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8   IN THE UNITED STATES DISTRICT COURT

9   FOR THE EASTERN DISTRICT OF CALIFORNIA

10   DANIEL P. BJORLIN,

11   Plaintiff,   No. CIV S-10-2217 GEB GGH P

12   vs.

13   MORROW, et al.,

14   Defendants.   ORDER &
                                                 FINDINGS AND RECOMMENDATIONS
15   _____/

16   Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant

17   to 42 U.S.C. § 1983 and application to proceed in forma pauperis.

18   Plaintiff filed this action on August 18, 2010, however court records indicate that

19   plaintiff filed the exact same case on August 13, 2010, CIV S-10-2162 FCD KJN.[1] Due to the

20   duplicative nature of the present action, the court finds this action frivolous and, therefore, will

21   recommend that this action be dismissed. Adams v. Cal. Dept. of Health Services, 487 F.3d 684,

22   688 (9th Cir. 2007); 28 U.S.C. § 1915(d). This court will not rule on petitioner's request to

23   proceed in forma pauperis.

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25   _____

26   [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).

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1   IT IS HEREBY RECOMMENDED that this action be dismissed as duplicative

2   and frivolous.

3   These findings and recommendations are submitted to the District Judge assigned

4   to this case pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days after being

5   served with these findings and recommendations, plaintiff may file written objections with the

6   court. The document should be captioned "Objections to Magistrate Judge's Findings and

7   Recommendations." Any response to the objections shall be filed and served within fourteen

8   days after service of the objections. Plaintiff is advised that failure to file objections within the

9   specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951

10   F.2d 1153 (9th Cir. 1991).

11   DATED: September 13, 2010

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13   /s/ Gregory G. Hollows

                                          _____
14   GREGORY G. HOLLOWS
                                          UNITED STATES MAGISTRATE JUDGE
15   GGH:ab
      bjor2217.dis
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