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

REGINALD SMITH,

Plaintiff,

No. CIV S-06-1258 GEB DAD P

vs.

JOHN PAPPENFUS, et al.,

Defendants.

ORDER

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Plaintiff is a state prisoner proceeding pro se. The civil rights complaint filed in this case was received on June 8, 2006. The court's own records reveal that on June 6, 2006, plaintiff filed a complaint containing identical allegations against the same defendants. See Reginald Smith v. John Pappenfus, et al., case No. Civ. S-06-1235 GEB PAN P.<sup>1</sup> Plaintiff's second complaint differs from the first only in the signature date and the number of pages attached to the form complaint. In addition, the complaint received on June 8, 2006, was accompanied by an application to proceed in forma pauperis.

It appears that plaintiff intended to submit an in forma pauperis application and an amended complaint for filing in case No. CIV S-06-1235 GEB PAN P. Good cause appearing,

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<sup>1</sup> 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).

1 the Clerk of the Court will be directed to file the two documents received on June 8, 2006, in  
2 case No. CIV S-06-1235 GEB PAN P. This duplicative action will be closed, and plaintiff shall  
3 not include the case number of this closed case on any documents filed hereafter. See Fed. R.  
4 Civ. P. 41(b).

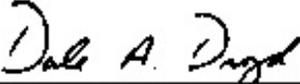
5 In reviewing the complaints filed June 6, 2006, and June 8, 2006, the undersigned  
6 has discovered that plaintiff commenced his action in the wrong division of the court. Although  
7 plaintiff is confined in Solano State Prison, the alleged violations took place at Avenal State  
8 Prison. The latter institution is located in Kings County, which is part of the Fresno Division of  
9 the United States District Court for the Eastern District of California. See Local Rule 3-120(d).  
10 The judge assigned to case No. CIV S-06-1235 GEB PAN P will determine whether the case  
11 should be transferred to Fresno pursuant to Local Rule 3-120(f). If the case is transferred to  
12 Fresno, plaintiff will be advised of a new case number and must use that number on all  
13 subsequent filings.

14 Accordingly, IT IS HEREBY ORDERED that:

15 1. The Clerk of the Court shall file the two documents received from plaintiff on  
16 June 8, 2006, in case No. CIV S-06-1235 GEB PAN P; the case number on the two documents  
17 shall be changed to No. CIV S-06-1235 GEB PAN P, and the complaint shall be filed as an  
18 amended complaint.

19 2. The Clerk of the Court shall close this case as duplicative of case No. CIV S-  
20 06-1235 GEB PAN P.

21 DATED: June 13, 2006.

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DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

25 DAD:13:mp  
26 smit1258.23