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8	IN THE UNITED STATES DISTRICT COURT
9	FOR THE EASTERN DISTRICT OF CALIFORNIA
10	GERALD WILSON,
11	Plaintiff, No. 2:10-cv-0721 JAM JFM (PC)
12	VS.
13	M. McDONALD, et al.,
14	Defendants. <u>ORDER</u>
15	/
16	Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action
17	seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate
18	Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.
19	On February 10, 2011, the magistrate judge filed findings and recommendations
20	herein which were served on plaintiff and which contained notice to plaintiff that any objections
21	to the findings and recommendations were to be filed within fourteen days. Plaintiff has not filed
22	objections to the findings and recommendations.
23	The court has reviewed the file and finds the findings and recommendations to be
24	supported by the record and by the magistrate judge's analysis. Accordingly, IT IS HEREBY
25	ORDERED that:
26	1. The findings and recommendations filed February 10, 2011 are adopted in full;
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2. Defendant Clark's motion to dismiss is granted; and

1	2. Defendant Clark's motion to dismiss is granted; and
2	3. Plaintiff is granted leave to file an amended complaint. If plaintiff elects to file
3	an amended complaint, he is cautioned that he may not change the nature of this suit by adding
4	new and unrelated claims. See George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007) (no
5	"buckshot" complaints). Plaintiff is also advised that once he files his amended complaint, his
6	original pleadings are superceded and no longer serve any function in the case. See Loux v.
7	<u>Rhay</u> , 375 F.2d 55, 57 (9th Cir. 1967). Thus, the amended complaint must be "complete in itself
8	without reference to the prior or superceded pleading." Local Rule 220. "All causes of action
9	alleged in an original complaint which are not [re-]alleged in an amended complaint are waived."
10	King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987) (citations omitted). In order to amend,
11	plaintiff shall complete the attached Notice of Amendment and submit the following documents
12	to the court within thirty days from the date of this order:
13	a. The completed Notice of Amendment; and
14	b. An original and one copy of the Amended Complaint.
15	Plaintiff's amended complaint shall comply with the requirements of the Civil Rights Act, the
16	Federal Rules of Civil Procedure, and the Local Rules of Practice; the amended complaint must
17	bear the docket number assigned this case and must be labeled "Amended Complaint."
18	Failure to file an amended complaint in accordance with this order will result in
19	this case proceeding solely against defendants Diaz and Lopez.
20	DATED: March 25, 2011
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22	/s/ John A. Mendez UNITED STATES DISTRICT JUDGE
23	UNITED STATES DISTRICT JUDGE
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