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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LONNIE MORRIS,
Plaintiff,
v.
JENNIFER SHAFFER, et al.,
Defendants.

Case No. [16-cv-00423-JSC](#)
**ORDER ADMINISTRATIVELY
CLOSING CASE;
INSTRUCTIONS TO CLERK**
(Dkt. No. 2)

This case was opened when Plaintiff, a California prisoner, filed a pro se Petition for a Writ of Mandamus with the caption for *Coleman, et al., v. Brown, et al.*, No. 90-cv-0520 KKK DAD (PC) (E.D. Cal.), and *Plata, et al., v. Brown, et al.*, No. 01-cv-1351 TEH (N.D. Cal.) (hereinafter “*Coleman/Plata*”), class actions before a three-judge panel.¹ Plaintiff alleges that he is a member of the class in *Coleman/Plata*, and that he is eligible for release pursuant to a February 10, 2014 Order which created “Elderly Parole release criteria.” (See Dkt. No. 1, Exh. B.) The petition seeks to compel the Executive Officer of the California Board of Parole Hearings and the Warden of San Quentin State Prison to comply with the February 10, 2014 Order by releasing Plaintiff from custody.

Plaintiff may not assert his claims in an individual suit, but rather he must pursue them in *Coleman/Plata* by urging further action through the class representatives and attorneys. See *Pride v. Correa*, 719 F.3d 1130, 1133 (9th Cir. 2013) (holding that individual suits for injunctive and equitable relief may be dismissed when they duplicate an existing class action's allegations and prayer for relief); see also *McNeil v. Guthrie*, 945 F.2d 1163, 1165 (10th Cir. 1991) (“Individual suits for injunctive and equitable relief from alleged unconstitutional prison conditions cannot be

¹ Plaintiff has consented to the jurisdiction of a Magistrate Judge. (Dkt. No. 4).

1 brought where there is an existing class action" suit involving the same subject matter); *Gillespie*
2 *v. Crawford*, 858 F.2d 1101, 1103 (5th Cir. 1988) (en banc) ("Individual members of the class and
3 other prisoners may assert any equitable or declaratory claims they have, but they must do so by
4 urging further actions through the class representative and attorney, including contempt
5 proceedings, or by intervention in the class action."). It is clear from the caption to the petition
6 that Plaintiff intended to file it in *Coleman/Plata*, and not as an individual suit. This was the
7 correct course of action, although pursuant to an order in *Plata*, he may not file a pro se petition
8 directly in that case but rather only through plaintiffs' counsel.² (See Dkt. No. 2348 in *Plata, et*
9 *al., v. Brown, et al.*, No. C 01-1351 TEH (N.D.Cal.)) Accordingly, the Clerk shall
10 administratively close this case as having been opened in error, and return a copy of the Petition
11 for Writ of Mandamus (Dkt. No. 1) to Plaintiff. No fee is due, and the application to proceed in
12 forma pauperis (Dkt. No. 2) is DENIED as moot.

13 **IT IS SO ORDERED.**

14 Dated: February 29, 2016

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17 JACQUELINE SCOTT CORLEY
18 United States Magistrate Judge

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² Plaintiff may submit his petition to plaintiffs' counsel in *Plata* by mailing it to Donald H. Specter, Prison Law Office, 1917 Fifth Street, Berkeley, CA 94710-1916.

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Case No. [16-cv-00423-JSC](#)

CERTIFICATE OF SERVICE


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 February 29, 2016, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Lonnie Morris ID: B-95677
California State Prison - San Quentin
San Quentin, CA 94964

Dated: February 29, 2016

Susan Y. Soong
Clerk, United States District Court

By: 
Ada Means, Deputy Clerk to the
Honorable JACQUELINE SCOTT CORLEY