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

MICHAEL E. JANSEN,

Plaintiff,

No. 2:13-cv-00698 KJN P

vs.

CALIFORNIA DEPARTMENT OF
CORRECTIONS & REHABILITATION,
et al.,

Defendants.

ORDER and
FINDINGS & RECOMMENDATIONS

_____ /

Plaintiff is a state prisoner proceeding without counsel. Plaintiff's complaint and in forma pauperis application were filed on January 18, 2013, in the United States District Court for the Northern District of California, and transferred to this court on April 9, 2013. However, the court's records¹ reveal that, meanwhile, on February 28, 2013, plaintiff also filed in the Northern District a separate in forma pauperis application, and complaint containing virtually identical allegations to those asserted herein, which were transferred to this court on March 13, 2013. (Case No. 2:13-cv-0500 EFB P.) In the instant case, no action has been taken on the complaint or plaintiff's in forma pauperis application. However, in plaintiff's other pending

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).

1 case, plaintiff's application to proceed in forma pauperis was granted, and plaintiff has filed a
2 First Amended Complaint, pursuant to the court's order filed March 25, 2013; in addition, in his
3 other pending case, plaintiff has consented to the jurisdiction of the magistrate judge for all
4 purposes.


5 While the instant action was commenced before plaintiff's other pending action,
6 the latter case was earlier transferred to this court, and is currently on track. Therefore, due to the
7 duplicative nature of the instant action, the court will recommend that this action be dismissed.

8 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court is directed to
9 randomly assign a district judge to this case; and

10 IT IS RECOMMENDED that this action be dismissed without prejudice. See
11 Fed. R. Civ. P. 41(b).

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: April 16, 2013

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21 
22 KENDALL J. NEWMAN
23 UNITED STATES MAGISTRATE JUDGE

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