

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

3 IMHOTEP JORDAN, JR.,

No. C 11-03791 SBA (PR)

4 Plaintiff,

ORDER OF DISMISSAL

5 v.

6 JESSIE MOSLEY,

7 Defendant.

8 _____/
9 IMHOTEP JORDAN, JR.,

No. C 11-04426 SBA (PR)

10 Plaintiff,

ORDER OF DISMISSAL

11 v.

12 RICHARD W. WIEKING,

13 Defendant.

14 These actions were opened in error when the Court received documents from Plaintiff that
15 were intended to be filed in a previously-filed action -- Case No. C 11-2668 SBA (PR). Plaintiff had
16 only filed a document entitled, "Request for Entry of Default Judgment," which was signed on May
17 16, 2011, in Case No. C 11-2668 SBA (PR); therefore, he was informed by the Clerk of the Court
18 that his action could not go forward until he filed with the Court a civil rights complaint form and a
19 prisoner's in forma pauperis application.

20 On August 2, 2011, Case No. C 11-03791 SBA (PR) was opened when Plaintiff submitted a
21 "Notice and Demand for Exhibition, Presentment, Evidence Without Dishonor Pursuant to 18 U.S.C.
22 § 645 & 654 and 18 U.S.C. § 4 & 2382." In an effort to protect Plaintiff's rights, his filing was
23 treated as an attempt to open a civil rights case under Section 1983. On the same date the case was
24 opened, the Clerk sent Plaintiff a notice directing him to pay the filing fee or to file a completed in
25 forma pauperis (IFP) application. On August 12, 2011, the Clerk's notice was returned as
26 undeliverable with a notation: "Returned to Sender -- Refused." On September 7, 2011, Plaintiff
27 filed an "Instrument of Clarification of the Private Legal Process" against Defendant Mosley. Also
28 on September 7, 2011, Plaintiff filed the same "Instrument of Clarification of the Private Legal

1 Process" against Richard W. Wieking, Clerk for the United States District Court for the Northern
2 District of California, in his other pending action, Case No. C 11-4426 SBA (PR). Similarly, in an
3 effort to protect Plaintiff's rights, his filing in Case No. C 11-4426 SBA (PR) was treated as an
4 attempt to open a civil rights case under Section 1983. On the same date that case was opened, the
5 Clerk also sent Plaintiff a notice directing him to pay the filing fee or to file a completed IFP
6 application.

7 Plaintiff filed the aforementioned documents in the cases above, however, he did not indicate
8 that they were to be filed in Case No. C 11-2668 SBA (PR). Therefore, as mentioned above, they
9 were opened as new actions.

10 On September 9, 2011, the Clerk sent Plaintiff copies of both documents labeled "Instrument
11 of Clarification of the Private Legal Process" filed in Case Nos. C 11-03791 SBA (PR) and C 11-
12 4426 SBA (PR), against Mr. Mosley and Mr. Wieking, respectively, as well as a copy of a
13 document showing that Plaintiff has three open actions in this Court.


14 On September 19, 2011, the aforementioned copies of the documents above were returned
15 with a notation: "Returned to Sender -- Refused."

16 Plaintiff currently has three separate civil rights actions pending, although he meant to file
17 only one action. Accordingly, the Clerk is directed to remove Plaintiff's filings from Case Nos.
18 C 11-03791 SBA (PR) and C 11-4426 SBA (PR), to file it in his previously-filed action, Case No.
19 C 11-2668 SBA (PR), and to docket it using the titles Plaintiff has indicated on each document. The
20 Clerk is further directed to mark each document as filed on the date they were received by the Court.
21 Any future filings by Plaintiff in Case Nos. C 11-03791 SBA (PR) and C 11-4426 SBA (PR) shall
22 be filed in Case No. C 11-2668 SBA (PR). The Court will review the aforementioned documents in
23 a separate written Order in Case No. C 11-2668 SBA (PR).

24 Case Nos. C 11-03791 SBA (PR) and C 11-4426 SBA (PR) are DISMISSED because they
25 were opened in error. No filing fee is due for both cases. The Clerk shall close the files.

26 IT IS SO ORDERED.

27 DATED: 10/21/11


28 SAUNDRA BROWN ARMSTRONG
United States District Judge

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

4 IMHOTEP JORDAN JR.,

5 Plaintiff,

6 v.

7 JESSIE MOSLEY et al,

8 Defendant.

Case Number: CV11-03791 SBA

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 October 25, 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
14 located in the Clerk's office.

15 Imhotep Jordan C-71742
16 Calipatria State Prison
17 P.O. Box 5002
18 Calipatria, CA 92233

19 Dated: October 25, 2011

20 Richard W. Wiekling, Clerk
21 By: LISA R CLARK, Deputy Clerk
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