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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FRANCISCO MENDOZA,
Plaintiff,
v.
GOLDEN VALLEY HEALTH
CENTERS, et al.,
Defendants.

No. 1:16-cv-01611-DAD-SAB

ORDER DENYING REQUEST FOR
RECONSIDERATION
(Doc. No. 3)

On October 26, 2016, plaintiff Francisco Mendoza filed this action against defendants Golden Valley Health Center (“GVHC”), *et al.* alleging violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.*, and relevant state law. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B).

On December 20, 2016, the assigned magistrate judge screened plaintiff’s complaint and issued an order dismissing it for failure to state a claim and granted plaintiff leave to file an amended complaint. (Doc. No. 2.) Plaintiff was provided with thirty days in which to file an amended complaint. Rather than file an amended complaint, on January 20, 2017, plaintiff filed objections to the screening order. (Doc. No. 3.) The undersigned construes plaintiff’s objections as a request for reconsideration of the magistrate judge’s order dismissing his complaint with leave to amend.

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1 Federal Rule of Civil Procedure 72(a) provides that non-dispositive pretrial matters may
2 be referred to and decided by a magistrate judge, subject to review by the assigned district judge.
3 See also Local Rule 303(c). The district judge shall modify or set aside any part of the magistrate
4 judge's order which is "found to be clearly erroneous or contrary to law." Local Rule 303(f). See
5 also 28 U.S.C. § 636(b)(1)(A). Because the magistrate judge's prior order granted plaintiff leave
6 to amend and did not finally dispose of any claims or arguments, the screening order was non-
7 dispositive. See *McKeever v. Block*, 9323 F.2d 795, 798 (9th Cir. 1991) ("As to non-dispositive
8 matters, Article III appears to create no bar to a greater role for magistrates. Therefore, a
9 magistrate can, for example, dismiss a complaint with leave to amend without approval by the
10 court."); *Arnold v. United States Forest Serv.*, No. 3:14-cv-00421-MMD-WGC, 2016 WL
11 3395461, at *2 (D. Nev. June 13, 2016) ("Dismissal with leave to amend is non-dispositive and
12 therefore within the authority granted by [28] U.S.C. § 636."); *Reid v. United States*, No. 1:14-cv-
13 01163-LJO-MJS (PC), 2015 WL 2235127, at *1 (E.D. Cal. May 12, 2015).

14 On a motion to reconsider a magistrate judge's non-dispositive order, the magistrate
15 judge's factual determinations are reviewed for clear error, and the magistrate judge's legal
16 conclusions are reviewed to determine whether they are contrary to law. Local Rule 303(f); see
17 also 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a); *United States v. McConney*, 728 F.2d 1195,
18 1200-01 (9th Cir. 1984), *overruled on other grounds by Estate of Merchant v. CIR*, 947 F.2d
19 1390 (9th Cir. 1991). "A magistrate judge's decision is 'contrary to law' if it applies an incorrect
20 legal standard, fails to consider an element of applicable standard, or fails to apply or misapplies
21 relevant statutes, case law, or rules of procedure." *Martin v. Loadholt*, No. 1:10-cv-00156-LJO-
22 MJS, 2014 WL 3563312, at *1 (E.D. Cal. July 18, 2014) (internal quotations and citations
23 omitted).

24 Plaintiff's objections to the order dismissing his original complaint with leave to amend
25 indicates he disagrees with the magistrate judge's conclusion that he has failed to state a
26 cognizable claim, but also suggest he is able to plead further facts to support his claim. (See Doc.
27 No. 3 at 1 ("I have spoken with numerous individuals who have not come forward."); *id.* at 2
28 ("There are numerous documents, emails and evidence I had submitted in my EEOC file that

1 prove and support that I was subjected to a hostile work environment.”.) Plaintiff’s mere
2 disagreement with the magistrate judge’s order does not demonstrate that the order was clearly
3 erroneous or contrary to law. Further, plaintiff’s representation that he can plead additional facts
4 suggests allowing leave to amend is an appropriate course at this juncture. Any additional factual
5 details plaintiff can plead may be included in an amended complaint, as noted by the magistrate
6 judge in his order. (See Doc. No. 2.) Similarly, to the extent plaintiff represents he is seeking
7 relief in addition to simply the removal of a state-court ordered restraining order, he is
8 encouraged to state the relief he seeks—whether in the form of damages, an injunction, or
9 declaratory relief—in his amended complaint. (Doc. No. 1 at 3.) Plaintiff is again reminded an
10 amended complaint supersedes the original complaint, *Lacey v. Maricopa Cty.*, 693 F.3d 896, 927
11 (9th Cir. 2012); *Valdez-Lopez v. Chertoff*, 656 F.3d 851, 857 (9th Cir. 2011), and must be
12 “complete in itself without reference to the prior or superseded pleading,” Local Rule 220.

13 Given the foregoing, plaintiff’s objections (Doc. No. 3), construed as a request to
14 reconsider the magistrate judge’s order dismissing his original complaint with leave to amend, is
15 denied. Plaintiff is directed to file any amended complaint he wishes to present within thirty (30)
16 days of this order. Plaintiff is warned that failure to do so may result in the dismissal of this
17 action.¹ This matter is referred back to the assigned magistrate judge for further proceedings
18 consistent with this order, 28 U.S.C. § 636(b)(1), and all applicable local rules.

19 IT IS SO ORDERED.

20 Dated: April 27, 2017

21 
22 _____
23 UNITED STATES DISTRICT JUDGE

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26 _____
27 ¹ Plaintiff suggests he has been seeking records from the Equal Employment Opportunity
28 Commission he believes may in some way support his claim. (Doc. No. 3 at 1–2.) If plaintiff
contends that he needs additional time to file an amended complaint, he may submit a request an
extension of time, supported by a showing of good cause, from the assigned magistrate judge.