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

LEROY D. HUNTER,

Plaintiff,

No. CIV S-10-0329 EFB P

vs.

HIGH DESERT STATE PRISON, et al.,

Defendants.

ORDER

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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*, as well as the appointment of counsel. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1) and is before the undersigned pursuant to plaintiff’s consent. See E.D. Cal. Local Rules, Appx. A, at (k)(4).

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).

1 On February 8, 2010, plaintiff filed a complaint, initiating this action. Dckt. No. 1. On  
2 June 17, 2010, plaintiff filed an amended complaint, which superceded the original complaint.  
3 Dckt. No. 7.

4 The court's own records reveal that on June 17, 2010, plaintiff filed another complaint in  
5 this district, which contained virtually identical allegations to the amended complaint filed in this  
6 action. *See Hunter v. High Desert State Prison*, No. Civ. S-09-3504 MCE DAD, Dckt. Nos. 1  
7 (December 18, 2009 original complaint), 14 (June 17, 2010 amended complaint).<sup>1</sup>

8 Due to its duplicative nature, the court will dismiss this action. *See* 28 U.S.C.  
9 § 1915A(b)(1) (allowing district courts to dismiss prisoner actions that are frivolous); *see also*  
10 *Cato v. United States*, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995) (A complaint that "merely repeats  
11 pending or previously litigated claims" may be dismissed as frivolous under the authority of 28  
12 U.S.C. § 1915).

13 In accordance with the above, it is hereby ORDERED that this action is dismissed as  
14 frivolous and all pending motions are denied.

15 Dated: July 20, 2010.

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17 EDMUND F. BRENNAN  
18 UNITED STATES MAGISTRATE JUDGE  
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26 <sup>1</sup> 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).