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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LARRY ALTAMIRANO SERMENO,  
Plaintiff,  
v.  
KIMBERLY FLENER,  
Defendant.

No. 2:18-cv-01040 KJM CKD P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se and seeking relief pursuant to 42 U.S.C. § 1983. On September 13, 2018, the court screened plaintiff’s complaint as the court is required to do under 28 U.S.C. § 1915A(a) and dismissed the complaint with leave to amend. Plaintiff has now filed an amended complaint.

The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2).

In his amended complaint, plaintiff sues Butte County Superior Court employees seeking damages and unspecified injunctive relief. According to plaintiff, defendant Little, a deputy clerk, refused to file a petition for collateral relief because the petition submitted by plaintiff was

1 a copy and not the original. Plaintiff alleges some of Little's superiors did not properly supervise  
2 Little.

3 There are several problems with plaintiff's amended complaint. Most notably, court  
4 employees are entitled to absolute immunity when they "perform tasks that are an integral part of  
5 the judicial process." Mullis v. U.S. Bankruptcy Court, 828 F.2d 1385, 1390 (9th Cir. 1987).  
6 Also, to the extent the ultimate relief plaintiff seeks is earlier or immediate release from prison,  
7 his sole federal remedy is a writ of habeas corpus. Preiser v. Rodriguez, 411 U.S. 475, 500  
8 (1973). To the extent plaintiff alleges violations of California law, the court does not have  
9 jurisdiction. See 28 U.S.C. § 1330 et seq.

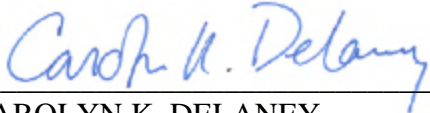
10 For these reasons, plaintiff has not stated a claim upon which relief can be granted in his  
11 amended complaint. Considering the direction provided to plaintiff upon the dismissal of his  
12 original complaint, and the contents of his amended complaint, granting plaintiff leave to amend a  
13 second time appears futile. Therefore, the court will recommend that the amended complaint be  
14 dismissed and this case be closed.

15 In accordance with the above, IT IS HEREBY RECOMMENDED that:

- 16 1. Plaintiff's amended complaint be dismissed; and
- 17 2. This case be closed.

18 These findings and recommendations are submitted to the United States District Judge  
19 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen after  
20 being served with these findings and recommendations, plaintiff may file written objections with  
21 the court. The document should be captioned "Objections to Magistrate Judge's Findings and  
22 Recommendations." Plaintiff is advised that failure to file objections within the specified time  
23 waives the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir.  
24 1991).

25 Dated: April 17, 2019

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28 CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE