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28IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DANIEL RODRIGUEZ,

Plaintiff,

v.

THE SUPREME COURT AND THE
PEOPLE OF THE STATE OF
CALIFORNIA,

Defendants.

No. C 10-80216 CRB

**ORDER FINDING MATTER
OUTSIDE THE SCOPE OF
EXCLUSIONARY ORDER LIMITING
PLAINTIFF'S RIGHT TO FILE AND
DENYING MOTION**

On September 2, 2010 Plaintiff Daniel Rodriguez filed a lawsuit nominally against the Supreme Court of San Francisco and the people of California apparently related to alleged abuse he suffered at the hands of one or more deputies during his time as an inmate in the San Francisco County Jail. Dkt. 1. The Court is in receipt of a document titled "Motion for Dismissal," which appears to ask for a guilty plea to be set aside, and release petitioner from all penalties and disabilities resulting from a state law offense conviction. Dkt. 4.

Because Mr. Rodriguez has a history of filing complaints concerning allegations of medical malpractice, he is subject to a Standing Order requiring a "pre-filing review of any complaint" to ascertain whether that complaint should be summarily rejected as impermissibly duplicative. See Order Dismissing Compl. (Dkt. 14) in 08-5257 MHP. The Complaint in this matter does not concern allegations of medical malpractice, and it is thus not barred by the Standing Order.

1 Accordingly, the Court will treat the Motion as filed and, in the interest of judicial
2 expediency, DENY this Motion, as the relief petitioner is seeking appears to have already been
3 granted by the state court. Plaintiff requests “that the plea of guilty be set aside, a plea of not guilty
4 be entered that the [a]ccusatory pleading be dismissed, and the petitioner be released from all
5 penalties and disabilities [r]esulting from said offense pursuant to Section 1203.4a of the penal
6 code.” Mot. at 1. Attached to this Motion are two documents from his case in the Superior Court of
7 the State of California, County of San Francisco. The first is a Motion for Dismissal pursuant to
8 Section 1203.4a of the Penal Code, and the second is an Order of Dismissal Pursuant to Penal Code
9 Section 1203.4a signed by Judge Ron Albers of the Superior Court. See Dkt. 1 at 4-5.

10 This state court Order states that “petitioner be permitted to withdraw the plea of guilty and
11 that a plea of not guilty be entered,” that “the accusatory pleading against the petitioner be
12 dismissed,” and further that “petitioner be released from all penalties and disabilities resulting from
13 the conviction pursuant to Penal Code Section 1203.4a.” Id. at 5. The Order has only a small
14 exception which does not seem to apply. Thus, it does appear to this Court that it could fashion any
15 relief that Plaintiff has not already received from the state court. Accordingly, the Motion is
16 DENIED. If the Court has misinterpreted the Plaintiff’s request, the Plaintiff may re-file an
17 expanded request within thirty days.

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19 **IT IS SO ORDERED.**

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22 Dated: January 24, 2012



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE