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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KENNETH ALAN SIERRA,
Plaintiff,

v.

DIRECTOR OF DEPARTMENT OF
CORRECTIONS AND
REHABILITATION, et al.,
Defendants.

No. 2: 16-cv-1067 MCE KJN P

ORDER

Plaintiff is a former state prisoner, proceeding pro se, with a civil rights action pursuant to 42 U.S.C. § 1983. On May 5, 2017, the court denied plaintiff’s application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(g), and ordered plaintiff to pay the filing fee within thirty days. (ECF No. 64.) Plaintiff appealed the May 5, 2017 order to the Ninth Circuit Court of Appeals. (ECF No. 65.)

On March 5, 2021, the Ninth Circuit dismissed plaintiff’s appeal for failure to prosecute. (ECF No. 82.) On March 9, 2021, the Ninth Circuit reinstated plaintiff’s appeal. (ECF No. 85.) This order was docketed in this court on April 27, 2021. (Id.)

On April 27, 2021, the Ninth Circuit reversed the May 5, 2017 order and remanded this matter. (ECF No. 87.) The Ninth Circuit found that plaintiff met the imminent danger exception to section 1915(g). (Id.) The Ninth Circuit also found that section 1915(g) was no longer

1 applicable because plaintiff was released while the appeal was pending. (Id.) The Ninth Circuit
2 directed this court to “reconsider anew any IFP application.” (Id.)

3 On March 29, 2021, the undersigned ordered plaintiff to pay the filing fee within twenty-
4 one days. (ECF No. 83.) The undersigned was unaware of the Ninth Circuit’s March 9, 2021
5 order when he issued the March 29, 2021 order. Accordingly, the March 29, 2021 order is
6 vacated. Pursuant to the Ninth Circuit’s April 27, 2021 order, the undersigned herein addresses
7 plaintiff’s original in forma pauperis application and screens plaintiff’s amended complaint filed
8 December 16, 2016. (ECF No. 34.)

9 Plaintiff submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a).
10 Accordingly, the request to proceed in forma pauperis is granted.

11 On December 16, 2016, plaintiff filed an amended complaint. (ECF No. 34.) On
12 December 16, 2016, plaintiff also filed a motion to add parties to the amended complaint. (ECF
13 No. 36.) The motion to add parties includes a points and authorities addressing plaintiff’s claims
14 against three new defendants not named in the December 16, 2016 amended complaint. This
15 points and authorities also does not address all of the claims raised against all defendants
16 identified in the December 16, 2016 amended complaint.

17 The court does not normally allow piecemeal amendments or piecemeal supplements to
18 complaints. Because an amended complaint supersedes and replaces the original complaint, an
19 amended complaint must stand on its own. See Local Rule 220; Ramirez v. County of San
20 Bernardino, 806 F.3d 1002, 1008 (9th Cir. 2015) (“an ‘amended complaint supersedes the
21 original, the latter being treated thereafter as non-existent.’” (internal citation omitted)). Once
22 plaintiff files an amended complaint, the original pleading no longer serves any function in the
23 case.

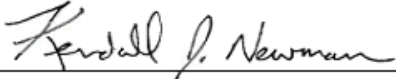
24 It does not appear that plaintiff intends to abandon the claims and defendants addressed in
25 the amended complaint (ECF No. 34) but not addressed in the motion to add new parties (ECF
26 No. 36). Accordingly, plaintiff’s motion to add new parties is disregarded because it is a
27 piecemeal amendment in violation of Local Rule 220. Plaintiff is granted thirty days to file a
28 second amended complaint raising all claims against all defendants he intends to name. If

1 plaintiff does not file a second amended complaint within thirty days, the undersigned will screen
2 the amended complaint filed December 16, 2016 (ECF No. 34). In other words, if plaintiff does
3 not file a second amended complaint, the undersigned will not consider the claims against the
4 new defendants identified in plaintiff's December 16, 2016 motion to add new parties (ECF No.
5 36).

6 In accordance with the above, IT IS HEREBY ORDERED that:

- 7 1. The March 29, 2021 order (ECF No. 83) is vacated;
- 8 2. Plaintiff's request for leave to proceed in forma pauperis is granted.
- 9 3. Plaintiff is granted thirty days from the date of this order to file a second amended
10 complaint; if plaintiff does not file a second amended complaint within that time, the undersigned
11 will screen the amended complaint filed December 16, 2016 (ECF No. 34).

12 Dated: July 8, 2021

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14 _____
15 KENDALL J. NEWMAN
16 UNITED STATES MAGISTRATE JUDGE

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