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

KENNETH MILLS,

Petitioner,

No. CIV S-05-1804 LKK CMK P

vs.

STATE OF CALIFORNIA,

Respondent.

FINDINGS AND RECOMENDATIONS

_____/

Petitioner, a pre-trial detainee proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.¹

Petitioner’s petition was filed with the court on September 8, 2005. The court’s own records reveal that petitioner has several cases pending in this district.² Civil Case 05-1735 DFL CMK, which was filed on August 26, 2005, contains allegations concerning mental health

¹The court notes that petitioner has not filed an in forma pauperis affidavit or paid the required filing fee (\$5.00) for this action. See 28 U.S.C. §§ 1914(a); 1915(a). Should petitioner file subsequent actions without filing an in forma pauperis affidavit, he will be responsible for the filing fee.

² A court may take judicial notice of court records. See MGIC Indem. Co. v. Weisman, 803 F.2d 500, 505 (9th Cir. 1986); United States v. Wilson, 631 F.2d 118, 119 (9th Cir. 1980). Petitioner’s other cases include: CIV S-04-1649 DFL CMK P; CIV S-05-0947 MCE PAN P; CIV S-05-1153 LKK PAN P; and CIV S-05-1154 FCD KJM P; CIV S-05-1291 GEB KJM P; CIV S-05-1735 DFL CMK


1 evaluations which are almost identical to the allegations against respondents in the September 8,
2 2005 complaint. Due to the duplicative nature of the present action, the court finds it frivolous
3 and, therefore, will dismiss the petition. 28 U.S.C. § 1915(d).

4 Petitioner is cautioned that he should refrain from filing duplicative complaints
5 with this court. If he desires to add something to complaints he has already filed, he must seek
6 to amend that complaint; not file a new one.

7 IT IS HEREBY RECOMMENDED that this action be dismissed without
8 prejudice. See Fed. R. Civ. P. 41(b).

9 These findings and recommendations are submitted to the District Judge assigned
10 to this case pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty days after being
11 served with these findings and recommendations, petitioner may file written objections with the
12 court. The document should be captioned "Objections to Magistrate Judge's Findings and
13 Recommendations." Petitioner is advised that failure to file objections within the specified time
14 may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th
15 Cir. 1991).

16 DATED: September 13, 2005.

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19 **CRAIG M. KELLISON**
20 UNITED STATES MAGISTRATE JUDGE
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