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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

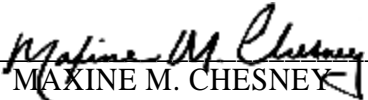
VINCENT M. LOPEZ,)	No. C 05-4333 MMC (PR)
)	
Plaintiff,)	ORDER OF DISMISSAL
)	
v.)	
)	
ALEXANDER LORENZO GEE,)	(Order No. 2)
)	
Defendant.)	
_____)	

Plaintiff, an inmate at Pelican Bay State Prison proceeding pro se, filed the above-titled civil rights complaint against Alexander Lorenzo Gee, his cellmate at PBSP. He alleges that Gee sexually harassed and threatened him in violation of 42 U.S.C. § 1983.

The claims in the instant complaint are identical to the claims alleged by plaintiff in another action, which was dismissed for failure to state a cognizable claim for relief. See Lopez v. Gee, No. C 05-2539 MMC (PR). A complaint that merely repeats pending or previously litigated claims is frivolous and may be dismissed sua sponte. See Cato v. United States, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995); Bailey v. Johnson, 846 F.2d 1019, 1021 (5th Cir. 1988). As the claims in plaintiff's complaint are duplicative of the claims raised in plaintiff's earlier-filed case, the instant action is hereby DISMISSED as duplicative. In light of this dismissal, the application to proceed in forma pauperis is DENIED, and no fee is due. The Clerk shall close the file and terminate Docket No. 2.

IT IS SO ORDERED.

DATED: November 3, 2005


 MAXINE M. CHESNEY
 United States District Judge

United States District Court
For the Northern District of California