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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSE LUIS VALDOVINOS,  
Petitioner,  
v.  
J. AYARD LIZZARAGA,  
Respondent.

No. 2:16-cv-0209 KJN P

ORDER

Petitioner is a state prisoner, proceeding pro se, who filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On February 19, 2016, pursuant to court order, petitioner filed a request to proceed in forma pauperis.

The court's own records reveal that on October 8, 2014, petitioner filed a petition for writ of habeas corpus, which is presently pending.<sup>1</sup> Valdovinos v. Lizarraga, Case No. 2:14-cv-2481 MCE CMK (E.D. Cal.). Petitioner claims in the instant petition that his prior case was dismissed on January 20, 2016. (ECF No. 1 at 4.) However, on January 20, 2016, the assigned magistrate judge recommended that the action be dismissed, and the findings and recommendations have not yet been adopted by the district court.

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<sup>1</sup> 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 Absent permission from the United States Court of Appeals for the Ninth Circuit,  
2 petitioner must pursue all of his habeas claims in one action. See 28 U.S.C. § 2244(b)(3).  
3 Therefore, petitioner's request to proceed in forma pauperis should be filed in his prior habeas  
4 action, Case No. 2:14-cv-2481 MCE CMK. Moreover, because the instant petition appears to add  
5 claims that were not included in the original or amended petition filed in Case No. 2:14-cv-2481  
6 MCE CMK, the instant petition should be filed in petitioner's prior case as a second amended  
7 petition. Finally, because the instant petition contains claims raised in Case No. 2:14-cv-2481  
8 MCE CMK, the instant action is dismissed as duplicative of Case No. 2:14-cv-2481 MCE CMK.

9 Good cause appearing, IT IS HEREBY ORDERED that the Clerk of the Court is directed  
10 to:

- 11 1. File the motion to proceed in forma pauperis (ECF No. 8) in petitioner's prior habeas  
12 action, Case No. 2:14-cv-2481 MCE CMK;
- 13 2. File the instant petition (ECF No. 1) in Case No. 2:14-cv-2481 MCE CMK as a second  
14 amended petition; and
- 15 3. Dismiss the instant action.

16 Dated: March 1, 2016

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KENDALL J. NEWMAN  
19 UNITED STATES MAGISTRATE JUDGE