

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3 KENNETH L. BRUMFIELD,

No. C 08-04257 SBA (PR)

4 Petitioner,

**ORDER OF DISMISSAL WITHOUT
PREJUDICE**

5 v.

6 CITY OF SAN FRANCISCO, et al.,

7 Respondents.
8 _____/

9 This case was opened when Petitioner, a state prisoner, filed a complaint on the Court's civil
10 rights form. Petitioner thereafter filed an application to proceed in forma pauperis (IFP). The Court
11 has granted him leave to proceed IFP.

12 In an Order dated November 4, 2009, the Court conducted a preliminary review of the
13 complaint, stating, "Although [Petitioner] submitted his claims on a civil rights form, it is apparent
14 that he intended to file a petition for a writ of habeas corpus because he claims he is being 'illegally
15 detailed' on 'charges refiled Feb. 2008 based on erroneous information.'" (Nov. 4, 2009 Order at 1
16 (quoting Compl. at 3).) Accordingly, the Court directed the Clerk of the Court to reclassify this case
17 on the docket as a habeas action, which has a filing fee of \$5.00. The Court also found that the
18 record did not contain enough information to permit it to ascertain whether Petitioner's claims were
19 cognizable in this Court. The Court dismissed the petition and granted Petitioner thirty days to file
20 an amended petition curing the pleading deficiencies, or to suffer dismissal of the petition without
21 prejudice.

22 More than thirty days have passed, and Petitioner has failed to file an amended petition.
23 Accordingly, this action is DISMISSED without prejudice. The Court has rendered its final decision
24 on this matter; therefore, this Order TERMINATES Petitioner's case. The Clerk of the Court shall
25 close the file.

26 IT IS SO ORDERED.

27 DATED: 12/8/09

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SAUNDRA BROWN ARMSTRONG
United States District Judge

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

KENNETH L. BRUMFIELD,
Plaintiff,

Case Number: CV08-04257 SBA

CERTIFICATE OF SERVICE

v.

SF CITY OF et al,
Defendant.

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 December 10, 2009, 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.

Kenneth L. Brumfield 2306531
California State Prison - San Quentin
San Quentin, CA 94964

Dated: December 10, 2009

Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk