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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL AARON WITKIN,  
Plaintiff,  
v.  
KEVIN M., et al.,  
Defendants.

No. 2:15-cv-2493 KJM CKD P

ORDER

On January 29, 2016, the undersigned issued findings and a recommendation that this action be dismissed for failure to state a claim. (ECF No. 8.) Plaintiff has filed objections, asserting that he can state a cognizable claim against defendants if given leave to amend. (ECF No. 12.) Good cause appearing, the undersigned will vacate its recommendation of dismissal and grant plaintiff an opportunity to amend the complaint.

If plaintiff chooses to amend the complaint, he must demonstrate how the conditions complained of have resulted in a deprivation of plaintiff’s constitutional rights. See Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). Also, the complaint must allege in specific terms how each named defendant is involved. There can be no liability under 42 U.S.C. § 1983 unless there is some affirmative link or connection between a defendant’s actions and the claimed deprivation. Rizzo v. Goode, 423 U.S. 362 (1976); May v. Enomoto, 633 F.2d 164, 167 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978). Furthermore, vague and conclusory

1 allegations of official participation in civil rights violations are not sufficient. Ivey v. Board of  
2 Regents, 673 F.2d 266, 268 (9th Cir. 1982).

3 In addition, plaintiff is informed that the court cannot refer to a prior pleading in order to  
4 make plaintiff's amended complaint complete. Local Rule 220 requires that an amended  
5 complaint be complete in itself without reference to any prior pleading. This is because, as a  
6 general rule, an amended complaint supersedes the original complaint. See Loux v. Rhay, 375  
7 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files an amended complaint, the original pleading no  
8 longer serves any function in the case. Therefore, in an amended complaint, as in an original  
9 complaint, each claim and the involvement of each defendant must be sufficiently alleged.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. The recommendation of dismissal filed January 29, 2016 (ECF No. 8) is hereby  
12 vacated;
- 13 2. The original complaint in this action is dismissed for failure to state a claim; and
- 14 3. Plaintiff is granted thirty days from the date of service of this order to file an amended  
15 complaint that complies with the requirements of the Civil Rights Act, the Federal Rules of Civil  
16 Procedure, and the Local Rules of Practice; the amended complaint must bear the docket number  
17 assigned this case and must be labeled "Amended Complaint"; plaintiff must file an original and  
18 two copies of the amended complaint; failure to file an amended complaint in accordance with  
19 this order will result in a recommendation that this action be dismissed.

20 Dated: February 24, 2016

21   
22 CAROLYN K. DELANEY  
23 UNITED STATES MAGISTRATE JUDGE

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25 2/witk2493.amend  
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