

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 MURRY MCKINLEY,

4 Plaintiff

Case No. 3:18-cv-00239-MMD-CBC

ORDER

5 v.

6 JAMES DZURENDA et al.,

7 Defendants

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COUNSEL/PARTIES OF RECORD	
FEB 27 2019	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY

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10 **I. DISCUSSION**

11 On May 23, 2018, Plaintiff, a prisoner in the custody of the Nevada Department of
12 Corrections ("NDOC"), submitted a civil rights complaint pursuant to 42 U.S.C. § 1983
13 and filed an application to proceed *in forma pauperis*. (ECF Nos. 1, 1-1). The Court has
14 not yet screened the complaint. On February 27, 2019, Plaintiff filed a motion for leave
15 to file an amended complaint but did not attach a proposed amended complaint. (ECF
16 No. 6). The Court grants Plaintiff's motion to file an amended complaint.

17 If Plaintiff chooses to file an amended complaint he is advised that an amended
18 complaint supersedes (replaces) the original complaint and, thus, the amended complaint
19 must be complete in itself. See *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*,
20 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that "[t]he fact that a party was named in the
21 original complaint is irrelevant; an amended pleading supersedes the original"); see also
22 *Lacey v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (holding that for claims
23 dismissed with prejudice, a plaintiff is not required to reallege such claims in a subsequent
24 amended complaint to preserve them for appeal). Plaintiff's amended complaint must
25 contain all claims, defendants, and factual allegations that Plaintiff wishes to pursue in
26 this lawsuit. Moreover, Plaintiff should file the amended complaint on this Court's
27 approved prisoner civil rights form and it must be entitled "First Amended Complaint."
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1 If Plaintiff chooses to file an amended complaint, Plaintiff will file the amended
2 complaint on or before Friday, March 29, 2019. If Plaintiff chooses not to file an amended
3 complaint, the Court will screen the original complaint (ECF No. 1-1).

4 **II. CONCLUSION**

5 For the foregoing reasons, it is ordered that the motion for leave to file an amended
6 complaint (ECF No. 6) is granted.

7 It is further ordered that, if Plaintiff chooses to file an amended complaint, Plaintiff
8 will file the amended complaint on or before Friday, March 29, 2019.

9 It is further ordered that the Clerk of the Court will send to Plaintiff the approved
10 form for filing a § 1983 complaint, instructions for the same, and a copy of his original
11 complaint (ECF No. 1-1). If Plaintiff chooses to file an amended complaint, he should use
12 the approved form and he will write the words "First Amended" above the words "Civil
13 Rights Complaint" in the caption.

14 It is further ordered that, if Plaintiff chooses not to file an amended complaint, the
15 Court will screen the original complaint (ECF No. 1-1).

16 DATED: 2/27/2019

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18 UNITED STATES MAGISTRATE JUDGE

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