

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES T. RODGERS,

Plaintiff,

No. CIV S-09-1367 EFB P

vs.

PLACER COUNTY SHERIFF'S
DEPARTMENT,

Defendants.

ORDER

_____/

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On January 5, 2010, the court granted plaintiff the opportunity to proceed on the claims raised in his amended complaint against defendants Sgt. Gutierrez and the Placer County Sheriff's Department, or to file a second amended complaint attempting to also state a claim based on an alleged five day delay in receiving medical care. Dckt. No. 22. The court advised plaintiff that any amended complaint must be *complete in itself without reference to any prior pleading*, and that once plaintiff files an amended complaint, the prior pleading is superceded. *Id.* (citing Local Rule 220; *Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir. 1967)).

On February 1, 2010, plaintiff filed a second amended complaint that is not complete in itself without reference to any prior pleading. Dckt. No. 25. In the second amended complaint,

1 plaintiff omits allegations against defendants Sgt. Gutierrez and the Placer County Sheriff's
2 Department, expresses his understanding that he is only to address the delay in medical care, and
3 specifically refers to allegations contained in earlier filed complaints. *Id.*

4 If plaintiff wishes to pursue all of his claims in this action, meaning those against Sgt.
5 Gutierrez and the Placer County Sheriff's Department, as well as those based on the alleged
6 delay in medical care, plaintiff must file an amended complaint that includes allegations in
7 support of all of those claims, without referring to any of plaintiff's earlier filed complaints in
8 this action.

9 Accordingly, it is hereby ORDERED that plaintiff may, if he so desires, file a third
10 amended complaint, in accordance with this order, within 30 days of the date this order is served.
11 It is further ORDERED that the Clerk of the Court send plaintiff a copy of the form for the filing
12 of a civil complaint pursuant to 42 U.S.C. § 1983.

13 Dated: June 30, 2010.

14 
15 EDMUND F. BRENNAN
16 UNITED STATES MAGISTRATE JUDGE
17
18
19
20
21
22
23
24
25
26