

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

MELECIO M. CARDONA,

Plaintiff,

No. CIV S-09-1976 DAD P

vs.

JAMES WALKER, et al.,

Defendants.

ORDER AND

FINDINGS AND RECOMMENDATIONS

\_\_\_\_\_ /

Plaintiff is a state prisoner proceeding pro se. Plaintiff's complaint was filed with the court on July 10, 2009. The court's own records reveal that on June 4, 2009, plaintiff filed a complaint containing virtually identical allegations against the same defendants. (No. Civ. S-09-1537 CMK P ).<sup>1</sup> Due to the duplicative nature of the present action, the court will recommend that the complaint be dismissed.

IT IS HEREBY ORDERED that the Clerk of the Court is directed to randomly assign a United States District Judge to this action; and

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

<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).

