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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

NORMAN DIXON,
Plaintiff,
vs.
RON BARNES, et al.,
Defendants.

1:17-cv-00562-AWI-GSA-PC
ORDER ADDRESSING PLAINTIFF'S
REQUEST TO ADD AFFIDAVITS TO
COMPLAINT
(ECF No. 11.)
ORDER INFORMING PLAINTIFF HE IS
PERMITTED TO FILE AMENDED
COMPLAINT AS A MATTER OF
COURSE
ORDER FOR CLERK TO SEND
COMPLAINT FORM TO PLAINTIFF
THIRTY DAY DEADLINE TO FILE
FIRST AMENDED COMPLAINT

I. BACKGROUND

Norman Dixon ("Plaintiff") is a state prisoner proceeding *pro se* with this civil rights action pursuant to 42 U.S.C. § 1983. On April 21, 2017, Plaintiff filed the Complaint commencing this action. (ECF No. 1.)

On May 25, 2017, Plaintiff filed a motion for leave to add affidavits to the Complaint. (ECF No. 11.)

1 **II. LOCAL RULE 220 AND FEDERAL RULE OF CIVIL PROCEDURE 15(a) -**
2 **AMENDING THE COMPLAINT**

3 Local Rule 220 provides, in part:

4 Unless prior approval to the contrary is obtained from the Court, every
5 pleading to which an amendment or supplement is permitted as a matter of right
6 or has been allowed by court order shall be retyped and filed so that it is
7 complete in itself without reference to the prior or superseded pleading. No
8 pleading shall be deemed amended or supplemented until this Rule has been
9 complied with. All changed pleadings shall contain copies of all exhibits
10 referred to in the changed pleading.

11 Plaintiff has submitted exhibits to the court with a request to add them to the Complaint.
12 Plaintiff may not amend the Complaint in this manner. Under Rule 220, Plaintiff may not
13 amend the Complaint by adding information piecemeal after the Complaint has been filed. To
14 add information or correct an error in the Complaint, Plaintiff must file a new First Amended
15 Complaint which is complete within itself.

16 Under Rule 15(a) of the Federal Rule of Civil Procedure, a party may amend the party's
17 pleading once as a matter of course at any time before a responsive pleading is served.
18 Otherwise, a party may amend only by leave of the Court or by written consent of the adverse
19 party, and leave shall be freely given when justice so requires. Fed. R. Civ. P. 15(a). Here,
20 because Plaintiff has not previously amended the Complaint and no responsive pleading has
21 been served in this action, Plaintiff has leave to file an amended complaint as a matter of
22 course. Plaintiff shall be granted thirty days in which to file an amended complaint, making the
23 needed changes.

24 Plaintiff must demonstrate in his amended complaint how the conditions complained of
25 have resulted in a deprivation of his constitutional rights. See Ellis v. Cassidy, 625 F.2d 227
26 (9th Cir. 1980). The amended complaint must allege in specific terms how each named
27 defendant is involved. There can be no liability under 42 U.S.C. § 1983 unless there is some
28 affirmative link or connection between a defendant's actions and the claimed deprivation.
Rizzo v. Goode, 423 U.S. 36 (1976); May v. Enomoto, 633 F.2d 164, 167 (9th Cir. 1980);
Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

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1 As a general rule, an amended complaint supersedes the original complaint. See Loux
2 v. Rhay, 375 F.2d 55, 57 (9th Cir. 1967). Once an amended complaint is filed, the original
3 complaint no longer serves any function in the case. Therefore, in an amended complaint, as in
4 an original complaint, each claim and the involvement of each defendant must be sufficiently
5 alleged.

6 As for exhibits, while they are permissible, Fed. R. Civ. P. 10(c), they are not necessary
7 in the federal system of notice pleading, Fed. R. Civ. P. 8(a). The court strongly suggests to
8 Plaintiff that they should not be submitted where (1) they serve only to confuse the record and
9 burden the court, or (2) they are intended as future evidence. If this action reaches a juncture at
10 which the submission of evidence is appropriate and necessary (e.g., summary judgment or
11 trial), Plaintiff will have the opportunity at that time to submit his evidence.

12 Plaintiff should note that although he has the opportunity to amend, it is not for the
13 purpose of adding allegations of events occurring after April 21, 2017, the date the Complaint
14 was filed. Plaintiff may not change the nature of this suit by adding new, unrelated claims in
15 his amended complaint. George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007) (no “buckshot”
16 complaints).

17 Finally, Plaintiff is advised that Local Rule 220 requires that an amended complaint be
18 complete in itself without reference to any prior pleading. The First Amended Complaint
19 should be clearly and boldly titled “FIRST AMENDED COMPLAINT,” refer to the
20 appropriate case number, and be an original signed under penalty of perjury.

21 **III. CONCLUSION**

22 Accordingly, IT IS HEREBY ORDERED that:

- 23 1. Plaintiff is advised that he may not amend the Complaint by submitting exhibits
24 to the court for addition to the Complaint after the Complaint is filed;
- 25 2. Under Rule 15(a), Plaintiff has leave to amend the Complaint once as a matter of
26 course;

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