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

ADAN M. RAYA,

Petitioner,

No. CIV S-11-2557 EFB P

vs.

RONALD GROUNDS,

Respondent.

ORDER AND  
FINDINGS AND RECOMMENDATIONS

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Petitioner, a prisoner without counsel, has filed a petition for a writ of habeas corpus. *See* 28 U.S.C. § 2254. It appears that petitioner has filed duplicative petitions, and that this action should therefore be dismissed. A suit is duplicative if the “claims, parties, and available relief do not significantly differ between the two actions.” *Barapind v. Reno*, 72 F. Supp.2d 1132, 1145 (E.D. Cal. 1999) (quoting *Ridge Gold Standard Liquors, Inc. v. Joseph E. Seagram & Sons, Inc.*, 572 F. Supp. 1210, 1213 (N.D. Ill. 1983)). “When a complaint involving the same parties and issues has already been filed in another federal district court, the court has discretion to abate or dismiss the second action. *Id.* at 1144 (citation omitted). “Federal comity and judicial economy give rise to rules which allow a district court to transfer, stay, or dismiss an action when a similar complaint has already been filed in another federal court.” *Id.* at 1145 (citation omitted). “[I]ncreasing calendar congestion in the federal courts makes it imperative to

1 avoid concurrent litigation in more than one forum whenever consistent with the right of the  
2 parties.” *Crawford v. Bell*, 599 F.2d 890, 893 (9th Cir. 1979).

3 On July 29, 2011, petitioner filed an application for a writ of habeas corpus in this  
4 district. *Raya v. Grounds*, No. Civ. 11-2340 LKK EFB, Dckt. No. 1.<sup>1</sup> In that petition, petitioner  
5 challenges a 26-years-to-life sentence imposed by the Shasta County Superior Court following  
6 plaintiff’s conviction of first degree murder with the use of a deadly weapon. On September 12,  
7 2011, petitioner commenced this action by filing a second application, also challenging the 2007  
8 judgment of conviction. *See* Petition, Dckt. No. 1. Due to the duplicative nature of the present  
9 action, this action should be dismissed and petitioner should proceed on the action he initially  
10 commenced. If petitioner wishes to challenge the 2007 judgment of conviction on additional  
11 grounds, he must file an amended petition in the action he initially commenced.

12 Accordingly, it is hereby ORDERED that the Clerk of the Court randomly assign a  
13 United States District Judge to this case.

14 Further, it is RECOMMENDED that this action be dismissed without prejudice.

15 These findings and recommendations are submitted to the United States District Judge  
16 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
17 after being served with these findings and recommendations, any party may file written  
18 objections with the court and serve a copy on all parties. Such a document should be captioned  
19 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections  
20 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*  
21 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

22 Dated: October 19, 2011.

23   
24 EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE

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25 <sup>1</sup> A court may take judicial notice of court records. *See MGIC Indem. Co. v. Weisman*,  
26 803 F.2d 500, 505 (9th Cir. 1986); *United States v. Wilson*, 631 F.2d 118, 119 (9th Cir. 1980).