

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

KOHEN DIALLO UHURU,  
Plaintiff,  
v.  
JIM BONNIFIELD, et al.,  
Defendants.

Case No. 2:19-cv-10449-JVS-KES  
  
ORDER DENYING PLAINTIFF'S  
MOTION FOR PRELIMINARY  
INJUNCTION (DKT. 135)

**I.**  
**BACKGROUND**

Kohen Diallo Uhuru ("Plaintiff"), a prisoner in the custody of the California Department of Corrections and Rehabilitation ("CDCR"), filed this pro se civil rights action against CDCR staff members at the California Men's Colony ("CMC") in San Luis Obispo over events that occurred in 2017 and 2018. In the operative Second Amended Complaint ("SAC" at Dkt. 38), Plaintiff alleges that Defendants violated his civil rights by interfering with his practice of his Nubian Hebrew Israelite ("NHI") religion.

In October 2022, the Court entered a Case Management Order directing the

1 parties to file status reports regarding the progress of discovery. (Dkt. 106.) In  
2 January 2023, Defendants timely filed their report and stated, among other things,  
3 that they planned to file a partial motion for summary judgment arguing that  
4 Plaintiff failed to exhaust his administrative remedies “within two weeks.” (Dkt.  
5 120.) However, Defendants did not immediately file such a motion.

6 Plaintiff then filed several motions to compel discovery. (Dkt. 117, 123.)  
7 Because the discovery appeared to be related to claims that Defendants planned to  
8 challenge as unexhausted, on March 2, 2023, the Court asked Defendants to file a  
9 status report stating: (a) whether they still planned to file a motion for summary  
10 judgment regarding exhaustion, (b) when they planned to file such a motion, and  
11 (c) whether any discovery needed to be completed before they filed such a motion.  
12 (Dkt. 124.) Defendants timely responded by filing a status report (Dkt. 125) and  
13 the expected motion for partial summary judgment (Dkt. 126). The Court denied  
14 Plaintiff’s motions to compel discovery without prejudice; he may refile the  
15 motions after the Court rules on Defendants summary judgment motion, if the  
16 discovery he seeks remains relevant. (Dkt. 127.)

17 On April 14 and 17, 2023, the Court received a packet of filings from  
18 Plaintiff (signed by him between March 15 and 30, 2023), which included his  
19 opposition to Defendants’ motion and his own cross-motion for summary  
20 judgment. (Dkt. 128-133.) On April 24, 2023, the Court also received the present  
21 motion from Plaintiff (signed by him on March 21, 2023), which is entitled,  
22 “Motion for Permanent Injunction, Including Preliminary Injunction and  
23 Temporary Restraining Order Pursuant to Fed. R. Civ. Proc. Rule 65(a)(b).” (Dkt.  
24 135.)

## 25 II.

### 26 LEGAL STANDARD

27 “The same legal standard applies to a motion for a temporary restraining  
28 order and a motion for a preliminary injunction.” Henry Schein, Inc. v. Cook, 191

1 F. Supp. 3d 1072, 1076 (N.D. Cal. 2016). The purpose of such orders “is merely to  
2 preserve the relative positions of the parties until a trial on the merits can be held.”  
3 Univ. of Texas v. Camenisch, 451 U.S. 390, 395 (1981). Both are “an  
4 extraordinary remedy never awarded as a matter of right.” Winter v. Nat. Res. Def.  
5 Council, Inc., 555 U.S. 7, 24 (2008).

6 A party seeking such an order must establish: (1) a likelihood of success on  
7 the merits; (2) a likelihood that the moving party will suffer irreparable harm absent  
8 a preliminary injunction; (3) that the balance of equities tips in the moving party’s  
9 favor; and (4) that an injunction is in the public’s interest. Winter v. Natural  
10 Resources Defense Council, 555 U.S. 7, 20 (2008); see also Am. Trucking Ass’ns,  
11 Inc. v. City of Los Angeles, 559 F.3d 1046, 1052 (9th Cir. 2009).<sup>1</sup> A district court  
12 is not required to hold an evidentiary hearing before denying a motion seeking a  
13 preliminary injunction. See Kenneally v. Lungren, 967 F.2d 329, 334-35 (9th Cir.  
14 1992).

