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

ANTHONY TURNER,

Plaintiff,

No. 2: 09-cv-3445 GEB KJN P

vs.

WILLIAM G. DOUGLAS, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s motion to file a supplemental complaint filed March 31, 2011. On April 8, 2011, defendants filed an opposition. For the following reasons, plaintiff’s motion is denied.

This action is proceeding on the amended complaint filed July 7, 2010, as to defendants Jencks and Douglas based on their alleged failure to provide plaintiff with adequate pain medication and bandages while he was housed at the Yolo County Jail in 2009. This action is also proceeding against defendant Valentine based on his alleged failure to treat plaintiff’s staph infection while he was housed at the Yolo County Jail in 2009.

In the supplemental complaint, plaintiff generally alleges that defendants failed to provide him with adequate medical care while he was housed in the Yolo County Jail from

1 September 18, 2009 to May 5, 2010.

2 A supplemental pleading, as opposed to an amended one, is used to allege
3 relevant facts occurring after the original pleading was filed. William W. Schwarzer, A. Wallace
4 Tashima, & James M. Wagstaffe, Cal. Prac. Guide: Fed. Civ. Pro. Before Trial, § 8:1720 (The
5 Rutter Group 2010)(hereinafter “Schwarzer, et al.”) (citing Fed. R. Civ. P. 15(d); Keith v. Volpe,
6 858 F.2d 467, 468 (9th Cir. 1988)). A supplemental pleading, which is designed to bring an
7 action “up to date,” is different than an amended pleading, which relates to matters existing when
8 the original complaint was filed. Schwarzer, et al. at § 8:1720 (citing Manning v. City of
9 Auburn, 953 F.2d 1355, 1359-60 (11th Cir. 1992); ConnectU LLC v. Zuckerberg, 522 F.3d 82,
10 90 (1st Cir. 2008)).

11 Because the proposed supplemental complaint contains claims regarding events
12 occurring before the operative amended complaint was filed, it is construed as a proposed second
13 amended complaint.


14 The proposed second amended complaint does not contain the allegations found
15 colorable against defendants in the first amended complaint. Plaintiff does not allege, for
16 example, that defendant Valentine failed to adequately treat his staph infection. Rather, the
17 proposed second amended complaint generally alleges that defendants failed to provide adequate
18 medical care.

19 Local Rule 220 requires that an amended complaint be complete in itself without
20 reference to any prior pleading. This requirement exists because, as a general rule, an amended
21 complaint supersedes the original complaint. See Loux v. Rhay, 375 F.2d 55, 57 (9th Cir. 1967).
22 Because it is clear that plaintiff did not intend to abandon the claims in the first amended
23 complaint found colorable by the court, plaintiff’s proposed second amended complaint is
24 disregarded. In any event, the claims in the proposed second amended complaint of inadequate
25 medical care are so vague and conclusory that they do not state a colorable claim for relief.

26 ///

1 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion to file a
2 supplemental complaint, construed as a motion for leave to file a second amended complaint,
3 (Dkt. No. 57) is denied.

4 DATED: April 14, 2011

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6 
7 KENDALL J. NEWMAN
8 UNITED STATES MAGISTRATE JUDGE

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