after Plaintiff complained that his
22 legal documents were wrongfully confiscated and that he would file a report against the alleged
23 perpetrators.

24 In his earlier filed complaint still pending before the Hon. U.S. Magistrate Judge Gary S.
25 Austin (filed August 10, 2023), Plaintiff similarly raised a claim against Defendant D. Prince
26 which describes the same alleged assault on April 4, 2023. Plaintiff’s First Amended Complaint,
27 filed on September 5, 2023, alleges facts that are identical to the instant complaint, and Plaintiff
28 currently seeks to add the United States of America as a defendant. *Springs v. D. Prince*, Case

1 No. 1:23-cv-01192-GSA (PC) (Docs. 1, 8, 9).

2 Since Plaintiff's claims appear to be identical to the claims he brought in *Springs v. D.*
3 *Prince*, Case No. 1:23-cv-01192-GSA (PC), the Court will order Plaintiff to show cause why this
4 case should not be dismissed as duplicative of Case No. 1:23-cv-01192-GSA (PC).

5 Accordingly, it is HEREBY ORDERED that within 21 days from the date of this order,
6 Plaintiff shall show cause in writing why this case should not be dismissed as duplicative of Case
7 No. 1:23-cv-01192-GSA (PC).

8 If Plaintiff fails to timely file a response to this Order, the Undersigned will issue Findings
9 and Recommendations to a District Judge that this action be dismissed for the reasons set forth
10 above.

11 Failure to timely comply with this Order will result in the imposition of sanctions.

12 IT IS SO ORDERED.

13 Dated: November 14, 2023

14 
UNITED STATES MAGISTRATE JUDGE