

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

EASTERN DISTRICT OF CALIFORNIA

STEVEN J. WOHL,

Plaintiff,

v.

GRAY DAVIS, et al.,

Defendants.

CASE NO. 1:03-cv-06921-LJO-YNP PC

FINDINGS AND RECOMMENDATIONS
RECOMMENDING DENIAL OF MOTIONS

(Doc. 13, 15)

OBJECTIONS DUE WITHIN 30 DAYS

Plaintiff Steven J. Wohl (“Plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. On July 1, 2009, Plaintiff filed a motion for a temporary restraining order. (Doc. #13.) On August 25, 2009, Plaintiff filed a motion for “emergency review, ruling and decision” of his motion for a temporary restraining order. (Doc. #15.)

Plaintiff claims that he suffers from serious injuries due to a serious car accident. Plaintiff has limited mobility and cannot stand or sit for long periods of time or lift heavy objects. Consequently, Plaintiff claims that he is unable to participate in prison work assignments. Plaintiff complains that prison officials nonetheless force Plaintiff to participate in work assignments where he is required to sit uncomfortably for long periods of time. Plaintiff received a rules violation when he was unable to participate in his work assignment due to his injuries. As a result, Plaintiff was temporarily placed on “disciplinary C-Status.” When Plaintiff was released from C-Status on September 10, 2008, Plaintiff was told that he was assigned to a “support services assignment.” Plaintiff complains that he will be required to perform tasks that he is physically unable to do at his support services assignment, such as picking up garbage, sweeping and mopping, and emptying

1 garbage cans. Plaintiff also complains that prison officials have a policy of handcuffing Plaintiff
2 behind the back, which causes severe pain due to his injuries. Plaintiff alleges that prison officials
3 refuse to renew Plaintiff's chrono that mandated that he only be handcuffed in front of his body.

4 The purpose of a preliminary injunction is to preserve the status quo if the balance of equities
5 so heavily favors the moving party that justice requires the court to intervene to secure the positions
6 until the merits of the action are ultimately determined. University of Texas v. Camenisch, 451 U.S.
7 390, 395 (1981). "A plaintiff seeking a preliminary injunction must establish that he is likely to
8 succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief,
9 that the balance of equities tips in his favor, and that an injunction is in the public interest." Winter
10 v. Natural Resources Defense Council, Inc., 129 S. Ct. 365, 374 (2008).

11 "[A] preliminary injunction is an extraordinary and drastic remedy, one that should not be
12 granted unless the movant, by a clear showing, carries the burden of persuasion." Mazurek v.
13 Armstrong, 520 U.S. 968, 972 (1997) (quotations and citations omitted) (emphasis in original). A
14 party seeking a preliminary injunction simply cannot prevail when that motion is unsupported by
15 evidence. With respect to motions for preliminary injunctive relief or a temporary restraining order,
16 the Prison Litigation Reform Act ("PLRA") provides that:

17 [i]n any civil action with respect to prison conditions, to the extent
18 otherwise authorized by law, the court may enter a temporary
19 restraining order or an order for preliminary injunctive relief.
20 Preliminary injunctive relief must be narrowly drawn, extend no
further than necessary to correct the harm the court finds requires
preliminary relief, and be the least intrusive means necessary to
correct that harm.

21 18 U.S.C. § 3626(a)(2).

22 The only relief that Plaintiff specifically requests is for an order from the Court prohibiting
23 prison officials from handcuffing Plaintiff behind his back. Although Plaintiff complains about other
24 issues, such as his new support services assignment, risk of future rules violations, appeals
25 coordinators ignoring his requests for accommodation, and inability to receive medical care, Plaintiff
26 has not identified or requested any specific form of relief from the Court with respect to those issues.
27 In order to receive injunctive relief, Plaintiff must identify what he is requesting to do and must
28 demonstrate that the relief he requests will prevent future irreparable injury. Plaintiff cannot simply

1 make a vague request for a “temporary restraining order” and expect the Court to determine the
2 appropriate form of relief.

3 Further, Plaintiff’s motion fails to address three of the four prerequisites for preliminary
4 injunctive relief. Plaintiff claims that he will suffer irreparable injury in the future from prison
5 officials who cuff him behind the back for extended periods of time. However, Plaintiff presents no
6 arguments or evidence establishing that he is likely to succeed on the merits of his lawsuit. Plaintiff
7 presents no argument with respect to the balance of equities or that an injunction is in the public’s
8 interest.

9 With respect to Plaintiff’s likelihood of success on the merits of his claim, the Court notes
10 that Plaintiff’s complaint was dismissed for failing to state any claims. (Doc. #9.) This action is
11 currently pending screening of Plaintiff’s amended complaint. In the absence of any argument or
12 evidence, the Court cannot make the finding that Plaintiff is likely to succeed on the merits of his
13 claims.

14 Plaintiff does not establish that the balance of equities are in his favor. The Court notes that
15 Plaintiff has not provided any detailed account of his attempts to obtain a “front cuff only” medical
16 chrono through administrative means. Although Plaintiff provides an exhaustive account of utilizing
17 the administrative appeal system for other issues, Plaintiff fails to allege that he has attempted to file
18 an administrative appeal requesting a “front cuff only” medical chrono, and Plaintiff does not allege
19 whether he made informal attempts to request a “front cuff only” chrono. Absent proof that Plaintiff
20 has no other avenues for relief, the balance of equities do not favor Plaintiff. Plaintiff fails to
21 demonstrate that he is entitled to the injunctive relief he seeks.

22 With respect to Plaintiff’s motion for “emergency review, ruling and decision,” Plaintiff has
23 presented no persuasive legal argument as to why his motion is entitled to expedited “emergency
24 review.” The Court will recommend that Plaintiff’s motion be denied.

25 Accordingly, it is **HEREBY RECOMMENDED** that:

- 26 1. Plaintiff’s motion for a temporary restraining order, filed on July 1, 2009, be
27 DENIED; and

28 ///

