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FILED
NOV 22 2011
RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

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

KEITH RUSSELL JUDD,
Plaintiff,

v.

SECRETARY OF STATE OF
CALIFORNIA, et. al.,
Defendant(s).

No. C-11-2805 JW (PR)

**ORDER DISMISSING COMPLAINT;
DENYING IN FORMA PAUPERIS
APPLICATION/REQUESTS FOR FEE
WAIVER**

(Docket Nos. 2, 4, 6 & 8)

Beginning in June 2011, Plaintiff, a federal prisoner incarcerated at the Federal Correctional Institution in Texarkana, Texas, filed several documents in this Court. The initial document Plaintiff filed is entitled "COMPLAINT FOR DECLARATORY RELIEF AND PRELIMINARY INJUNCTION; ELECTIONS VOTING." In that document, Plaintiff seeks injunctive relief requiring the State of California to place him on the presidential primary ballot for 2012 as a Democratic candidate and a declaratory judgment that California's election laws are unconstitutional because they do not allow convicted felons to vote. See Doc. No. 1. Plaintiff also seeks leave to proceed in forma pauperis and/or a waiver of filing fees. See Doc. Nos. 2, 4 & 8.

For the reasons that follow, the action is DISMISSED WITH PREJUDICE and Plaintiff's in forma pauperis application and requests for fee waivers are DENIED.

1 banc); Moss v. U.S. Secret Service, 572 F.3d 962, 971 (9th Cir. 2009).

2 **B. Analysis**

3 Plaintiff is a frequent litigant in federal court. Indeed, to date, Plaintiff has filed well
4 over 900 actions in federal courts all over the country. See PACER Case Locator,
5 <http://www.pacer.gov/findcase.html>.¹ Plaintiff's penchant for abusive and frivolous federal
6 litigation has earned him sanctions as well as orders enjoining him from filing new actions in
7 many courts, including the United States Supreme Court. See, e.g., Judd v. U.S. Dist. Ct.
8 W.D. Tex., 528 U.S. 5, 5–6 (1999); In re Judd, 240 Fed.Appx. 981, 982 (3rd Cir. 2007); Judd
9 v. Fox, 289 Fed.Appx. 795, 795–96 (5th Cir. 2008); Judd v. United States, No. 05-5289, 05-
10 5290, 2006 WL 1565084 at *1 (D.C. Cir. Feb. 14, 2006); Judd v. Univ. of New Mexico, 204
11 F.3d 1041 (10th Cir. 2000) (summarizing Plaintiff's history of abusive filings in the federal
12 courts and imposing filing restrictions).

13 The instant action involves Plaintiff's desire for injunctive relief requiring the State of
14 California to place him on the presidential primary ballot for 2012 as a Democratic candidate
15 and a declaratory judgment that California's election laws are unconstitutional because they
16 do not allow convicted felons to vote. See Doc. No. 1. This action appears to be identical to
17 actions filed in federal district courts in many states. See, e.g., In re Keith Russell Judd
18 Voting Rights Litigation, M.D.L. No. 2276, 2011 WL 4684348 (U.S.Jud.Pan.Mult.Lit.,
19 Oct. 7, 2011). In its order denying Plaintiff's request to centralize actions in the Western
20 District of Arkansas, the multidistrict litigation panel noted:

21 Plaintiff also notified the Panel of over 30 related actions that he
22 filed in various federal districts[] . . . [in which he] aspires to

23
24 ¹ This Court "may take [judicial] notice of proceedings in other courts, both within and
25 without the federal judicial system, if those proceedings have a direct relation to matters at
26 issue." United States ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc., 971 F.2d 244,
27 248 (9th Cir. 1992). A court also may take judicial notice of the existence of matters of public
28 record, such as a prior order or decision, but not the truth of the facts cited therein. See Lee v.
City of Los Angeles, 250 F.3d 668, 689–90 (9th Cir. 2001); see also Interstate Natural Gas Co.
v. Southern California Gas Co., 209 F.2d 380, 385 (9th Cir. 1954) (holding a court may take
judicial notice of records and reports of administrative bodies).

1 appear on presidential primary ballots for the 2012 election. In
2 each action he challenges the ballot placement provisions of the
3 respective states and the laws prohibiting persons convicted of
4 certain crimes from voting in federal elections.

5
6 [Plaintiff's motion to centralize litigation] initially encompassed
7 24 actions, 22 of which have since been closed, including actions
8 in the District of Arizona, Western District of Arkansas, District
9 of New Hampshire, and Southern District of West Virginia that
10 had been on the hearing session order.

11 Id. at *1 & n.1.

12 A court may dismiss a complaint or individual claims when the complaint or claims are
13 duplicative of claims brought in another case. See 28 U.S.C. § 1915A(b)(1) (allowing district
14 courts to dismiss prisoner actions that are frivolous); see also Cato v. United States, 70 F.3d
15 1105, 1105 n.2 (9th Cir. 1995) (no abuse of discretion in dismissing action as frivolous under
16 28 U.S.C. § 1915 where complaint “merely repeats pending or previously litigated claims”).
17 Indeed, many of the actions Plaintiff filed in our sister courts have been dismissed as
18 frivolous; some also have barred Plaintiff from proceeding in forma pauperis pursuant to
19 28 U.S.C. § 1915(g). See, e.g., Judd v. Sec’y of State of Arkansas, et. al., Civ. No. 11-4049,
20 2011 WL 3901929 at *2–3 (W.D. Ark. July 7, 2011) (“Plaintiff, as has been noted by various
21 courts, is a vexatious and abusive filer. His filings occupy valuable court time and resources
22 and are frivolous. He has been barred by more than three courts from further filings in those
23 courts[.]”); Judd v. Sec’y of State of Maine, et. al., Civ. No. 11-00212 (D. Me. July 1, 2011);
24 Judd v. Sec’y of State of California, et. al., No. C-11-5440-UA (AN) (C.D. Cal. filed June 30,
25 2011); Judd v. State Board of Elections of Virginia, et. al., Civ. No. 11-00618 (E.D. Va. June
26 20, 2011); Judd v. Oklahoma State Election Board, et. al., Civ. No. 11-00183 (E.D. Okla.
27 June 13, 2011); Judd v. State Board of Elections of Maryland, et. al., Civ. No. RDB–11–1447,
28 2011 WL 2413513 at *2 (D. Md. June 10, 2011) (“[Plaintiff] is a prolific and vexatious
litigant who has filed more than 748 cases in federal courts since 1997”); Judd v. State of

