

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MOHYEDLIN K. AHMED,

Plaintiff, 1:07 CV 1102 AWI WMW PC

vs. ORDER DISMISSING COMPLAINT
WITH LEAVE TO
FILE AN AMENDED COMPLAINT

(THIRTY DAY DEADLINE)

KIM MENDOZA-POWERS,

Defendant.

Plaintiff is a state prisoner proceeding pro se in a civil rights action pursuant to 42 U.S.C.

§ 1983. This proceeding was referred to this court by Local Rule 72-302 pursuant to 28 U.S.C. § 636(b)(1).

This action proceeds on the complaint. Plaintiff, an inmate in the custody of the California Department of Corrections and Rehabilitation at Avenal State Prison, brings this civil rights action against Warden Mendoza-Powers, an employee of the California Department of Corrections and Rehabilitation.

Plaintiff has failed to sign his complaint. Local Rule 7-131(b) requires that Plaintiff include an original signature on his complaint. Pursuant to Local Rule 11-110, the court may impose sanctions, including dismissal, for a failure to comply with the Local Rules. Because the complaint fails to comply with the Local Rules, it must be dismissed. Plaintiff will, however, ge

1 granted leave to file an amended complaint. Should Plaintiff fail to do so, the court will
2 recommend that this action be dismissed.

3 If plaintiff chooses to amend the complaint, plaintiff must demonstrate how the
4 conditions complained of have resulted in a deprivation of plaintiff's constitutional rights. See
5 Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). Also, the complaint must allege in specific terms
6 how each named defendant is involved. There can be no liability under 42 U.S.C. § 1983 unless
7 there is some affirmative link or connection between a defendant's actions and the claimed
8 deprivation. Rizzo v. Goode, 423 U.S. 362 (1976); May v. Enomoto, 633 F.2d 164, 167 (9th Cir.
9 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

10 In addition, plaintiff is informed that the court cannot refer to a prior pleading in order to
11 make plaintiff's amended complaint complete. Local Rule 15-220 requires that an amended
12 complaint be complete in itself without reference to any prior pleading. This is because, as a
13 general rule, an amended complaint supersedes the original complaint. See Loux v. Rhay, 375
14 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files an amended complaint, the original pleading no
15 longer serves any function in the case. Therefore, in an amended complaint, as in an original
16 complaint, each claim and the involvement of each defendant must be sufficiently alleged.

17 In accordance with the above, IT IS HEREBY ORDERED that:

18 1. Plaintiff's complaint is dismissed; and

19 2. Plaintiff is granted thirty days from the date of service of this order to file a first
20 amended complaint that complies with the requirements of the Civil Rights Act, the Federal
21 Rules of Civil Procedure, and the Local Rules of Practice; the amended complaint must bear the
22 docket number assigned this case and must be labeled "First Amended Complaint." Failure to
23 file an amended complaint in accordance with this order will result in a recommendation that this
24 action be dismissed.

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2 IT IS SO ORDERED.
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Dated: January 12, 2009

/s/ William M. Wunderlich
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