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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

11 MANUEL BURRUEL, III,

12 Plaintiff,

13 v.

14 PAM AHLIN, et al.,

15 Defendants.

Case No. 1:18-cv-00103-LJO-SAB (PC)

ORDER DENYING PLAINTIFF'S MOTION
TO VACATE SCREENING ORDER AND
DIRECTING CLERK OF COURT TO SEND
PLAINTIFF COPY OF COMPLAINT FILED
JANUARY 22, 2018

(ECF No. 20)

THIRTY DAY DEADLINE

17 Plaintiff Manuel Burruel, III, a civil detainee, is appearing pro se and in forma pauperis in this
18 civil rights action pursuant to 42 U.S.C. § 1983. On July 10, 2018, an order issued finding Plaintiff's
19 first amended complaint failed to state a cognizable claim and granting Plaintiff leave to file a second
20 amended complaint. On August 3, 2018, Plaintiff filed a motion to vacate the screening order and
21 notifying the Court that he wished to proceed on the claims found cognizable in the original
22 complaint.

23 As Plaintiff was advised in the prior screening orders, an amended complaint supersedes the
24 original complaint. Lacey v. Maricopa Cnty., 693 F.3d 896, 927 (9th Cir. 2012). Even if the Court
25 was to vacate the screening order, the original complaint has still been superseded, and the operative
26 pleading is the first amended complaint which fails to state any cognizable claims. If Plaintiff wishes
27 to proceed on the claims that were cognizable in the original complaint, he must refile the complaint
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1 as a second amended complaint. This Court will then screen the complaint to determine if it states
2 any cognizable claims.

3 Based on the foregoing it is HEREBY ORDERED that:

- 4 1. Plaintiff's motion to vacate the screening order is DENIED;
- 5 2. Plaintiff shall file his second amended complaint within thirty days of the date of
6 service of this order;
- 7 3. The Clerk of the Court is DIRECTED to send Plaintiff a copy of the complaint, filed
8 January 22, 2018, (ECF No. 1);
- 9 4. If Plaintiff fails to file a second amended complaint in compliance with this order, the
10 Court will recommend that this action will be dismissed for failure to to state a claim.

11 IT IS SO ORDERED.

12
13 Dated: August 6, 2018



UNITED STATES MAGISTRATE JUDGE