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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BOBBY LEE KINDER, JR.,
Plaintiff,
v.
MERCED COUNTY,
Defendant.

CASE No. 1:16-cv-01311-MJS (PC)
**ORDER STRIKING SECOND AMENDED
COMPLAINT AND MOTION TO
PROCEED IN FORMA PAUPERIS**
(ECF Nos. 12, 13)
**ORDER DIRECTING CLERK TO OPEN
NEW CASE**

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 42 U.S.C. § 1983. He has consented to Magistrate Judge jurisdiction. No other parties have appeared in the action.

Plaintiff's complaint was dismissed for failure to state a claim, and he was given leave to amend. (ECF No. 9.) On November 9, 2016, the Court dismissed Plaintiff's first amended complaint because it contained no allegations regarding the original defendant, did not address Plaintiff's original claims, and did not address any of the deficiencies set out in the Court's initial screening order. (ECF No. 11.) Instead, Plaintiff brought new claims against new defendants bearing no apparent relationship to his original claims. See Fed. R. Civ. P. 18(a), 20(a)(2). Plaintiff was advised that such allegations may only be brought in a separate suit.

1 Plaintiff since has filed a document styled as a second amended complaint. (ECF
2 No. 12.) He also filed a motion to proceed in forma pauperis, although he already has
3 been granted pauper status in this case. (ECF No. 13.) The second amended complaint
4 does not address the allegations contained in Plaintiff's initial complaint. It appears that
5 Plaintiff instead intended to open a new action with these documents.

6 Accordingly, it is HEREBY ORDERED that:

7 1. The Clerk of Court is directed to:

- 8 a. Open a new civil rights action on behalf of Plaintiff,
9 b. File and docket a copy of this order in the new action,
10 c. File and docket in the new action a copy of the complaint filed
11 November 14, 2016 (ECF No. 12),
12 d. File and docket in the new action a copy of the motion to proceed in
13 forma pauperis filed November 14, 2016 (ECF No. 13), and
14 e. Send Plaintiff an endorsed copy of the November 14, 2016
15 complaint bearing the case number of the new action.

16 2. The second amended complaint (ECF No. 12) and motion to proceed in
17 forma pauperis (ECF No. 13) are STRICKEN from the docket in this action;

18 3. Within thirty (30) days of the date of service of this order, Plaintiff must file
19 a second amended complaint curing the deficiencies identified by the Court
20 in the initial screening order or a notice of voluntary dismissal; and

21 4. If Plaintiff fails to file an amended complaint or notice of voluntary
22 dismissal, the undersigned will dismiss this action, with prejudice, for failure
23 to comply with a court order and failure to state a claim.

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25 IT IS SO ORDERED.

26 Dated: November 21, 2016

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