

1                               IN THE UNITED STATES DISTRICT COURT  
2  
3                               FOR THE NORTHERN DISTRICT OF CALIFORNIA

4       IN RE STEVEN BONILLA,  
5  
6                               Plaintiff.

Nos. C 11-5162 CW (PR)  
C 11-5163 CW (PR)  
C 11-5164 CW (PR)  
C 11-5165 CW (PR)

7       \_\_\_\_\_/                               ORDER OF DISMISSAL; GRANTING  
8   LEAVE TO PROCEED IN FORMA  
9   PAUPERIS

10           Between June 1 and October 1, 2011, Plaintiff, a state  
11   prisoner incarcerated at San Quentin State Prison, filed in this  
12   Court thirty pro se civil rights actions under 42 U.S.C. § 1983.  
13   The Court dismissed all of those actions because none of the  
14   allegations in Plaintiff's complaints stated a claim for relief  
15   under § 1983. Moreover, in the most recent Order of Dismissal  
16   filed on October 25, 2011, the Court expressly informed Plaintiff  
17   that nine of his actions were being dismissed without leave to  
18   amend for failure to state a claim upon which relief may be granted  
19   and, as a result, Plaintiff will not be permitted to proceed in  
20   forma pauperis in any future civil action he files in this Court,  
21   as set forth in 28 U.S.C. § 1915(g). See In re Steven Bonilla,  
22   Nos. C 11-3180, et seq. CW (PR), Order of Dismissal at 6:23-7:19.

23           On October 21, 2011, four days prior to the Court's entry of  
24   the above Order of Dismissal, Plaintiff filed the present four  
25   civil rights actions under § 1983. Thus, because the Court's  
26   ruling that Plaintiff will be subject to the provisions of  
27   § 1915(g) was not yet final when Plaintiff filed the present  
28   actions, § 1915(g) does not apply herein. See Silva v. Di

1 Vittorio, No. 08-15620, slip op. 18329, 18343 (9th Cir. Sept. 26,  
2 2011) (holding district court's dismissal of case does not count as  
3 strike under § 1915(g) until dismissal becomes final by virtue of  
4 prisoner's waiver or exhaustion of opportunity to appeal).

5        Nevertheless, these actions are subject to dismissal. A court  
6 may dismiss a complaint or individual claims when the complaint or  
7 claims are duplicative of claims brought in another case. See Cato  
8 v. United States, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995) (holding  
9 in forma pauperis complaint that merely repeats pending or  
10 previously litigated claims may be considered abusive and  
11 dismissed); 28 U.S.C. § 1915A(b)(1) (allowing district courts to  
12 dismiss sua sponte prisoner actions that are frivolous). Here,  
13 each of Plaintiff's actions raises claims that have been dismissed  
14 by this Court previously on the ground that they fail to state a  
15 claim for relief under § 1983.

16        Specifically, three of Plaintiff's present actions seek  
17 monetary damages and/or injunctive relief from individuals or  
18 entities that allegedly presented perjured testimony, provided  
19 false evidence or otherwise conspired with the prosecution to  
20 obtain Plaintiff's conviction. See Bonilla v. People of the State  
21 of California, No. C 11-5162 CW (PR), Bonilla v. Baptist, et al.,  
22 No. C 11-5163 CW (PR), and Bonilla v. Nickerson, No. C 11-5164 CW  
23 (PR). Plaintiff's fourth action seeks to compel the Supreme Court  
24 of California to rule on Plaintiff's pending state habeas petition.  
25 See Bonilla v. California Supreme Court, No. C 11-5165 CW (PR).  
26 All of these claims previously have been reviewed and dismissed by  
27 this Court either because they seek relief that can be pursued only  
28 in a habeas corpus action or because they fail to state a claim

1 upon which relief may be granted. See In re Steven Bonilla, Nos. C  
2 11-2612 et seq. CW (PR), Order of Dismissal filed and judgment  
3 entered June 13, 2011; In re Steven Bonilla, Nos. C 11-2808 et seq.  
4 CW (PR), Order of Dismissal filed and judgment entered June 16,  
5 2011; In re Steven Bonilla, Nos. C 11-3052 et seq. CW (PR), Order  
6 of Dismissal filed and judgment entered June 20, 2011; In re Steven  
7 Bonilla, Nos. C 11-3180, et seq. CW (PR), Order of Dismissal filed  
8 and judgment entered Oct. 25, 2011.

9 Accordingly, the present four actions are DISMISSED with  
10 prejudice because they merely repeat previously dismissed claims.  
11 See Cato, 70 F.3d at 1105 n.2. Additionally, in view of  
12 Plaintiff's lack of funds, his applications to proceed in forma  
13 pauperis are GRANTED.

14 The Clerk of the Court shall enter judgment in each of these  
15 civil rights actions, terminate all pending motions therein, and  
16 close the files. The Clerk of the Court also shall file a copy of  
17 this Order in C 08-0471.

18 IT IS SO ORDERED.

19 Dated: 11/22/2011

20 

21 CLAUDIA WILKEN  
22 UNITED STATES DISTRICT JUDGE  
23  
24  
25  
26  
27  
28

1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 STEVEN WAYNE BONILLA,

5 Plaintiff,

6 v.

7 PEOPLE OF STATE OF CA et al,

8 Defendant.

Case Number: CV11-05162 CW  
CV11-05163 CW  
CV11-05164 CW  
CV11-05165 CW

**CERTIFICATE OF SERVICE**

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

11 That on November 22, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said  
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said  
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located  
14 in the Clerk's office.

15 Steven Wayne Bonilla J-48500  
16 San Quentin State Prison  
17 San Quentin, CA 94964

18 Dated: November 22, 2011

Richard W. Wieking, Clerk  
By: Nikki Riley, Deputy Clerk