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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 KEITH WHITE,
12 CDCR #T-74230,

13 Plaintiff,

14 v.

15 RAYMOND MADDEN, FRANK
16 SHARPE, J. GALLEGOS, and
17 KATHLEEN ALLISON,

18 Defendants.

Case No.: 3:22-cv-01428-RSH-BGS

**ORDER DENYING MOTION FOR
TEMPORARY RESTRAINING
ORDER**

[ECF No. 3]

19 On September 9, 2022, Plaintiff Keith White filed this civil rights action under 42
20 U.S.C. § 1983 alleging that prison officials at the Richard J. Donovan Correctional Facility
21 (“RJD”), in which Plaintiff is incarcerated, violated his Eighth Amendment right against
22 cruel and unusual punishment. *See* Compl., ECF No. 1.

23 On September 19, 2022, Plaintiff filed a Motion for a Temporary Restraining Order
24 (the “Motion”), seeking to prevent the California Department of Corrections and
25 Rehabilitation (“CDCR”) from transferring Plaintiff from the Level III facility at RJD
26 where he is currently housed, to any Level IV facility in the State of California. *See* TRO
27 Mot., ECF No. 3. Defendants, who have not yet appeared in the case, filed an opposition.
28 ECF No. 8. On October 13, 2022, the Court held a hearing on the Motion. ECF No. 9. The

1 Parties then filed additional briefing relating to the Motion. ECF Nos. 10, 13. As explained
2 below, the Court denies Plaintiff’s Motion.

3 **I. Factual Background**

4 Plaintiff brings his claim under 42 U.S.C. § 1983 against four defendants employed
5 by CDCR: (1) RJD Warden Raymond Madden; (2) Frank Sharpe, a classification and
6 parole representative; (3) J. Gallegos, an RJD correctional counselor; and (4) Kathleen
7 Allison, Secretary of the CDCR. *See* ECF No. 1.

8 Plaintiff claims that prison officials have labelled Plaintiff a “snitch” and made it
9 known within the prison population that Plaintiff was incarcerated for a sexual offense. *Id.*
10 at 3-4. He further alleges that, despite knowing about safety concerns, prison officials
11 transferred him to a Level IV facility at RJD, where other inmates attacked him on July 2,
12 2022. *Id.* He claims that gang members subjected him to unspecified sexual harassment
13 and extortion in addition to the assaults. *Id.* Plaintiff alleges that he has since been
14 transferred to a Level III facility at RJD where he is currently safe, but that officials are
15 now considering him for transfer to another Level IV facility, where they allow gang
16 members to operate openly and carry out attacks and murders. *Id.* Plaintiff’s Complaint
17 seeks damages and injunctive relief. *Id.* at 10.

18 **II. Legal Standard**

19 Federal Rule of Civil Procedure 65 provides that the Court may issue a temporary
20 restraining order where “specific facts in an affidavit or a verified complaint clearly show
21 that immediate and irreparable injury, loss, or damage will result to the movant before the
22 adverse party can be heard in opposition.” A movant must demonstrate that: “(1) it is likely
23 to succeed on the merits, (2) it is likely to suffer irreparable harm in the absence of
24 preliminary relief, (3) the balance of equities tips in its favor, and (4) an injunction is in the
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1 public interest.” *Goldman, Sachs & Co. v. City of Reno*, 747 F.3d 733, 738 (9th Cir. 2014).¹
2 The purpose of a temporary restraining order is to preserve the status quo before a
3 preliminary injunction hearing and prevent irreparable loss of rights prior to judgment.
4 *Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers*, 415 U.S.
5 423, 439 (1974). Injunctive relief is an “extraordinary remedy that may only be awarded
6 upon a clear showing that the plaintiff is entitled to such relief.” *Winter v. Nat. Res. Def.*
7 *Council, Inc.*, 555 U.S. 7, 22 (2008).

8 Under the Prison Litigation Reform Act, 18 U.S.C. § 3626(a)(2) (“PRLA”), courts
9 in “any civil action with respect to prison conditions” may enter a temporary restraining
10 order only if it is “narrowly drawn, extend[s] no further than necessary to correct the harm
11 the court finds requires preliminary relief, and [is] the least intrusive means necessary to
12 correct that harm.” Congress enacted the PLRA to “revive the hands-off doctrine” and
13 restore “judicial quiescence derived from federalism and separation of powers concerns”
14 to remove the judiciary from prison management. *Gilmore v. California*, 220 F.3d 987,
15 996-97 (9th Cir. 2000). Accordingly, the PRLA requires courts to “give substantial weight
16 to any adverse impact on public safety or the operation of a criminal justice system caused
17 by the preliminary relief” *Id.* at 998 (quoting 18 U.S.C. § 3626(a)(2)).

18 III. Analysis

19 A. Likelihood of Success on The Merits

20 “The first factor [] is the most important—likely success on the merits.” *Garcia v.*
21 *Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015). While a plaintiff carries the burden of
22 demonstrating likelihood of success, the plaintiff is not required to prove their case in full
23 at this stage, rather, only the parts that enable them to obtain the injunctive relief they seek.
24 *See Univ. of Texas v. Camenisch*, 451 U.S. 390, 395 (1981).

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27 ¹ The standard for a temporary restraining order is “substantially identical” to the
28 standard for a preliminary injunction in the Ninth Circuit. *Stuhlberg Int’l Sales Co. v. John*
D. Brush & Co., 240 F.3d 832, 839 n.7 (9th Cir. 2001).

