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

KIMOTHY R. McCRAY,)	
)	
Plaintiff(s),)	No. C 06-6565 CRB (PR)
)	
v.)	ORDER OF DISMISSAL
)	
J. RODRIGUEZ,)	
)	
Defendant(s).)	
)	

Plaintiff, a prisoner at Kern Valley State Prison, has filed his third prisoner complaint under 42 U.S.C. § 1983 alleging that superior court deputy clerk J. Rodriguez unlawfully interfered with his right to file in state superior court. Plaintiff first raised these allegations in a prisoner complaint which was dismissed on the merits under the authority of 28 U.S.C. § 1915A(b) on August 18, 2006. See McCray v. Rodriguez, No. C 06-4805 CRB (PR) (N.D. Cal. Aug. 18, 2006) (order of dismissal). He again raised the same allegations in a second prisoner complaint which was dismissed on September 7, 2006. See McCray v. Rodriguez, No. C 06-5367 CRB (PR) (N.D. Cal. Sept. 7, 2006) (order of dismissal). And a third time when he filed the instant action in the Central District of California. The action was transferred to this court.

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(b). Cf. Cato v. United States, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995)

1 (citing Bailey v. Johnson, 846 F.2d 1019, 1021 (5th Cir. 1988)) (duplicative in
2 forma pauperis complaint may be considered abusive and dismissed under 28
3 U.S.C. § 1915). Because plaintiff raised and litigated the same allegations and
4 claim raised herein in two prior prisoner complaints, the instant complaint is
5 deemed duplicative and abusive under § 1915A. Nothing plaintiff adds in this
6 third attempt to litigate the same claim compels a different result.

7 Plaintiff's request to proceed in forma pauperis is DENIED and the
8 complaint is DISMISSED under the authority of 28 U.S.C. § 1915A(b).

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

11 SO ORDERED.

12 DATED: October 26, 2006

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15 CHARLES R. BREYER
16 United States District Judge
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