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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES ALEXANDER RIALS,
Plaintiff,
v.
J. LOZANO, et al.,
Defendants.

No. 2:19-cv-2152 TLN CKD P

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with an action filed pursuant to 42 U.S.C. § 1983. Plaintiff’s amended complaint is before the court for screening under 28 U.S.C. § 1915A(a). The court has conducted the required screening and finds that plaintiff may proceed on a claim under the Eighth Amendment for sexual abuse against defendant Bowen and a claim under the Eighth Amendment for failure to protect against defendants Lozano and Footman. The amended complaint fails to state claims upon which relief can be granted against any other defendant.

At this point, plaintiff has two options: 1) he may proceed on claims described above; or 2) make an attempt to cure the deficiencies in his amended complaint with respect to the other defendants and claims in a second amended complaint. If plaintiff choses to amend, he should refer back to the court’s March 23, 2020 order for guidance.


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Finally, plaintiff is reminded if he elects to amend that the court cannot refer to a prior pleading in order to make the second amended complaint complete. Local Rule 220 requires that an amended complaint be complete in itself without reference to any prior pleading. This is because, as a general rule, an any amended complaint supersedes all other pleadings. See Loux v. Rhay, 375 F.2d 55, 57 (9th Cir. 1967).

In accordance with the above, IT IS HEREBY ORDERED that plaintiff is granted 21 days within which to complete and return the attached form notifying the court whether he wants to proceed on a claim under the Eighth Amendment for sexual abuse against defendant Bowen and a claim under the Eighth Amendment for failure to protect against defendants Lozano and Footman or whether he wishes to file a second amended complaint in an attempt to cure the deficiencies in his amended complaint. If plaintiff does not return the form, this action will proceed on the claims described above.

Dated: November 20, 2020



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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JAMES ALEXANDER RIALS,
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Defendants.

No. 2:19-cv-2152 TLN CKD P

PLAINTIFF'S NOTICE OF
HOW TO PROCEED

Check one:

_____ Plaintiff wants to proceed immediately on a claim under the Eighth Amendment for sexual abuse against defendant Bowen and a claim under the Eighth Amendment for failure to protect against defendants Lozano and Footman.

_____ Plaintiff wants time to file a second amended complaint.

DATED:

Plaintiff