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

GEORGE T. McLAUGHLIN,

Plaintiff,

No. CIV S-08-2629 WBS EFB P

vs.

M. MARTEL, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

_____ /

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. He seeks leave to proceed *in forma pauperis*. This proceeding was referred to this court by Local Rule 72-302 pursuant to 28 U.S.C. § 636(b)(1).

Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint “is frivolous, malicious, or fails to state a claim upon which relief may be granted,” or “seeks monetary relief from a defendant who is immune from such relief.” *Id.*, § 1915A(b). Pro se pleadings must be liberally construed, however. *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990).

1 Plaintiff's complaint was filed with the court on November 4, 2008. The court's own
2 records reveal that on October 2, 2008, plaintiff filed a complaint containing virtually identical
3 allegations against the same defendants. (No. Civ. S-08-1342 PMP GWF).¹ Due to the
4 duplicative nature of the present action, the court will recommend that the complaint be
5 dismissed. See 28 U.S.C. § 1915A(b)(1) (allowing district courts to dismiss prisoner actions that
6 are frivolous); see also *Cato v. United States*, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995) (A
7 complaint that merely repeats pending or previously litigated claims may be dismissed under the
8 authority of 28 U.S.C. § 1915).

9 In accordance with the above, IT IS HEREBY RECOMMENDED that this action be
10 dismissed without prejudice.

11 These findings and recommendations are submitted to the United States District Judge
12 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty days
13 after being served with these findings and recommendations, any party may file written
14 objections with the court and serve a copy on all parties. Such a document should be captioned
15 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections
16 within the specified time may waive the right to appeal the District Court's order. *Turner v.*
17 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

18 Dated: July 9, 2009.

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20 EDMUND F. BRENNAN
21 UNITED STATES MAGISTRATE JUDGE
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26 ¹ A court may take judicial notice of court records. See *MGIC Indem. Co. v. Weisman*,
803 F.2d 500, 504 (9th Cir. 1986); *United States v. Wilson*, 631 F.2d 118, 119 (9th Cir. 1980).