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

JAMES R. WILLIS,

Plaintiff,

vs.

HARLEY G. LAPPIN, et al.,

Defendants.

1:09-cv-01703-AWI-GSA-PC

ORDER DENYING PLAINTIFF’S MOTION
FOR CLARIFICATION
(Doc. 23.)

Plaintiff James R. Willis (“Plaintiff”) is a federal prisoner proceeding pro se in this civil rights action pursuant to Bivens vs. Six Unknown Agents, 403 U.S. 388 (1971). Plaintiff filed the Complaint commencing this action on September 28, 2009. (Doc. 1.) On January 19, 2010, Plaintiff filed the First Amended Complaint. (Doc. 8.) On April 26, 2010, Plaintiff filed a motion for leave to amend the complaint, which was granted by the Court on May 21, 2010. (Docs. 12, 15.) On June 8, 2010, Plaintiff filed the Second Amended Complaint. (Doc. 16.) On June 16, 2011, the Court issued a Screening Order. (Doc. 22.) On June 16, 2011, Plaintiff filed a motion for clarification of the Screening Order. (Doc. 23.) On July 8, 2011, Plaintiff filed a Third Amended Complaint. (Doc. 24.) Plaintiff’s motion for clarification is now before the Court.

The Court’s Screening Order of June 16, 2011 required Plaintiff to either file an amended complaint, or proceed with the claims found cognizable by the Court. Plaintiff requests clarification of the Screening Order with respect to the Court’s findings of cognizable claims and defendants. At this

1 stage of the proceedings, in light of the fact that Plaintiff filed a Third Amended Complaint on July 8,
2 2011, the prior Screening Order is no longer of practical significance. The Third Amended Complaint
3 has superceded the Second Amended Complaint, and Plaintiff's prior complaints no longer serve any
4 function in the case. See Loux v. Rhay, 375 F.2d 55, 57 (9th Cir. 1967). At this juncture, the Third
5 Amended Complaint awaits screening by the Court. Therefore, clarification of the June 16, 2011
6 Screening Order would serve no purpose. Accordingly, Plaintiff's request for clarification of the
7 Screening Order is DENIED.

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9 IT IS SO ORDERED.

10 **Dated: September 1, 2011**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

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