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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID WESLEY BIRRELL, et al.,  
Plaintiff,  
v.  
ROBERT W. FOX, et al.,  
Defendants.

No. 2:16-cv-1818 KJM CKD P

ORDER

On January 20, 2023, the assigned district court judge referred this case as it pertains to plaintiff Deegan back to this court for further proceedings. Mr. Deegan is the only plaintiff that remains.

Plaintiff Deegan has requested leave to file a second amended complaint. ECF No. 62. Good cause appearing, plaintiff’s request for leave to amend will be granted.

In his second amended complaint, plaintiff must demonstrate how prison conditions resulted in a deprivation of plaintiff’s constitutional rights. See Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). Also, plaintiff 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). Furthermore, vague and conclusory allegations of official participation in civil rights violations are not sufficient. Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982).

1 Finally, plaintiff is informed that the court cannot refer to a prior pleading in order to  
2 make plaintiff's second amended complaint complete. Local Rule 220 requires that an amended  
3 complaint be complete in itself without reference to any prior pleading. This is because, as a  
4 general rule, any amended complaint supersedes the prior complaints. See Loux v. Rhay, 375  
5 F.2d 55, 57 (9th Cir. 1967).

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

7 1. The amended complaint (ECF No. 12) is dismissed.

8 2. Plaintiff Deegan is granted thirty days from the date of service of this order to file a  
9 second amended complaint that complies with the requirements of the Civil Rights Act, the  
10 Federal Rules of Civil Procedure, and the Local Rules of Practice. The second amended  
11 complaint must bear the docket number assigned this case and must be labeled "Second Amended  
12 Complaint." Failure to file a second amended complaint in accordance with this order will result  
13 in a recommendation that this action be dismissed.

14 3. Defendant Fox need take no further action absent further order from the court.

15 Dated: January 25, 2023



16 CAROLYN K. DELANEY  
17 UNITED STATES MAGISTRATE JUDGE

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