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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 JON HUMES,

12 Plaintiff,

13 v.

14 XAVIER BECERRA,

15 Defendant.
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No. 2:17-cv-2503 KJM KJN P

ORDER

17 Plaintiff is a former county jail inmate, proceeding pro se and in forma pauperis. Plaintiff
18 seeks relief pursuant to 42 U.S.C. § 1983. This proceeding was referred to this court by Local
19 Rule 302 pursuant to 28 U.S.C. § 636(b)(1). Plaintiff amended his complaint and named Xavier
20 Becerra as the sole defendant.

21 On July 18, 2019, the undersigned ordered service on defendant Becerra. However, on
22 July 26, 2019, plaintiff filed a motion to withdraw the amended complaint, claiming it was not the
23 pleading he thought it was. Good cause appearing, the July 18, 2019 order is vacated, and
24 plaintiff's first amended complaint (ECF No. 19) is stricken, and plaintiff is granted leave to
25 amend.


26 However, the record is now unclear. On July 25, 2019, plaintiff filed an amended
27 complaint naming Governor Gavin Newsom as the sole defendant, signed on July 23, 2019.
28 (ECF No. 26.) But appended to plaintiff's motion to amend, filed July 29, 2019, is another

1 amended complaint, but again naming Xavier Becerra as the sole defendant (ECF No. 28 at 3-7),
2 but also signed on July 23, 2019. Therefore, plaintiff is granted thirty days in which to either file
3 a new amended complaint or to identify which amended complaint he intends to pursue in this
4 action (ECF No. 26 or 28).

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. Plaintiff's motion to withdraw his first amended complaint (ECF No. 27) is granted;
- 7 2. The July 18, 2019 order (ECF No. 22) is vacated;
- 8 3. The October 31, 2018 first amended complaint (ECF No. 19) is stricken;
- 9 4. Plaintiff's motion to amend (ECF No. 28) is granted;
- 10 5. Within thirty days from the date of this order, plaintiff shall file a new amended
11 complaint or, in the alternative, shall identify which amended complaint he intended to pursue in
12 this action (ECF No. 26 or 28 at 3-7); and
- 13 6. The Clerk of the Court is directed to send plaintiff the form for filing a civil rights
14 action.

15 Dated: August 2, 2019

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17 KENDALL J. NEWMAN
18 UNITED STATES MAGISTRATE JUDGE

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