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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

RUBEN MIJEL CHAVIRA,  
CDCR #F-33253,

Plaintiff,

vs.

D.W. BELL,

Defendant.

Civil No. 12cv1773 JLS (WVG)

**ORDER DISMISSING CIVIL  
ACTION AS FRIVOLOUS  
PURSUANT TO 28 U.S.C.  
§ 1915A(b)(1) AND DENYING  
MOTION TO PROCEED  
IN FORMA PAUPERIS  
AS MOOT**

**(ECF No. 6)**

Ruben Mijel Chavira (“Plaintiff”), currently incarcerated at Kern Valley State Prison located in Delano, California, and proceeding pro se, initially submitted a civil rights Complaint pursuant to 28 U.S.C. § 1983 in the Northern District of California. (Compl., ECF No. 1) U.S. District Judge Claudia Wilkin determined that venue was proper in the Southern District of California and transferred the matter on July 17, 2012. (See Transfer Order, ECF No. 3) Plaintiff has not prepaid the \$350 filing fee mandated by 28 U.S.C. § 1914(a); instead, he has filed a Motion to Proceed *In Forma Pauperis* (“IFP”) pursuant to 28 U.S.C. § 1915(a). (IFP Mot., ECF No. 6)

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1 **I. Sua Sponte Screening Pursuant to 28 U.S.C. § 1915A(b)**

2 As amended by The Prison Litigation Reform Act, 28 U.S.C. § 1915A obligates the  
3 Court to review complaints filed by anyone “incarcerated or detained in any facility who is  
4 accused of, sentenced for, or adjudicated delinquent for, violations of criminal law or the  
5 terms or conditions of parole, probation, pretrial release, or diversionary program,” “as soon  
6 as practicable after docketing” and regardless of whether the prisoner prepays filing fees or  
7 moves to proceed IFP. See 28 U.S.C. § 1915A(a), (c). The Court must sua sponte dismiss  
8 prisoner complaints, or any portions thereof, which are frivolous, malicious, or fail to state a  
9 claim upon which relief may be granted. 28 U.S.C. § 1915A(b); *Rhodes v. Robinson*, 621  
10 F.3d 1002, 1004 (9th Cir. 2010).

11 Plaintiff’s Complaint is subject to sua sponte dismissal pursuant to 28 U.S.C.  
12 § 1915A(b)(1) because it is duplicative of a Complaint he has already filed in another civil  
13 action. Indeed, Plaintiff’s Complaint contains identical allegations against the same  
14 defendants already brought before U.S. District Judge Dana M. Sabraw in *Chavira v. Bell*,  
15 S.D. Cal. Civil Case No. 11cv2858 DMS (RBB). A court ““may take notice of proceedings  
16 in other courts, both within and without the federal judicial system, if those proceedings have  
17 a direct relation to matters at issue.”” *Bias v. Moynihan*, 508 F.3d 1212, 1225 (9th Cir. 2007)  
18 (quoting *Bennett v. Medtronic, Inc.*, 285 F.3d 801, 803 n.2 (9th Cir. 2002)).

19 A prisoner’s complaint is considered frivolous under 28 U.S.C. § 1915A(b)(1) if it  
20 “merely repeats pending or previously litigated claims.” *Cato v. United States*, 70 F.3d  
21 1103, 1105 n.2 (9th Cir. 1995) (construing former 28 U.S.C. § 1915(d)) (internal quotations  
22 omitted) (citations omitted). Thus, because Plaintiff has already filed the same Complaint he  
23 has filed in this action in *Chavira v. Bell*, S.D. Cal. Civil Case No. 11cv2858 DMS (RBB),  
24 the Court hereby **DISMISSES** S.D. Cal. Civil Case No. 12cv1773 JLS (WVG) pursuant to  
25 28 U.S.C. § 1915A(b)(1). See *Cato*, 70 F.3d at 1105 n.2; *Rhodes*, 621 F.3d at 1004.

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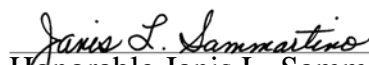
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1 **II. Conclusion and Order**

2 Good cause appearing, **IT IS HEREBY ORDERED** that:  
3 Plaintiff's Complaint in Civil Case No. 12cv1773 JLS (WVG) is **DISMISSED** as  
4 frivolous pursuant to 28 U.S.C. § 1915A(b)(1) and Plaintiff's Motion to Proceed IFP (ECF  
5 No. 6) is **DENIED** as moot. The Clerk shall close the file.

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7 DATED: August 20, 2012

8   
9 Honorable Janis L. Sammartino  
10 United States District Judge

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