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

MYCHAEL TYRONE SHANNON,  
Plaintiff,  
v.  
RALPH DIAZ, et al.,  
Defendants.

No. 2:17-CV-1084-JAM-DMC-P

ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983.

Plaintiff initiated this action by way of a complaint filed on May 24, 2017, naming the California Department of Corrections and Rehabilitation as the only defendant. On August 29, 2018, the court issued findings and recommendations that this action be dismissed because the only named defendant is immune under the Eleventh Amendment. On September 28, 2018, plaintiff filed a motion for leave to file a first amended complaint. Plaintiff filed a second motion for leave to amend on October 15, 2018, along with a motion for additional time to file objections to the August 29, 2018, findings and recommendations. On October 30, 2018, the court denied plaintiff's motions for leave to amend as unnecessary. Because plaintiff had not filed a first amended complaint with his motions for leave to amend, however, the court indicated the action continues to proceed on the original complaint and findings and recommendations thereon. On

1 November 30, 2018, plaintiff filed objections to the August 29, 2018, findings and  
2 recommendations along with a first amended complaint.

3           Given the filing of the first amended complaint as of right, the original complaint  
4 is superseded and, consequently, the August 29, 2018, findings and recommendations are  
5 rendered moot and will be vacated. The Clerk of the Court will be directed to update the docket  
6 to reflect the defendants named in the first amended complaint. The court will address the  
7 substance of plaintiff's first amended complaint by separate order.

8           Accordingly, IT IS HEREBY ORDERED that:

- 9           1. The August 29, 2018, findings and recommendations are vacated;
- 10           2. The Clerk of the Court is directed to update the docket to reflect the  
11 following are named defendants: Ralph Diaz, Sgt. Swan, C. Tileston, and Robert W. Fox; and
- 12           3. The Clerk of the Court is directed to terminate the California Department  
13 of Corrections and Rehabilitation as a named defendant.

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16 Dated: December 6, 2018



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18 DENNIS M. COTA  
UNITED STATES MAGISTRATE JUDGE

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