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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMBRI SEAN JOHNSON, SR.,
Plaintiff,
v.
CALIFORNIA DEPARTMENT OF
CORRECTION AND
REHABILITATION, et al.,
Defendants.

No. 2:16-cv-1171 CKD P

ORDER AND
FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se. Plaintiff’s complaint was filed with the court on May 31, 2016. The court’s records reveal that plaintiff is proceeding on virtually identical allegations against the same defendants in an earlier-filed action, Johnson v. Arnolds, 2:14-cv-2589 AC.¹ In that action, plaintiff initially asserted his claims in a petition for writ of habeas corpus, which was dismissed without prejudice to refile as a § 1983 civil rights action. On July 14, 2015, plaintiff reasserted his claims in a civil rights complaint in the same case; that action is ongoing. Due to the duplicative nature of the present action, the court will recommend that the complaint in this action be dismissed.

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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).

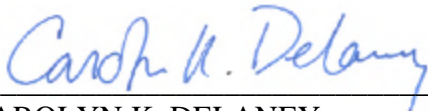
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In accordance with the above, IT IS HEREBY ORDERED that Clerk of Court shall assign a district judge to this action.

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

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

Dated: August 10, 2016



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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