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

DONALD KENNEDY,	)	
	)	
Plaintiff(s),	)	No. C 06-1969 CRB (PR)
	)	
v.	)	ORDER OF DISMISSAL
	)	
GENE WOODFORD, et al.,	)	
	)	
Defendant(s).	)	
_____	)	

Plaintiff, a prisoner at the Correctional Training Facility in Soledad, California, has filed a pro se prisoner complaint under 42 U.S.C. § 1983 alleging inadequate medical care for tuberculosis. Plaintiff raised the same allegations in a prior prisoner complaint, which is still pending. See Kennedy v. Woodford, No. C 06-1726 CRB (PR) (N.D. Cal. filed Mar. 7, 2006).

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 is litigating the same allegations and claims raised herein in civil case number 06-1726, the instant complaint is deemed duplicative and abusive under § 1915A. That plaintiff adds additional

1 defendants in this later-filed action does not compel a different result. See  
2 Bailey, 846 F.2d at 1021 (complaint repeating same allegations asserted in earlier  
3 case, even if now filed against new defendants, is subject to dismissal as  
4 duplicative).

5 Plaintiff's request to proceed in forma pauperis is DENIED and the instant  
6 complaint is DISMISSED under the authority of 28 U.S.C. § 1915A(b). All  
7 future filings shall be in civil case number 06-1726 only.

8 The clerk shall enter judgment in accordance with this order and close the  
9 file. No fee is due.

10 SO ORDERED.

11 DATED: March 22, 2006



12 CHARLES R. BREYER  
13 United States District Judge  
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