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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JESSE CANTU,
Plaintiff,
v.
M. A. VELAZQAZ, et al.,
Defendants.

Case No. [17-cv-02636-JD](#)

**ORDER DENYING MOTION TO
AMEND**

Re: Dkt. No. 20

Plaintiff, a state prisoner, has filed a pro se civil rights complaint under 42 U.S.C. § 1983. On November 7, 2017, the Court ordered service of the second amended complaint for three defendants regarding allegations that they confiscated or destroyed plaintiff's legal documents in October 2016. Plaintiff has now filed a motion to amend and a third amended complaint.

The third amended complaint only contains allegations against a new defendant regarding an incident that occurred on October 5, 2017. Plaintiff has not included the allegations and defendants from the prior complaint; therefore, they would be dismissed from this action if this new complaint were to proceed. Because an amended complaint completely replaces the original complaint, plaintiff must include in it all the claims he wishes to present. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992). He may not incorporate material from the original complaint by reference. In addition, plaintiff has not finished exhausting this new claim and can only proceed with the claim once it has been exhausted. Finally, plaintiff has not sufficiently shown that this new incident is related to the underlying incident in the complaint.

For the foregoing reasons, plaintiff's motion to amend (Docket No. 20) is **DENIED**. The Clerk shall send plaintiff a blank civil rights form and application to proceed in forma pauperis.

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Plaintiff may file a new action once he has fully exhausted this new claim. This case continues against the defendants and claims discussed in the Order of Service (Docket No. 18).

IT IS SO ORDERED.

Dated: January 9, 2018



JAMES DONATO
United States District Judge

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3
4 JESSE CANTU,
5 Plaintiff,
6 v.
7 M. A. VELAZQAZ, et al.,
8 Defendants.

Case No. [17-cv-02636-JD](#)

CERTIFICATE OF SERVICE

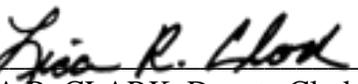
9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.
10 District Court, Northern District of California.

11
12 That on January 9, 2018, I SERVED a true and correct copy(ies) of the attached, by
13 placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by
14 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
15 receptacle located in the Clerk's office.

16
17 Jesse Cantu ID: T73021
18 Pelican Bay State Prison
19 P.O. Box 7500
20 Crescent City, CA 95532

21 Dated: January 9, 2018

22
23 Susan Y. Soong
24 Clerk, United States District Court

25
26 By: 
27 LISA R. CLARK, Deputy Clerk to the
28 Honorable JAMES DONATO