

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

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

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

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

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

27 Finally, Plaintiff is advised that an amended complaint supersedes the original complaint.
28 Lacey v. Maricopa Cty., 693 F.3d 896, 927 (9th Cir. 2012). Therefore, Plaintiff's amended

1 complaint must be “complete in itself without reference to the prior or superseded pleading.”
2 Local Rule 220. This includes any exhibits or attachments Plaintiff wishes to incorporate by
3 reference.

4 Accordingly, IT IS HEREBY ORDERED as follows:

- 5 a. Plaintiff is granted **thirty (30) days** in which to file a first amended complaint (or
6 a notice of voluntary dismissal pursuant to Federal Rule of Civil Procedure
7 41(a)(1)(A)(i)); and
8 **If Plaintiff fails to file a first amended complaint in compliance with this**
9 **order, this action will be dismissed for failure to prosecute and failure to obey**
10 **a court order;**

11 IT IS SO ORDERED.

12 Dated: October 3, 2018

13 /s/ Barbara A. McAuliffe
14 UNITED STATES MAGISTRATE JUDGE

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