1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 No. 2:23-cv-0061 AC P STANLEY W. MUNDY, 12 Plaintiff. 13 ORDER AND FINDINGS AND v. **RECOMMENDATIONS** 14 PATRICK COVELLO, et al., 15 Defendants. 16 17 Plaintiff, a state prisoner proceeding pro se, seeks relief pursuant to 42 U.S.C. § 1983 and has requested authority pursuant to 28 U.S.C. § 1915 to proceed in forma pauperis. See ECF 18 19 Nos. 1 ("Mundy II" complaint), 6 (in forma pauperis application). The matter was referred to a 20 United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 21 A review of the complaint reveals that it is identical to the one filed in Mundy v. City and 22 County of Sacramento, No. 2:23-cv-0059 CKD ("Mundy I"). Compare Mundy II, ECF No. 1, 23 with Mundy I, ECF No. 1. Plaintiffs generally have no right to maintain two separate actions involving the same subject matter at the same time in the same court and against the same 24 25 defendants. Adams v. California Dep't of Health Servs., 487 F.3d 684, 688 (9th Cir. 2007) 26 overruled on other grounds by Taylor v. Sturgell, 553 U.S. 880, 904 (2008). Therefore, it will be 27 recommended that the instant matter be dismissed. //// 28 1

Accordingly, IT IS HEREBY ORDERED that the Clerk of Court randomly assign a District Judge to this action.

IT IS FURTHER RECOMMENDED that this matter be DISMISSED as duplicative of the earlier-filed Mundy v. City and County of Sacramento, No. 2:23-cv-0059 CKD.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days after being served with these findings and recommendations, plaintiff may file written objections with the court. Such a 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: July 28, 2023

ALLISON CLAIRE

UNITED STATES MAGISTRATE JUDGE