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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

KRZYSZTOF F. WOLINSKI,

Plaintiff,

v.

MAURICE JUNIOUS, et al.,

Defendants.

CASE NO. 1:10-CV-02139-AWI-DLB PC

FINDINGS AND RECOMMENDATIONS  
RECOMMENDING PLAINTIFF’S  
MOTIONS, CONSTRUED AS MOTIONS  
FOR PRELIMINARY INJUNCTION, BE  
DENIED

(DOCS. 18, 27, 28)

\_\_\_\_\_/ OBJECTIONS DUE WITHIN 21 DAYS

Plaintiff Krzysztof F. Wolinski (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court are: 1) Plaintiff’s motion for preliminary injunction, filed May 24, 2011, 2) Plaintiff’s motion for an order to transfer Plaintiff to another facility with accessible law library, filed July 25, 2011, and 3) Plaintiff’s motion for an order directing the facility LTA to return Plaintiff’s “suppressed papers”, filed July 25, 2011. Docs. 18, 27, 28. The Court construes the latter motions as ones for preliminary injunction.

“A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Natural Resources Defense Council, Inc.*, 129 S. Ct. 365, 374 (2008) (citations omitted). The purpose of preliminary injunctive relief is to preserve the status quo or to prevent irreparable injury pending the resolution of the underlying claim. *Sierra On-line, Inc. v. Phoenix Software, Inc.*, 739 F.2d 1415, 1422 (9th Cir. 1984).

Federal courts are courts of limited jurisdiction, and as a preliminary matter, the court must have before it an actual case or controversy. *City of L.A. v. Lyons*, 461 U.S. 95, 102 (1983);

1 *Valley Forge Christian Coll. v. Ams. United for Separation of Church and State, Inc.*, 454 U.S.  
2 464, 471 (1982). If the court does not have an actual case or controversy before it, it has no  
3 power to hear the matter in question. *Lyons*, 461 U.S. at 102. Thus, “[a] federal court may issue  
4 an injunction [only] if it has personal jurisdiction over the parties and subject matter jurisdiction  
5 over the claim; it may not attempt to determine the rights of persons not before the court.”  
6 *Zepeda v. United States Immigration Serv.*, 753 F.2d 719, 727 (9th Cir. 1985).

7 Plaintiff moves for an order enjoining correctional officers Barton, Shiplet, Vegas,  
8 Brown, and others at High Desert State Prison (“HDSP”) from harassing Plaintiff, taking his  
9 legal papers, denying him the ability to mail documents, and denying access to the law library at  
10 HDSP. Doc. 18. Plaintiff moves for an order requiring the warden of HDSP to transfer Plaintiff  
11 to another facility within the prison for law library access. Doc. 27. Plaintiff also moves for an  
12 order directing facility LTA Miller, who works at HDSP, to return Plaintiff’s legal documents,  
13 which LTA Miller took from Plaintiff. Doc. 28. None of the named HDSP officials are parties  
14 to this action. Plaintiff’s claims in this case concerned actions at North Kern State Prison and  
15 California State Prison - Sacramento. The Court lacks jurisdiction over officials at HDSP.

16 Accordingly, it is HEREBY RECOMMENDED that Plaintiff’s motions for preliminary  
17 injunctive relief, filed July 25, 2011, should be DENIED.

18 These Findings and Recommendations will be submitted to the United States District  
19 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **twenty-**  
20 **one (21) days** after being served with these Findings and Recommendations, Plaintiff may file  
21 written objections with the Court. The document should be captioned “Objections to Magistrate  
22 Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file objections  
23 within the specified time may waive the right to appeal the District Court’s order. *Martinez v.*  
24 *Ylst*, 951 F.2d 1153, 1156-57 (9th Cir. 1991).

25 IT IS SO ORDERED.

26 **Dated: November 29, 2011**

**/s/ Dennis L. Beck**  
27 UNITED STATES MAGISTRATE JUDGE  
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