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STEVEN J. WOHL,

v.

GRAY DAVIS, et al.,

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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

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

ADOPTING

PLAINTIFF'S MOTIONS FOR A TEMPORARY

RECOMMENDATIONS

RESTRAINING ORDER

FINDINGS

AND DENYING

ORDER

Plaintiff,

,

(Docs. 13, 15, 16)

(Docs. 13, 15, 16) Defendants.

Plaintiff Steven J. Wohl ("Plaintiff") is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 3, 2010, the Magistrate Judge issued Findings and Recommendations which recommended that Plaintiff's motions for a temporary restraining order be denied. The Findings and Recommendations were served on Plaintiff and contained notice to Plaintiff that any objections to the Findings and Recommendations were to be filed within thirty (30) days of the date on which the Findings and Recommendations were served. Plaintiff filed objections to the Findings and Recommendations on July 7, 2010.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 305, this Court has conducted a <u>de novo</u> review of this case. Having carefully reviewed the entire file, the Court finds the Findings and Recommendations to be supported by the record and by proper analysis. Notably, Plaintiff complains that the Court has taken too long to rule on the motions and that "delayed Court injunctive action is now too late and actually moot." (Pl.'s Objections to Magistrate

Report and Recommendation on Mot. for TRO and Prelim. Inj. Hr'g, Ex. in Supp., Decl. of Steven J. Wohl 3:12-13, ECF No. 26.)

Nonetheless, Plaintiff requests the Court to order prison officials to provide Plaintiff with numerous accommodations related to Plaintiff's medical needs, such as an extra mattress, lower bunk, use of personal sneakers, Vicodin, and daily showers. As noted in the Magistrate Judge's Findings and Recommendations, Plaintiff has failed to demonstrate that he is entitled to the extraordinary remedy of a temporary restraining order. Most significantly, Plaintiff has not adequately demonstrated that he is likely to succeed on the merits of his case. The Court dismissed Plaintiff's complaint on June 29, 2010 for failing to state any claims upon which relief can be granted under Section 1983.¹ (Doc. #25.) The Court is not inclined to grant the relief requested when Defendants have not been served or made an appearance in this action, have not had the opportunity to object to Plaintiff's requests for relief, and Plaintiff has not stated any cognizable claims for relief.

Accordingly, the Court HEREBY ORDERS that:

- 1. The February 3, 2010 Findings and Recommendations are ADOPTED in full; and
- 2. Plaintiff's motions for a temporary restraining order are DENIED.

IT IS SO ORDERED.

Dated:	July 9, 2010	/s/ Lawrence J. O'Neill
	- -	UNITED STATES DISTRICT JUDGE

¹Plaintiff was given leave to file an amended complaint which cures the deficiencies identified by the Court.