1 Hawaii, et. al., No. C-11-0365 DAE-BMK (D. Hawaii filed June 9, 2011) (“Plaintiff has filed
2 an astonishing 902 cases in the federal courts to date”); Judd v. Wyoming Sec’y of State, Civ.
3 No. 11-00202 (D. Wyo. June 6, 2011); Judd v. Sec’y of the Commonwealth of Massachusetts,
4 et. al., Civ. No. 11-94007 (D. Mass. June 3, 2011); Judd v. Department of State of Tennessee,
5 et. al., Civ. No. 11-00244 (E.D. Tenn. June 3, 2011); Judd v. Sec’y of State of Florida, et. al.,
6 Civ. No. 6:11-cv-867-Orl-22KRS, 2011 WL 2784422 (M.D. Fla. June 1, 2011); Judd v.
7 Sec’y of State of Montana, et. al., Civ. No. 11-00080 (D. Mont. May 27, 2011); Judd v. State
8 Election Bd. of New York, et. al., Civ. No. 11-00571 (N.D.N.Y. 2011); Judd v. Sec’y of State
9 of Nevada, et. al., Civ. No. 11-00853 (D. Nev. 2011); Judd v. Oklahoma State Election
10 Board, et. al., Civ. No. 11-00624 (W.D. Okla. 2011).

11 This Court will do the same as its sister courts have done with Plaintiff’s countless
12 abusive and frivolous filings, i.e., find that Plaintiff’s action in which he seeks injunctive
13 relief requiring the State of California to place him on the presidential primary ballot for 2012
14 as a Democratic candidate cannot proceed because it is frivolous, malicious and fails to state a
15 claim upon which relief may be granted. See 28 U.S.C. § 1915A(b); Neitzke, 490 U.S. at
16 325; Denton, 504 U.S. at 32–33 (citations and quotations omitted) (finding of factual
17 frivolousness is warranted when facts alleged are “clearly baseless,” “fanciful,” “fantastic,”
18 “delusional” or wholly incredible “whether or not there are judicially noticeable facts
19 available to contradict them”). In Richardson v. Ramirez, the United States Supreme Court
20 upheld against an equal protection claim California’s disenfranchisement of convicted felons
21 who had completed their sentences and paroles. Id., 418 U.S. 24, 56 (1974). It follows that,
22 because Plaintiff is ineligible to vote due to his incarceration, he is ineligible to run for public
23 office.

24 **C. In Forma Pauperis Status**

25 Under the authority of 28 U.S.C. § 1915(g), a prisoner may not bring a civil action or
26 appeal a judgment in a civil action or proceeding under 28 U.S.C. § 1915 (i.e., may not
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1 proceed in forma pauperis) “if the prisoner has, on 3 or more prior occasions, while
2 incarcerated or detained in any facility, brought an action or appeal in a court of the United
3 States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim
4 upon which relief may be granted, unless the prisoner is under imminent danger of serious
5 physical injury.” 28 U.S.C. § 1915(g). Such is the case here.

6 **CONCLUSION**

7 For the reasons set forth above, Plaintiff’s requests to proceed in forma pauperis and
8 for a waiver for filing fees (Doc. Nos. 2, 4 & 8) are **DENIED**. Further, Plaintiff’s Complaint
9 is **DISMISSED WITH PREJUDICE** on the grounds that it is frivolous, malicious and fails
10 to state a claim upon which relief may be granted. See 28 U.S.C. § 1915A(b).

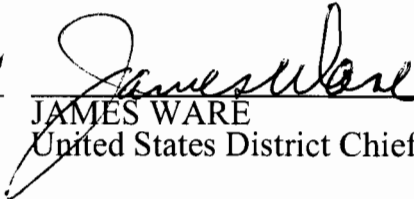
11 The Court further certifies, pursuant to 28 U.S.C. § 1915(a)(3) that an in forma
12 pauperis appeal from this Order of Dismissal would not be taken in good faith.

13 The Clerk is directed to terminate all motions as moot, enter judgment in accordance
14 with this order and close the file.

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16 IT IS SO ORDERED.

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18 DATED

November 22, 2011



JAMES WARE
United States District Chief Judge

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KEITH RUSSELL JUDD,

No. C11-2805 (JW)

Plaintiff(s),

CERTIFICATE OF SERVICE

v.

SECRETARY OF STATE OF
CALIFORNIA , et al,

Defendant(s).

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 23, 2011, I SERVED a true and correct copy of the attached, by placing said copy in a postage paid envelope addressed to the person(s) listed below, by depositing said envelope in the U.S. Mail; or by placing said copy into an inter-office delivery receptacle located in the Office of the Clerk.

Keith Russell Judd
11593-051
Federal Correctional Institution
K-2
P.O. Box 7000
Texarkana, TX 75505-7000

RICHARD W. WIEKING, CLERK

BY: Susan Imbriani
Susan Imbriani, Courtroom Deputy