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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DANIEL HECTOR VIERA,  
Petitioner,  
v.  
SUZANNE M. PEERY,  
Respondent.

No. 2:19-cv-1965 AC P

ORDER and  
FINDINGS AND RECOMMENDATIONS

Petitioner is a state prisoner proceeding with counsel under 28 U.S.C. § 2254. The instant petition for writ of habeas corpus was initially filed on August 13, 2019 in the United States District Court for the Northern District of California. It was transferred to this district on September 25, 2019. Court records reveal that petitioner had already filed an identical petition in this district, containing the same allegations against the same respondents. See Case No. 2:19-cv-1573 DMC P.<sup>1</sup> Petitioner’s counsel informs the court that the instant petition was filed inadvertently and acknowledges it is “identical” to the petition already pending in this district. See ECF No. 6.

Due to the duplicative nature of the present action, the undersigned recommends its dismissal.

<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           Accordingly, IT IS HEREBY ORDERED that the Clerk of Court randomly assign a  
2 district judge to this action; and

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

5           These findings and recommendations are submitted to the District Judge assigned to this  
6 case pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14) days after being  
7 served with these findings and recommendations, any party may file written objections with the  
8 court. The document should be captioned “Objections to Magistrate Judge’s Findings and  
9 Recommendations.” Failure to file objections within the specified time may waive the right to  
10 appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

11 DATED: October 1, 2019

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14 ALLISON CLAIRE  
15 UNITED STATES MAGISTRATE JUDGE  
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