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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JIMMY GONZALES

Plaintiff,

v.

HAROLD TATE,

Defendant.

CASE NO. 1:11-cv-01997-AWI-MJS (PC)

ORDER GRANTING MOTIONS TO AMEND
AND FOR A COPY OF THE AMENDED
COMPLAINT

(ECF Nos. 9, 12, 13)

PLAINTIFF'S AMENDED COMPLAINT DUE
WITHIN THIRTY DAYS

_____ /

Plaintiff Jimmy Gonzales ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

Plaintiff filed his initial Complaint on December 2, 2011, alleging violation of his rights under the Eighth Amendment due to inadequate medical care. The Court has yet to screen Plaintiff's Complaint or order service.

On April 3, 2012, Plaintiff filed a motion to amend the complaint. (ECF No. 9.) On April 16, 2012, Plaintiff filed a First Amended Complaint. (ECF No. 10.) On June 11, 2012, Plaintiff filed another motion to amend. (ECF No. 13.) Also on June 11, 2012, Plaintiff filed a motion requesting that the Court provide him with a copy of his First Amended Complaint

1 and permission to send the Court evidence that he had exhausted his administrative
2 remedies. (ECF No. 12.)

3 Plaintiff's motions are now before the Court.

4
5 **I. MOTIONS TO AMEND THE COMPLAINT**

6 Plaintiff has asked to amend his original Complaint and First Amended Complaint
7 so that he can include additional information and additional parties. (ECF Nos. 9, 12, and
8 13.)

9 The Federal Rules of Civil Procedure state that leave to amend shall be freely given.
10 Fed. R. Civ. P. 15(a)(2). Plaintiff's motions are GRANTED.

11 However, the Court will not simply add the allegations contained in the instant
12 motions to Plaintiff's First Amended Complaint. Plaintiff must file an amended complaint
13 that includes all of the facts that make up his claim. As a general rule, an amended
14 complaint supersedes the original complaint. See Loux v. Rhay, 375 F.2d 55, 57 (9th Cir.
15 1967). Once an amended complaint is filed, the original complaint no longer serves any
16 function in the case. The Court will not refer to or consider any matter in the First
17 Amended Complaint. Therefore, in an amended complaint, each claim and the
18 involvement of each defendant must be sufficiently alleged. The amended complaint
19 should be clearly and boldly titled "Second Amended Complaint," refer to the appropriate
20 case number, and be an original signed under penalty of perjury.

23 Plaintiff shall file his amended complaint within thirty (30) days of service of this
24 order. **Failure to comply with this deadline may result in dismissal of this action.**

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26 **II. MOTION FOR A COPY OF THE FIRST AMENDED COMPLAINT**

27 Plaintiff has requested that the Court provide him with a copy of his First Amended

1 Complaint. (ECF No. 12.)

2 Plaintiff's motion is GRANTED and the Clerk's Office is directed to send Plaintiff a
3 copy of his First Amended Complaint (ECF No. 10).
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6 IT IS SO ORDERED.

7 Dated: August 26, 2012

/s/ Michael J. Seng
8 UNITED STATES MAGISTRATE JUDGE
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