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

MARIO NGWAZI WOOTEN,

Plaintiff,

No. CIV S-10-2382 MCE DAD P

vs.

MIKE GREGORY SOKOHOU,

Defendants.

ORDER AND

FINDINGS AND RECOMMENDATIONS

_____ /

Plaintiff is a state prisoner proceeding pro se. On October 27, 2010, the undersigned issued findings and recommendations, recommending dismissal of this action due to plaintiff's failure to file a properly completed in forma pauperis ("IFP") application. On November 8, 2010, plaintiff filed objections to those findings and recommendations, claiming that the court had granted him an extension of time to file his IFP application.

Plaintiff has two actions pending in this court, the instant case and Case No. CIV S-10-2138 DAD P. In the latter case, plaintiff filed a request for an extension of time to file his IFP application, which the court granted. However, plaintiff failed to file a similar request in this case. Typically, in the interest of justice, the court would vacate the findings and recommendations in this case and grant plaintiff additional time to file his IFP application. However, upon further review of this case and Case No. CIV S-10-2138 DAD P, the court finds

1 that plaintiff's complaints contain virtually identical allegations against the same defendant.¹
2 The court will vacate its October 27, 2010 findings and recommendations. However, the court
3 will also recommend that the complaint in this case be dismissed because it is duplicative.

4 Accordingly, IT IS HEREBY ORDERED that the court's October 27, 2010
5 findings and recommendations are vacated;

6 IT IS HEREBY RECOMMENDED that this action be dismissed without
7 prejudice as duplicative of Case No. CIV S-10-2138 DAD P. See Fed. R. Civ. P. 41(b).

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

15 DATED: November 18, 2010.

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19 DALE A. DROZD
20 UNITED STATES MAGISTRATE JUDGE

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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).