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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

MICHAEL ROBERT SPENGLER,  
Plaintiff,  
v.  
LOS ANGELES COUNTY JAIL  
MEDICAL, et al.  
Defendants.

Case No. CV 16-6509-DOC (SP)  
**MEMORANDUM AND ORDER  
DENYING REQUEST FOR  
PRELIMINARY INJUNCTION**

**I.**

**INTRODUCTION**

Plaintiff Michael Spengler is an inmate at the Twin Towers Correctional Facility (“TTCF”) who is pursuing civil rights claims against various TTCF staff and the Los Angeles County Sheriff’s Department (“LASD”). His most recent complaint in this case is his Third Amended Complaint, along with a number of supplemental complaints. Generally, he alleges he has received inadequate medical care and abuse, has been retaliated against for administrative grievances and lawsuits he has filed, and has been denied access to the courts.

On November 9, 2017, plaintiff filed a motion for a preliminary injunction. Plaintiff alleged his legal mail has been delayed at TTCF, and asked the Court to issue

1 an order to show cause as to why his mail should be delayed up to 60 days. The Court  
2 denied the motion for a preliminary injunction on December 21, 2017.

3 On January 25, 2018, plaintiff filed the instant motion for a preliminary  
4 injunction, again alleging his legal mail has been delayed at TTCF. Although not filed  
5 until January 25, 2018, plaintiff dated the instant motion as having been prepared on  
6 December 21, 2017. Meanwhile, on January 10, 2018, the Court received and filed an  
7 Update/Notice from plaintiff dated December 30, 2017, in which plaintiff stated his  
8 legal mail problems had been resolved.

9 In light of this update, and for the reasons set forth below, the Court finds  
10 plaintiff has failed to show he is entitled to a preliminary injunction. Accordingly,  
11 plaintiff's motion is denied.

## 12 II.

### 13 DISCUSSION

14 A preliminary injunction is “an extraordinary and drastic remedy, one that  
15 should not be granted unless the movant, *by a clear showing*, carries the burden of  
16 persuasion.” *Mazurek v. Armstrong*, 520 U.S. 968, 972, 117 S. Ct. 1865, 138 L. Ed. 2d  
17 162 (1997) (per curiam) (internal quotations marks and citation omitted). The plaintiff  
18 bears the burden to establish that “he is likely to succeed on the merits, that he is likely  
19 to suffer irreparable harm in the absence of preliminary relief, that the balance of  
20 equities tips in his favor, and that an injunction is in the public interest.” *Winter v.*  
21 *Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20, 129 S. Ct. 365, 172 L. Ed. 2d 249  
22 (2008) (citations omitted). Alternatively, where there are merely “serious questions  
23 going to the merits,” the moving party may still obtain a preliminary injunction where  
24 the balance of hardships “tips sharply” in the moving party’s favor, and where the  
25 moving party also shows a likelihood of irreparable injury and that an injunction is in  
26 the public interest. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th  
27 Cir. 2011).

1 Where a plaintiff has not made the minimum showing of irreparable injury, it is  
2 not necessary for the court to decide whether the plaintiff is likely to succeed on the  
3 merits. *Oakland Tribune, Inc. v. Chronicle Publ'g Co.*, 762 F.2d 1374, 1378 (9th Cir.  
4 1985). Likewise, if the moving party “fails to show that he has some chance on the  
5 merits, that ends the matter.” *Developmental Servs. Network v. Douglas*, 666 F.3d  
6 540, 544 (9th Cir. 2011) (citation omitted).

7 Plaintiff’s instant request for injunctive relief again appears related to his claim  
8 that he has been denied access to the courts, which plaintiff primarily asserted in the  
9 most recent supplemental complaint he filed on November 20, 2017. But in its  
10 December 14, 2017 order finding the Third Amended Complaint and its supplements  
11 subject to dismissal in part, the Court specifically found plaintiff failed to state a claim  
12 based on delays in mail he has allegedly experienced. For this reason and reasons  
13 addressed in the Court’s December 21, 2017 Order denying plaintiff’s previous  
14 motion, plaintiff has not shown a likelihood of success on the merits.

15 Plaintiff here alleges the Legal Unit only picks up his outgoing legal mail  
16 sporadically and the mail sits in the mailbox for one to two weeks before it is picked  
17 up. He alleges the legal mail is sometimes negligently processed as regular mail,  
18 which takes an additional one to two and a half weeks to process. He further contends  
19 it takes him four weeks to receive his incoming legal mail.

20 Plaintiff dated the instant motion December 21, 2017, although it was not filed  
21 until January 25, 2018. On January 10, 2018, the Court received an update dated  
22 December 30, 2017 from plaintiff. In the update, plaintiff informs the Court TTCF is  
23 now allowing him to send his legal mail, and therefore the issues he has raised with the  
24 legal mail are now moot because the problem has been resolved. Plaintiff reserves his  
25 right to seek redress for past injury, but indicates there is no ongoing problem.

26 A preliminary injunction cannot be granted unless plaintiff “has shown that  
27 irreparable harm is ‘likely’; the ‘possibility’ of harm is insufficient to meet [plaintiff’s]  
28 burden.” *Small v. Avanti Health Sys., LLC*, 661 F.3d 1180, 1191 (9th Cir. 2011) (citing

1 *Winter*, 555 U.S. at 22). Although “‘likely’ is a higher threshold than ‘possible,’  
2 [plaintiff] need not prove that irreparable harm is certain or even nearly certain.” *Id.*  
3 By submitting the update stating the problem was resolved, plaintiff has now  
4 acknowledged future harm is no longer likely.

5 In sum, because plaintiff has not shown either likelihood of success on the  
6 merits or that he is likely to suffer irreparable harm if he does not receive the injunctive  
7 relief he seeks, his motion will be denied.

8 **III.**

9 **ORDER**

10 IT IS THEREFORE ORDERED that plaintiff’s motion for a preliminary  
11 injunction (docket no. 52) is DENIED.

12  
13 DATED: February 12, 2018

14 

15 HONORABLE DAVID O. CARTER  
16 UNITED STATES DISTRICT JUDGE

17 Presented by:

18 

19  
20 Sheri Pym  
United States Magistrate Judge