

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 KENTRELL D. WELCH,

4 Plaintiff

Case No. 2:19-cv-01241-RFB-BNW

ORDER

5 v.

6 JAMES DZURENDA, et al.,

7 Defendants

8
9 **I. DISCUSSION**

10 Plaintiff, who is an inmate in the custody of the Nevada Department of Corrections
11 (“NDOC”), has filed a civil rights complaint, a first amended complaint, and two
12 “declarations.” (ECF Nos. 1-1, 2-1, 5, 6.) It is not clear what the purpose of the
13 declarations is, but it appears that Plaintiff wants the Court to consider the allegations in
14 his declarations together with his amended complaint.

15 The Court will not piecemeal Plaintiff’s complaint together from multiple filings.
16 Plaintiff’s operative complaint must contain all claims, defendants, and factual allegations
17 that Plaintiff wishes to pursue in this lawsuit. As such, the Court grants Plaintiff leave to
18 file a fully complete second amended complaint within 30 days. If Plaintiff does not file a
19 fully complete amended complaint, the court will screen his first amended complaint (ECF
20 No. 2-1) and will not consider any allegations in Plaintiff’s additional filings.

21 If Plaintiff chooses to file a second amended complaint, he is advised that a second
22 amended complaint supersedes (replaces) the original complaint, and any previously filed
23 amended complaints, and, thus, the second amended complaint must be complete in
24 itself. *See Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546
25 (9th Cir. 1989) (holding that “[t]he fact that a party was named in the original complaint is
26 irrelevant; an amended pleading supersedes the original”); *see also Lacey v. Maricopa*
27 *Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (holding that for claims dismissed with prejudice,
28 a plaintiff is not required to reallege such claims in a subsequent amended complaint to

1 preserve them for appeal). Plaintiff's second amended complaint must contain all claims,
2 defendants, and factual allegations that Plaintiff wishes to pursue in this lawsuit.
3 Moreover, Plaintiff must file the second amended complaint on this Court's approved
4 prisoner civil rights form, and it must be entitled "Second Amended Complaint."

5 **II. CONCLUSION**

6 For the foregoing reasons, IT IS ORDERED that Plaintiff is granted leave to file a
7 single complete second amended complaint. If Plaintiff chooses to file a second amended
8 complaint, Plaintiff will file the second amended complaint within 30 days from the date
9 of entry of this order.

10 IT IS FURTHER ORDERED that the Clerk of the Court will send to Plaintiff the
11 approved form for filing a § 1983 complaint, instructions for the same, and a copy of his
12 initial complaint, the first amended complaint, and his declarations (ECF Nos. 1-1, 2-1, 5,
13 6). If Plaintiff chooses to file a second amended complaint, he must use the approved
14 form and he will write the words "Second Amended" above the words "Civil Rights
15 Complaint" in the caption.

16 IT IS FURTHER ORDERED that, if Plaintiff does not timely file a second amended
17 complaint, the Court will screen the first amended complaint (ECF No. 2-1) only and will
18 not consider any allegations in Plaintiff's declarations.

19 Dated: July 14, 2021.

20 

21 UNITED STATES MAGISTRATE JUDGE