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

ROBERT DUANE FRANKLIN,

Plaintiff,

No. CIV S-07-2259 FCD EFB P

vs.

G. DUDLEY,

Defendant.

ORDER

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Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On November 3, 2009, plaintiff filed a document styled “declaration in support of opposition to defendant Miller and Roches’ partial motion to dismiss.” However, this action is not proceeding against such defendants. It appears that plaintiff’s declaration should have been filed in another action plaintiff is litigating, *Franklin v. Dudley*, 2:08-cv-1223 BHS, but that plaintiff provided the wrong case number when filing the declaration.<sup>1</sup> In the action designated as case number 2:08-cv-1223 BHS, there is an outstanding motion to dismiss filed by defendants Miller and Roche.

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<sup>1</sup> See Case No. CIV-S-05-1442 JKS GGH. 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           Accordingly, it is hereby ORDERED that the November 3, 2009 declaration be stricken  
2 from the docket in this case and that the Clerk of the Court file the declaration in the action  
3 designated as case number 2:08-cv-1223 BHS.

4 Dated: December 9, 2009.

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6 EDMUND F. BRENNAN  
7 UNITED STATES MAGISTRATE JUDGE  
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