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

TREMAYNE D. CARROLL,

Plaintiff,

No. 2:12-cv-2584 TLN DAD P

vs.

EDMUND G. BROWN et al.,

Defendant.

ORDER AND

FINDINGS AND RECOMMENDATIONS

_____ /

Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983 and has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915.¹

In his complaint, plaintiff alleges that prison staff (the “Green Wall” staff) has subjected him to manufactured charges and physical/sexual abuse. He further alleges that prison staff has failed to protect him and violated his rights under the Fifth, Eighth, and Fourteenth Amendments. The court’s own records reveal that plaintiff previously filed a complaint

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¹ Plaintiff filed a motion for an extension of time to file his motion to proceed in forma pauperis. Plaintiff timely filed his motion to proceed in forma pauperis shortly thereafter. Accordingly, the court will deny his motion for an extension of time as unnecessary.

1 containing virtually identical allegations. (Case No. 2:12-cv-1327 KJN).² Due to the duplicative
2 nature of the present action, the court will recommend that all pending motions in this case be
3 denied without prejudice to refiling in Case No. 2:12-cv-1327 KJN and that the duplicative
4 complaint filed under this case number be dismissed.

5 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for an extension
6 of time to file a motion to proceed in forma pauperis (Doc. No. 10) is denied as unnecessary;

7 IT IS HEREBY RECOMMENDED that:

- 8 1. Plaintiff's motion to proceed in forma pauperis (Doc. No. 11) be denied;
9 2. All other pending motions (Doc. Nos. 9 & 12) be denied without prejudice to
10 refiling in Case No. 2:12-cv-1327 KJN; and
11 3. This action be dismissed as duplicative.

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

19 DATED: August 26, 2013.

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21 
22 _____
23 DALE A. DROZD
24 UNITED STATES MAGISTRATE JUDGE

22 DAD:9
23 carr2584.23

25 _____
26 ² 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).