1 Plaintiff claims a violation of his rights under the Eighth Amendment. “[A] prison
2 official violates the Eighth Amendment only when two requirements are met. First, the
3 deprivation alleged must be, objectively, ‘sufficiently serious’; a prison official’s act or
4 omission must result in the denial of ‘the minimum civilized measure of life’s necessities.’”
5 *Farmer v. Brennan*, 511 U.S. 825, 834 (1994) (citations omitted). Second, “a prison official
6 must have a ‘sufficiently culpable state of mind,’” and act with “‘deliberate indifference’
7 to inmate health or safety” *Id.*

8 Plaintiff has not met his burden of demonstrating that he is likely to succeed on the
9 merits on his claim. The incident that is the focus of Plaintiff’s Complaint is a July 2, 2022,
10 attack on Plaintiff by two other inmates, identified in an exhibit to the Complaint as
11 “Hagan” and “Jackson.” ECF No. 1-2 at 5. Plaintiff has not shown that Defendants were
12 aware in advance of the attack that either inmate was an enemy of Plaintiff. Indeed, Plaintiff
13 submitted a list of 11 of his documented enemies, as of January 26, 2022, and neither
14 inmate is on the list. ECF No. 10-4 at 2. Plaintiff has not provided evidence of any
15 communication or notice to Defendants regarding inmates Hagan or Jackson preceding the
16 attack. Absent a showing that Defendants knew of a danger posed to Plaintiff and were
17 deliberately indifferent to Plaintiff’s safety — or further evidence in support of his other
18 theories of liability that are articulated in a more generalized manner in his Complaint —
19 Plaintiff is not likely to succeed on the merits of his claim.²

20 B. Likelihood of Irreparable Harm

21 Plaintiff claims that he cannot be placed at any Level IV facility because he has
22 enemies at all Level IV facilities. *See* ECF No. 3. In briefing after the hearing, the State
23 reported that a classification staff representative has endorsed Plaintiff for a transfer to
24 Facility B at California State Prison, Los Angeles County (“Lancaster”) in Lancaster,
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27 ² Plaintiff’s briefing also alleges that he suffered a second attack later on July 2, 2022,
28 from two other inmates, “Branch” and “Major.” ECF No. 10 at 2. The same analysis applies
to these two individuals.

1 California, a Level IV, Sensitive Needs, Enhanced Outpatient yard. ECF No. 13 at 2.
2 According to a declaration submitted by Defendant Gallegos, Plaintiff does not have any
3 known enemies at Facility B in Lancaster. ECF No. 13-2 at 1-2. This is further supported
4 by CDCR’s current list of separation alerts for Plaintiff, which does include any individuals
5 housed at Lancaster Facility B. ECF No. 13-3 at 3. Furthermore, although Plaintiff
6 identified at the hearing additional “undocumented” enemies of his, even taking his
7 assertion at face value none of these individuals are housed in Facility B at Lancaster. ECF
8 No. 13-2 at 2. As such, Plaintiff has not demonstrated a likelihood of irreparable harm.

9 C. Balance of Equities & The Public Interest

10 Where the government is the party opposing an injunction, the remaining two factors
11 — balance of the equities and public interest in injunctive relief — tend to merge. *See Nken*
12 *v. Holder*, 556 U.S. 418, 435 (2009); *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073,
13 1092 (9th Cir. 2014). Both factors weigh in the State’s favor.

14 First, Plaintiff’s requested injunction — a statewide ban on placement in a Level IV
15 facility — is unduly broad. The PRLA requires courts to ensure that prospective relief in
16 any civil action related to prison conditions be “narrowly drawn, extend[] no further than
17 necessary to correct the violation of the Federal right, and [be] the least intrusive means
18 necessary to correct the violation of the Federal right.” 18 U.S.C. § 3626(a)(1)(A). Given
19 that the State has identified a Level IV facility that does not house any of Plaintiff’s known
20 enemies, or even those particular individuals he describes as undocumented enemies,
21 Plaintiff’s requested injunctive relief does not comply with the PRLA.

22 Second, courts must give a degree of deference to prison administrators. *See Griffin*
23 *v. Gomez*, 741 F.3d 10, 21 (9th Cir. 2014) (“Courts are ‘particularly deferential’ to prison
24 administrators’ regulatory judgments,’ if ‘[a]ccommodating [a prisoner’s] demands
25 would . . . impair the ability of corrections officers to protect all who are inside a prison’s
26 walls.’” (quoting *Overton v. Bazzetta*, 539 U.S. 126, 136 (2003))). This deference weighs
27 against the requested temporary restraining order.
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1 Third, the PRLA requires the Court to “give substantial weight to any adverse impact
2 on public safety or the operation of a criminal justice system caused by the relief.” 18
3 U.S.C. § 3626(a)(1)(A). Here, Plaintiff is not the only one affected by his requested
4 injunctive relief. Plaintiff has a classification score of 255, is classified as a sensitive needs
5 inmate, and is a participant in the Enhanced Outpatient Program for inmates with severe
6 mental health issues. ECF No. 8 at 8-9. The State notes that a prisoner must have a
7 placement score of 59 or less to be eligible for a Level III yard. *Id.* Placing prisoners with
8 Plaintiff’s classification score and additional programming needs in lower-level yards places
9 those inmates at risk as well. *See* ECF No. 13 at 7.

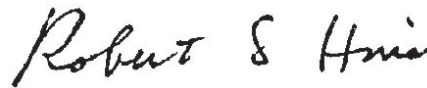
10 Accordingly, both the balance of equities and the public’s interest lean in favor of
11 Defendants.

12 IV. Conclusion and Order

13 For the above reasons, the Court **DENIES** Plaintiff’s Motion for a Temporary
14 Restraining Order.

15 **SO ORDERED.**

16 Dated: November 1, 2022.



17 Hon. Robert S. Huie
18 United States District Judge
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