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

ANTHONY R. TURNER,

Plaintiff,

No. CIV -09-3326 DAD P

vs.

CITY OF WOODLAND, et al.,

Defendants.

ORDER AND

FINDINGS & RECOMMENDATIONS

_____ /

Plaintiff, a former inmate of the Yolo County Jail and who is currently a state prisoner, is proceeding pro se in this civil rights action. Plaintiff's complaint was filed with the court on December 1, 2009. The court's own records reveal that on November 2, 2009, plaintiff filed a complaint containing similar allegations and claims involving several of the same defendants. (No. Civ. S-09-3040 CMK P).¹ For example, in both cases, plaintiff alleges that he received inadequate medical care while incarcerated, was the subject of the excessive use of force, that his due process rights were violated in connection with disciplinary proceedings, and that he was subjected to unlawful retaliation by the named defendants. Due to the duplicative nature of the present action, the court will recommend that the complaint in this action be dismissed. The court also notes that in case number Civ. S-09-3040 CMK P, plaintiff was

¹ 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 granted leave to file an amended complaint. To the extent that plaintiff wishes to pursue
2 additional claims raised only in this action, he should include those claims in any amended
3 complaint he elects to file in case number Civ. S-09-3040 CMK P.

4 In light of these findings and recommendations, the court will deny plaintiff's
5 pending motions as moot.

6 Accordingly, IT IS HEREBY ORDERED that:

7 1. Plaintiff's motions filed on December 16, 2009, December 29, 2009 and
8 January 21, 2010 (Doc. Nos. 7, 9, & 10) are denied as moot; and

9 2. The Clerk of the Court is directed to randomly assign this case to a District
10 Judge.

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

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

20 DATED: June 30, 2010.

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23 _____
24 DALE A. DROZD
25 UNITED STATES MAGISTRATE JUDGE
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DAD:4
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