## 1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 9 EASTERN DISTRICT OF CALIFORNIA 10 11 DARREN VINCENT FORD, Case No. 1:17-cv-00822-DAD-BAM (PC) 12 ORDER DENYING PLAINTIFF'S MOTION Plaintiff. FOR THE COURT'S RECONSIDERATION 13 OF THIS CASE v. 14 KING, et al., (ECF No. 29) 15 Defendants. THIRTY (30) DAY DEADLINE 16 17 Plaintiff Darren Vincent Ford ("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 initiated this 18 19 action on June 15, 2017, in the Sacramento Division of the Eastern District of California. (ECF 20 No. 1.) The action was transferred to the Fresno Division on June 20, 2017. (ECF No. 3.) 21 On September 12, 2018, the Court issued an order resolving various pending motions filed 22 by Plaintiff, relating to his application to proceed in forma pauperis, amending the complaint, 23 appointing counsel, and discovery. Ultimately, the Court granted Plaintiff leave to file an 24 amended complaint setting forth all the claims Plaintiff intends to pursue in this action. (ECF No. 25 28.) 26 On September 24, 2018, Plaintiff filed a "Motion for the Court's Reconsideration of This 27 Case." (ECF No. 29.) Plaintiff states that his main objective in this action is to receive mental 28 health sex offender treatment at Coalinga State Hospital. Plaintiff believes that he will soon be

released from prison because he was incorrectly sentenced, but he does not wish to be released to the community until he has received this treatment and been cured. Plaintiff requests that the Court draft up an order as a settlement agreement that would ensure that he receives sex offender treatment at Coalinga State Hospital, and he will drop all charges against Defendant King and discontinue the investigation being conducted by the Department of Consumer Affairs. (Id.) Plaintiff does not indicate whether he intends to file an amended complaint.

Plaintiff's request is denied. At this time, there is no operative complaint in this action, and therefore the case does not proceed on any cognizable claims. Similarly, no defendant has been served, and no defendant has yet made an appearance. Therefore, the Court lacks personal jurisdiction over any staff at Coalinga State Hospital, and it cannot issue an order requiring them to take any action, such as permitting Plaintiff to receive sex offender treatment. The Court also cannot enter into a settlement agreement on behalf of any defendant to this action, whether Plaintiff agrees to dismiss this suit or not.

Although Plaintiff has not requested additional time, in consideration of Plaintiff's *pro se* status the Court will permit Plaintiff a <u>final</u> opportunity to receive the Court's order and to file a first amended complaint setting forth all the claims Plaintiff intends to pursue in this action, as discussed in the Court's September 12, 2018 order. After Plaintiff files the first amended complaint, it will be screened in due course.

Plaintiff is reminded that his amended complaint should be brief, Fed. R. Civ. P. 8(a), but it must state what each named defendant did that led to the deprivation of Plaintiff's constitutional rights, <u>Iqbal</u>, 556 U.S. at 678-79. Although accepted as true, the "[f]actual allegations must be [sufficient] to raise a right to relief above the speculative level . . . ." <u>Twombly</u>, 550 U.S. at 555 (citations omitted).

Additionally, Plaintiff may not change the nature of this suit by adding new, unrelated claims in his first amended complaint. <u>George v. Smith</u>, 507 F.3d 605, 607 (7th Cir. 2007) (no "buckshot" complaints).

Finally, Plaintiff is advised that an amended complaint supersedes the original complaint.

<u>Lacey v. Maricopa Cty.</u>, 693 F.3d 896, 927 (9th Cir. 2012). Therefore, Plaintiff's amended

complaint must be "complete in itself without reference to the prior or superseded pleading." Local Rule 220. This includes any exhibits or attachments Plaintiff wishes to incorporate by reference. Accordingly, IT IS HEREBY ORDERED as follows: a. Plaintiff is granted thirty (30) days in which to file a first amended complaint (or a notice of voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i); and b. If Plaintiff fails to file a first amended complaint in compliance with this order, this action will be dismissed for failure to prosecute and failure to obey a court order; IT IS SO ORDERED. Dated: **October 3, 2018**