

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KRZYSZTOF WOLINSKI,
Plaintiff,
vs.
N. ACOSTA, et al.,
Defendants.

1:15-cv-00519-GSA-PC

ORDER INFORMING PLAINTIFF HE
HAS LEAVE TO AMEND THE
COMPLAINT ONCE AS A MATTER OF
COURSE
(Doc. 6 resolved)

THIRTY DAY DEADLINE TO FILE
FIRST AMENDED COMPLAINT

ORDER FOR CLERK TO SEND
COMPLAINT FORM TO PLAINTIFF

I. BACKGROUND

Krzysztof Wolinski ("Plaintiff") is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on April 3, 2015. (Doc. 1.)

On June 16, 2015, Plaintiff filed a motion to amend the Complaint. (Doc. 6.)

II. LEAVE TO AMEND – RULE 15(a)

Under Rule 15(a) of the Federal Rules of Civil Procedure, a party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served. Otherwise, a party may amend only by leave of the court or by written consent of the adverse party, and leave shall be freely given when justice so requires. Fed. R. Civ. P. 15(a). Because

1 Plaintiff has not amended the complaint, and no responsive pleading has been served in this
2 action, Plaintiff has leave to file an amended complaint as a matter of course.

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

10 Further, Plaintiff may not change the nature of this suit by adding new, unrelated claims
11 in his amended complaint. George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007) (no "buckshot"
12 complaints).

13 Finally, Plaintiff is advised that an amended complaint supercedes the original
14 complaint, Lacey v. Maricopa County, 693 F.3d. 896, 907 n.1 (9th Cir. 2012) (en banc), and it
15 must be complete in itself without reference to the prior or superceded pleading. Local Rule
16 220. Therefore, in an amended complaint, as in an original complaint, each claim and the
17 involvement of each defendant must be sufficiently alleged. The First Amended Complaint
18 should be clearly and boldly titled "First Amended Complaint," refer to the appropriate case
19 number, and be an original signed under penalty of perjury.

20 **III. CONCLUSION**

21 Accordingly, it is HEREBY ORDERED that:

22 1. Plaintiff is informed that he has leave to amend the complaint once as a matter
23 of course;

24 2. This order resolves Plaintiff's motion to amend the complaint, filed on June 16,
25 2015;

26 3. Within thirty (30) days from the date of service of this order, Plaintiff shall file a
27 First Amended Complaint using the court's form;

1 4. The First Amended Complaint should be clearly and boldly titled “First
2 Amended Complaint,” refer to case number 1:15-cv-00519-GSA-PC, and be an
3 original signed under penalty of perjury;
4 5. The Clerk of the Court shall send one civil rights complaint form to Plaintiff;
5 and
6 6. Plaintiff is warned that the failure to comply with this order may result in the
7 dismissal of this action for failure to obey a court order.

8
9 IT IS SO ORDERED.

10 Dated: June 16, 2015

11 _____
12 /s/ **Gary S. Austin**

13 UNITED STATES MAGISTRATE JUDGE