

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Anthony Mark Herrera, Jr. v. Kathleen Allison, et al.

Herrera v. Allison · No. 1:25-cv-00055-SAB (PC) · Decided October 8, 2025

OPINION

Allison

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10

11 ANTHONY MARK HERRERA, JR., No. 1:25-cv-00055-SAB (PC)

12 Plaintiff, ORDER GRANTING PLAINTIFF’S MOTION

TO AMEND THE COMPLAINT

13 v. (ECF No. 15) 14 KATHLEEN ALLISON, et al., 15 Defendants. 16 17 Plaintiff is proceeding
pro se in this civil rights action, filed on December 26, 2024. 18 Currently before the Court is
Plaintiff’s motion to amend, filed September 29, 2025. 19 (ECF No. 15.) 20 Under Rule 15(a) of
the Federal Rules of Civil Procedure, a party may amend the party’s 21 pleading once as a matter
of course at any time before a responsive pleading is served. Otherwise, 22 a party may amend
only by leave of the court or by written consent of the adverse party, and 23 leave shall be freely
given when justice so requires. Fed. R. Civ. P. 15(a). “Rule 15(a) is very 24 liberal and leave to
amend shall be freely given when justice so requires.” *AmerisourceBergen 25 Corp. v. Dialysist
West, Inc.*, 465 F.3d 946, 951 (9th Cir. 2006) (citation and quotation omitted). 26 However, courts
“need not grant leave to amend where the amendment: (1) prejudices the 27 opposing party; (2) is
sought in bad faith; (3) produces an undue delay in litigation; or (4) is 28 1 futile.” *Id.* 2 In
considering the relevant factors, the Court finds no evidence of prejudice, bad faith, 3 undue delay
in litigation, or futility. Plaintiff’s complaint has not yet been screened and no 4 defendant has
been served or appeared in this action. Accordingly, Plaintiff’s motion to amend 5 shall be
granted. However, Plaintiff may not file a separate document that adds or excludes facts 6 from an
existing complaint. Rather, Plaintiff must file a first amended complaint that is a 7 complete
document. 8 Plaintiff’s first amended complaint should be brief, Fed. R. Civ. P. 8(a), but it must
state 9 what each named defendant did that led to the deprivation of Plaintiff’s constitutional
rights, 10 *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009). Although accepted as true, the “[f]actual
11 allegations must be [sufficient] to raise a right to relief above the speculative level” *Bell 12
Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (citations omitted). 13 Additionally, Plaintiff

may not change the nature of this suit by adding new, unrelated 14 claims in his first amended complaint. *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007) (no 15 “buckshot” complaints). 16 Finally, Plaintiff is advised that an amended complaint supersedes the original complaint. 17 *Lacey v. Maricopa Cty.*, 693 F.3d 896, 927 (9th Cir. 2012). Therefore, Plaintiff’s amended 18 complaint must be “complete in itself without reference to the prior or superseded pleading.” 19 Local Rule 220. This includes any exhibits or attachments Plaintiff wishes to incorporate by 20 reference. 21 Accordingly, IT IS HEREBY ORDERED that: 22 1. Plaintiff’s motion for leave to file an amended complaint, (ECF No. 15), is 23 GRANTED; 24 2. The Clerk’s Office shall send Plaintiff a complaint form; 25 4. Plaintiff’s first amended complaint, not to exceed twenty-five (25) pages, is due 26 within thirty (30) days from the date of service of this order; and 27 4. If Plaintiff fails to file an amended complaint within the allotted time frame, the 28 Court will assume Plaintiff intends to stand on the original complaint, filed on 1 December 26, 2024 (ECF No. 1), which will be screened in due process pursuant 2 to 28 U.S.C. § 1915A. 3 4 IT IS SO ORDERED. DAA Le 5 | Dated: _ October 8, 2025 STANLEY A. BOONE 6 United States Magistrate Judge 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28