15 There must be “a sufficient nexus between the claims raised in a motion for  
16 injunctive relief and the claims set forth in the underlying complaint itself,” such  
17 that “the preliminary injunction would grant ‘relief of the same character as that  
18 which may be granted finally.’” Pac. Radiation Oncology, LLC v. Queen’s Med.  
19 Ctr., 810 F.3d 631, 636 (9th Cir. 2015) (quoting De Beers Consol. Mines v. United  
20 States, 325 U.S. 212, 220 (1945)). “Absent that relationship or nexus, the district  
21 court lacks authority to grant the relief requested.” Id.; see, e.g., Reid v. Engel, No.  
22 16-cv-2220, 2017 U.S. Dist. LEXIS 20120, at \*12-13, 2017 WL 590247, at \*6  
23 (E.D. Cal. Feb. 13, 2017) (denying injunction where civil rights plaintiff sought  
24 “injunctive relief pertaining to property confiscated following plaintiff’s arrest,  
25

---

26 <sup>1</sup> In cases subject to the Prison Litigation Reform Act, such as this one, that  
27 law imposes further limitations on courts’ power to grant injunctive relief. See  
28 generally 18 U.S.C. § 3626(a)(1)-(2).

1 wholly unrelated to his claims against the California State Bar and his criminal  
2 defense attorney raised in the complaint” and sought “injunctive relief against  
3 individuals who are not named as defendants”).

### 4 III.

### 5 ANALYSIS

6 Plaintiff’s motion raises several issues. First, he complains that he only  
7 recently received a copy of the Court’s March 2, 2023 order asking Defendants to  
8 file a status report about their motion for summary judgment. (Dkt. 135 at 1-2.) He  
9 alleges that prison officials are “deny[ing] [him] access to the courts” and cites  
10 Lewis v. Casey, 518 U.S. 343 (1996). (Dkt. 135 at 2.) A claim that prison officials  
11 are interfering with a prisoner’s legal mail, and therefore impeding his access to  
12 courts might, “if proven, justify an order in furtherance of the court’s ability to  
13 adjudicate a particular case.” Turner v. Sacramento Cnty. Sheriff, No. 09-cv-0117,  
14 2010 WL 4237023, at \*1, 2010 U.S. Dist. LEXIS 112261, at \*3 (E.D. Cal. Oct. 21,  
15 2010), report and recommendation adopted, 2010 WL 5317331, 2010 U.S. Dist.  
16 LEXIS 134272 (E.D. Cal. Dec. 20, 2010). Moreover, prisoners have a First  
17 Amendment right to send and receive mail. Witherow v. Paff, 52 F.3d 264, 265  
18 (9th Cir. 1995). However, “in order to state a cognizable claim regarding mail, a  
19 plaintiff must show that he suffered some real injury; mere delay in receiving mail  
20 does not state a claim.” Medley v. Arpaio, No. 08-cv-086, 2008 WL 3911138, at  
21 \*2, 2008 U.S. Dist. LEXIS 66935 at \*5 (D. Ariz. Aug. 21, 2008) (citing Morgan v.  
22 Montanya, 516 F.2d 1367, 1371 (2d Cir. 1975)); see also Casey, 518 U.S. at 351-52  
23 (holding that, to show he was denied access to the courts, the plaintiff must show  
24 that he suffered an “actual injury” as a result of the defendants’ actions); see, e.g.,  
25 Kohut v. Robinson, No. 17-2358-MWF-SHK, 2018 WL 6133668, at \*3, 2018 U.S.  
26 Dist. LEXIS 228733, at \*9 (C.D. Cal. Jan. 4, 2018) (denying preliminary injunctive  
27 relief to prisoner who sought “access to a photocopier to allow him to prosecute his  
28 underlying civil lawsuit,” because the “allegations of irreparable harm [were] too

1 speculative at this point to warrant the extraordinary relief by a TRO or a  
2 preliminary injunction”).

