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

KYLO WINDFRED CREEKS,)	
)	
Plaintiff(s),)	No. C 06-0854 CRB (PR)
)	
v.)	ORDER OF DISMISSAL
)	
JOHN DOE, et al.,)	
)	
Defendant(s).)	
_____)	

Plaintiff, a prisoner currently incarcerated at California State Prison, Solano (“CSP – SOL”), has filed a pro se civil rights complaint under 42 U.S.C. § 1983 seeking damages for injuries suffered when he was shot “in the back” by a correctional officer during a riot at Pelican Bay State Prison (“PBSP”) on February 23, 2000. Plaintiff previously raised and litigated the same allegations in a prior prisoner complaint, however. See Creeks v. McGrath, No. C 04-2191 CRB (PR) (N.D. Cal. Apr. 13, 2005) (clerk's judgment in favor of defendants).

A prisoner complaint that merely repeats pending or previously litigated claims may be considered abusive and dismissed under the authority of 28 U.S.C. § 1915A. Cf. Cato v. United States, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995) (citing Bailey v. Johnson, 846 F.2d 1019, 1021 (5th Cir. 1988)) (duplicative in forma pauperis complaint may be considered abusive and dismissed under 28 U.S.C. § 1915). Because plaintiff raised and litigated the same allegations and

1 claims raised herein in Creeks v. McGrath, No. C 04-2191 CRB (PR), the instant
2 complaint is deemed duplicative and abusive under § 1915A.

3 Plaintiff's request to proceed in forma pauperis is DENIED and the
4 complaint is DISMISSED under the authority of 28 U.S.C. § 1915A.

5 The clerk shall close the file and terminate all pending motions as moot.
6 No fee is due.

7 SO ORDERED.

8 DATED: Feb. 13, 2006

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11 CHARLES R. BREYER
12 United States District Judge
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