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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ROBEY HAIRSTON, CDCR #C-95215, v. SUPERIOR COURT OF BAKERSFIELD, et. al.,	Plaintiff, Defendants.
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Case No.: 17-cv-00190-JAH-NLS

1) DISMISSING CIVIL ACTION AS FRIVOLOUS PURSUANT TO 28 U.S.C. § 1915A(b)(1)

AND

2) DENYING MOTION TO PROCEED IN FORMA PAUPERIS AS MOOT [ECF Doc. No. 2]

Robey Hairston (“Plaintiff”), currently housed at the Atascadero State Hospital located in Atascadero, California, and proceeding pro se, filed this action pursuant to 42 U.S.C. § 1983, on January 30, 2017. *See* Compl. at 1, ECF Doc. No. 1. Plaintiff did not prepay the civil filing fees required by 28 U.S.C. § 1914(a) at the time of filing; instead he has filed a Motion to Proceed *In Forma Pauperis* (“IFP”) pursuant to 28 U.S.C. § 1915(a) (ECF Doc. No. 2).

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

The Prison Litigation Reform Act (“PLRA”), 28 U.S.C. § 1915A, obligates the Court to review complaints filed by anyone “incarcerated or detained in any facility who

1 is accused of, sentenced for, or adjudicated delinquent for, violations of criminal law or
2 the terms or conditions of parole, probation, pretrial release, or diversionary program,”
3 “as soon as practicable after docketing” and regardless of whether the prisoner prepays
4 filing fees or moves to proceed IFP. *See* 28 U.S.C. § 1915A(a), (c). Pursuant to this
5 provision of the PLRA, the Court is required to review prisoner complaints which “seek[]
6 redress from a governmental entity or officer or employee of a government entity,” and to
7 dismiss those, or any portion of those, which are “frivolous, malicious, or fail[] to state a
8 claim upon which relief may be granted,” or which “seek monetary relief from a
9 defendant who is immune.” 28 U.S.C. § 1915A(b)(1)-(2); *Resnick v. Hayes*, 213 F.3d
10 443, 446-47 (9th Cir. 2000); *Hamilton v. Brown*, 630 F.3d 889, 892 n.3 (9th Cir. 2011).
11 “The purpose of § 1915A is ‘to ensure that the targets of frivolous or malicious suits need
12 not bear the expense of responding.’” *Nordstrom v. Ryan*, 762 F.3d 903, 920 n.1 (9th Cir.
13 2014) (quoting *Wheeler v. Wexford Health Sources, Inc.*, 689 F.3d 680, 681 (7th Cir.
14 2012)).

15 Plaintiff’s complaint is subject to sua sponte dismissal pursuant to 28 U.S.C.
16 § 1915A(b)(1) because it is duplicative of another civil action he is already litigating
17 before a different Court. *See Hairston v. Superior Court of Bakersfield, et al.*, E.D. Cal.
18 Civil Case No. 1:17-cv-00220-DAD-JLT (Compl., ECF Doc. No. 1). A court “‘may take
19 notice of proceedings in other courts, both within and without the federal judicial system,
20 if those proceedings have a direct relation to matters at issue.’” *Bias v. Moynihan*, 508
21 F.3d 1212, 1225 (9th Cir. 2007) (quoting *Bennett v. Medtronic, Inc.*, 285 F.3d 801, 803
22 n.2 (9th Cir. 2002)).

23 A prisoner’s complaint is considered frivolous under 28 U.S.C. § 1915A(b)(1) if it
24 “merely repeats pending or previously litigated claims.” *Cato v. United States*, 70 F.3d
25 1103, 1105 n.2 (9th Cir. 1995) (construing former 28 U.S.C. § 1915(d)) (citations and
26 internal quotations omitted). Because Plaintiff is already litigating the identical claims
27 presented in the instant action against the same defendants in *Hairston v. Superior Court*
28 *of Bakersfield, et al.*, E.D. Cal. Civil Case No. 1:17-cv-00220-DAD-JLT, the Court must

1 dismiss this duplicative and subsequently filed civil case pursuant to 28 U.S.C.
2 § 1915A(b)(1). *See Cato*, 70 F.3d at 1105 n.2; *Resnick*, 213 F.3d at 446 n.1; *see also*
3 *Adams v. Cal. Dep't of Health Servs.*, 487 F.3d 684, 688–89 (9th Cir. 2007) (“[I]n
4 assessing whether the second action is duplicative of the first, we examine whether the
5 causes of action and relief sought, as well as the parties or privies to the action, are the
6 same.”), *overruled on other grounds by Taylor v. Sturgell*, 553 U.S. 880, 904 (2008).

7 **II. Conclusion and Order**

8 Good cause appearing, **IT IS HEREBY ORDERED** that this civil action,
9 *Hairston v. Superior Court of Bakersfield, et al.*, S.D. Cal. Civil Case No. 3:17-cv-00190-
10 JAH-NLS, is **DISMISSED** as frivolous pursuant to 28 U.S.C. § 1915A(b)(1).

11 **IT IS FURTHER ORDERED** that Plaintiff’s Motion to Proceed *In Forma*
12 *Pauperis* (ECF Doc. No. 2) is **DENIED** as moot and that this dismissal shall operate
13 without prejudice to Plaintiff’s pursuit of the same claims against the same parties which
14 are currently pending before this Court in *Hairston v. Superior Court of Bakersfield, et*
15 *al.*, E.D. Cal. Civil Case No. 1:17-cv-00220-DAD-JLT.

16 The Clerk shall close the file.

17
18 Dated: March 21, 2017



HONORABLE JOHN A. HOUSTON
United States District Judge