3 Plaintiff has not shown that extraordinary equitable relief is warranted at this  
4 time. In the Court’s experience, delays in receiving and sending inmate mail are a  
5 normal, if unfortunate, side effect of attempting to litigate a case from prison.  
6 Plaintiff was not prejudiced by his belated receipt of the Court’s March 2, 2023  
7 order, because he has timely responded to Defendants’ motion for summary  
8 judgment (which remains pending). In future, he may request any reasonable  
9 extensions of time that are necessary to allow him to litigate the case.

10 Second, Plaintiff appears to argue that prison officials are improperly  
11 transferring him to mental health “crisis beds” even though he “has never been  
12 suicidal in prison” in an attempt to “moot valid, legitimate claims through constant,  
13 involuntary transfers....” (Dkt. 135 at 2; see also id. at 4 (listing prisons where he  
14 has been housed in the last few years).) Relatedly, he appears to argue that he is  
15 “continuously punished by involuntary isolations for a punitive purposes....” (Id.  
16 at 3.) To the extent Plaintiff is arguing that these transfers are interfering with his  
17 ability to litigate this case, he has not shown that he has been prejudiced by the  
18 transfers. To the extent he is attempting to raise a new constitutional claim based  
19 on these transfers, this claim is not pled in his Second Amended Complaint. He is  
20 therefore not entitled to preliminary injunctive relief because there is an insufficient  
21 nexus to his underlying claims. See Pac. Radiation Oncology, 810 F.3d at 636.


22 Third, Plaintiff appears to argue that he should be given a “medical  
23 classification chrono” for a single cell, in order to practice his NHI religion and  
24 because he is “psychologically incapable of ... double cell living” or “dorm living.”  
25 (Dkt. 135 at 2, 4-5.) He appears to argue this violates his rights under the Free  
26 Exercise and Equal Protection Clauses. (Id. at 5.) Although Plaintiff previously  
27 raised similar claims in his First Amended Complaint, the Court dismissed them  
28 with prejudice, finding that Plaintiff had not “alleged sufficient facts to plausibly

1 suggest that [prison officials’] refusal to designate him for single-cell status in  
2 accordance with his NHI beliefs was unreasonable or failed to further a compelling  
3 government interest.” (Dkt. 30 at 37 (final report and recommendation issued on  
4 October 27, 2020); Dkt. 32 (order accepting this recommendation on November 2,  
5 2020).)<sup>2</sup> Accordingly, he is not entitled to preliminary injunctive relief on this  
6 claim.

7  
8 **IV.**  
**CONCLUSION**

9 For the reasons explained above, Plaintiff’s motion for preliminary injunction  
10 or temporary restraining order (Dkt. 135) is DENIED.

11  
12  
13  
14 DATED: April 27, 2023

  
15 JAMES V. SELNA  
16 UNITED STATES DISTRICT JUDGE

17 Presented by:

18   
19 KAREN E. SCOTT  
20 UNITED STATES MAGISTRATE JUDGE

21  
22  
23  
24 <sup>2</sup> Plaintiff’s First Amended Complaint alleged, “[W]hen [Plaintiff] first  
25 arrived at CMC in 2005, his modus operandi was to kill any sodomite, homosexual,  
26 etc. placed or forced in a small cell with him because of his [NHI] beliefs... which  
27 therefore led to Plaintiff being placed in a administrative segregation with a[n]  
28 RVR 115 of wanting to kill an ‘unknown inmate’.... [U]pon release from ad-seg at  
CMC-East Plaintiff has always remained in a single cell....” (Dkt. 20 at 17.)