

United States District Court
For the Northern District of California

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

MARC OLIN LEVY,

Plaintiff,

v.

STATE OF CALIFORNIA,

Defendant.

No. C 10-5113 SI

Member Cases:

No. C-10-5115

No. C-10-5116

**ORDER ADOPTING REPORT AND
RECOMMENDATION OF
MAGISTRATE JUDGE , GRANTING
LEAVE TO PROCEED IN FORMA
PAUPERIS, AND DISMISSING
COMPLAINTS**

This Court has reviewed *de novo* plaintiff's application to proceed *in forma pauperis* and has considered the report and recommendation prepared by Magistrate Judge Donna M. Ryu (Docket No. 14). This Court fully concurs in Judge Ryu's analysis, and adopts it in its entirety.

Plaintiff's application to proceed in forma pauperis is GRANTED. All three of plaintiff's complaints are DISMISSED. The complaint in *Levy v. State of California*, No. C 10-5113, is dismissed with prejudice, as the State of California is not a proper defendant under 42 U.S.C. § 1983. Any claims against judges or against individual attorneys who acted as counsel to Mr. Levy through the San Mateo County Private Defender Program are also dismissed with prejudice. In all other respects, the complaints in *Levy v. Telecare Corporation*, No. C 10-5115, and *Levy v. San Mateo County*, No. C 10-5116, are dismissed without prejudice to plaintiff refiling a § 1983 damages action if and when plaintiff's civil commitment is invalidated and to the extent that plaintiff is able to allege sufficient facts to proceed against properly-named defendants. The Clerk shall close the file.

IT IS SO ORDERED.

Dated: February 10, 2011



SUSAN ILLSTON
United States District Judge