

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HUI LIAN KE,
Plaintiff,
v.
SUZANNE ROMERO,
Defendant.

Case No. [17-cv-05973-EMC](#)**ORDER OF DISMISSAL**

Docket No. 1

Hui Lian Ke, also known as Lily Ko, filed this *pro se* civil rights action pursuant to 42 U.S.C. § 1983. At the time she filed the action, Plaintiff was an inmate at the Santa Clara County Jail and has since been transferred to Napa State Hospital. The complaint is largely incomprehensible but attempts to allege claims about the removal of her two children from their home on or about May 6, 2014, by defendant.

The complaint in this action repeats claims made in *Ki v. Romero*, Case No. 17-cv-5666 SI. Although they espouse different legal theories, both complaints concern an incident on May 6, 2014, and both have the same defendant. The earlier action is still pending.

The complaint in this action is frivolous because it is duplicative of the complaint filed in the earlier action. *See Cato v. United States*, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995); *Bailey v. Johnson*, 846 F.2d 1019, 1021 (5th Cir. 1988) (duplicative or repetitious litigation of virtually identical causes of action is subject to dismissal under 28 U.S.C. § 1915 as malicious); *see also Adams v. California Dept. of Health Services*, 487 F.3d 684, 689 (9th Cir. 2007) (“Plaintiffs generally have ‘no right to maintain two separate actions involving the same subject matter at the same time in the same court and against the same defendant.’”)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Accordingly, this action is **DISMISSED** with prejudice because it is frivolous. The Clerk shall close the file.

IT IS SO ORDERED.

Dated: November 30, 2017



EDWARD M. CHEN
United States District Judge