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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

VINCENT RIVERA,  
Petitioner,  
v.  
S. PEERY,  
Respondent.

No. 2:16-cv-0856 KJM CKD P

ORDER

Petitioner is a California prisoner proceeding pro se with a petition for writ of habeas corpus under 28 U.S.C. §2254. On October 15, 2018, court granted petitioner’s motion for leave to file an amended petition. On December 4, 2018, respondent informed the court that the amended petition does not contain any claims from the original petition, only new claims. Local Rule 220 requires that an amended pleading be complete in itself without reference to any prior pleading. This is because, as a general rule, an amended pleading supersedes the original. See Loux v. Rhay, 375 F.2d 55, 57 (9th Cir. 1967). Once an amended pleading is filed, the original pleading no longer serves any function in the case.

Accordingly, IT IS HERBY ORDERED that:

1. Petitioner is granted 30 days within which to file a second amended petition for writ of habeas corpus which includes all claims he wishes to present to this court which also have been presented to, and rejected by, the California Supreme Court. Petitioner’s failure to file a second

1 amended petition within 30 days will result in this action proceeding on petitioner's amended  
2 petition for writ of habeas corpus.

3 2. Respondent need take no further action until receiving further notice from the court.

4 Dated: December 6, 2018



CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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