

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSE DEJESUS RODRIGUEZ,

Plaintiff,

v.

JOYCE SAMPSON,

Defendant.

No. 2:17-cv-01479 JAM AC PS

ORDER

The court is in receipt of plaintiff’s objections to the undersigned’s Findings and Recommendations and request for judicial notice. ECF No. 20. Having reviewed the submission, the court will vacate the Findings and Recommendations at ECF No. 19. However, the request for judicial notice will be denied.

The court may take notice of facts that are capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. Fed. R. Evid. 201(b); United States v. Bernal-Obeso, 989 F.2d 331, 333 (9th Cir. 1993). Here, plaintiff requests the court take judicial notice of a separate criminal matter involving the plaintiff. ECF No. 20. “However, if an exhibit is irrelevant or unnecessary to deciding the matters at issue, a request for judicial notice may be denied.” Neylon v. Cty. of Inyo, No. 1:16-CV-0712 AWI JLT, 2016 WL 6834097, at *4 (E.D. Cal. Nov. 21, 2016) (citing Adriana Intern. Corp. v. Thoeren, 913 F.2d 1406, 1410 n.2 (9th Cir. 1990)). Because the state court records are not pertinent, the court will deny the request.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS HEREBY ORDERED that:

1. Plaintiff's request for judicial notice, ECF No. 20, is DENIED;
2. The Findings and Recommendations, ECF No. 19, are hereby VACATED;
3. Plaintiff shall have 30 days from the date of this order to file his second amended complaint in compliance with the undersigned's order dated April 5, 2018 (ECF No. 17); and
4. Plaintiff is cautioned that failure to timely comply with this order may lead to a recommendation that the action be dismissed.

IT IS SO ORDERED.

DATED: July 25, 2018.



ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE