

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PETER JOHN MENGEL,

Plaintiff,

v.

JAMES KING,

Defendant.

Case No. 17-12440

Honorable Victoria A. Roberts

Magistrate Judge R. Steven Whalen

ORDER SUMMARILY DISMISSING CASE

This matter recently came before the Court on plaintiff Peter John Mengel's *pro se* civil rights complaint and application to proceed without prepaying the fees or costs for this action. Plaintiff is a state prisoner at the Central Michigan Correctional Facility in St. Louis, Michigan where defendant James King is a teacher. Plaintiff alleges in his complaint that, on or about March 9, 2017, Defendant made a sexually abusive comment to him.

Approximately six weeks before the Court received Plaintiff's complaint, he filed an identical complaint that was assigned to United States District Judge John Corbett O'Meara. *See Mengel v. King*, No. 17-cv-11855 (E.D. Mich. June 9, 2017). "The filing of multiple federal actions arising out of the same facts is strongly discouraged, and plaintiffs take such a course at the peril that the adjudication of one case will have preclusive effect on the other." *Twaddle v. Diem*, 200 F. App'x 435, 439 (6th Cir. 2006). Lawsuits are duplicative if they "involve 'nearly identical parties and issues.'" *Baatz v.*

Columbia Gas Transmission, LLC, 814 F.3d 785, 789 (6th Cir. 2016) (quoting *Certified Restoration Dry Cleaning Network, LLC v. Tenke Corp.*, 511 F.3d 535, 551 (6th Cir. 2007) (quoting *Zide Sport Shop of Ohio v. Ed Tobergte Assoc., Inc.*, 16 F. App'x 433, 437 (6th Cir. 2001)). When faced with a duplicative suit, a federal court may exercise its discretion to dismiss the suit before it. *Twaddle*, 200 F. App'x at 438.

“[S]imple dismissal of the second suit is [a] common disposition because plaintiffs have no right to maintain two actions on the same subject in the same court, against the same defendant at the same time.” *Curtis v. Citibank, N.A.*, 226 F.3d 133, 138–39 (2d Cir. 2000); *see also Missouri v. Prudential Health Care Plan, Inc.*, 259 F.3d 949, 953–54 (8th Cir. 2001) (joining other courts that have held a district court may dismiss one of two identical pending actions).

Id.

The complaint in this case is identical to the one Plaintiff previously filed. The Court, therefore, summarily DISMISSES this case as duplicative of the case currently pending before Judge O’Meara in case number 17-cv-11855.

S/Victoria A. Roberts
VICTORIA A. ROBERTS
UNITED STATES DISTRICT JUDGE

Dated: August 7, 2017