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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT BENYAMINI,	1:06-cv-01096-AWI-GSA-PC
Plaintiff,	FINDINGS AND RECOMMENDATION,
v.	RECOMMENDING THAT PLAINTIFF’S
MANJUANO, et al.,	MOTION FOR PRELIMINARY
	INJUNCTION BE DENIED
	(Doc. 98.)
Defendants.	OBJECTIONS, IF ANY, DUE WITHIN
	THIRTY DAYS

I. BACKGROUND

Plaintiff, Robert Benyamini (“Plaintiff”), is a state prisoner proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the original complaint on August 21, 2006. (Doc. 1.) This action now proceeds with the Third Amended Complaint, filed on May 23, 2008, on Plaintiff’s Eighth Amendment claims for adverse conditions of confinement, against defendants Debbie Mandujano,¹ Deputy Wilcox, Deputy Wilkerson, and Deputy O’Grady.² (Doc. 35.) Plaintiff is presently incarcerated at the California State Prison-Sacramento ("CSP-SAC").

¹Plaintiff identified this defendant in the Third Amended Complaint as Debbie Manjuano. (Doc. 35.) However, in the Answer to the complaint, Defendant spelled her name Debbie Mandujano. (Doc. 79.) The Court uses Defendant’s spelling herein.

²On May 26, 2009, the Court dismissed all other claims and defendants from this action based on Plaintiff’s failure to state a claim. (Doc. 52.)

1 On June 10, 2011, Plaintiff filed a motion for a preliminary injunction via a court order
2 directing prison officials at CSP-SAC to accommodate his disabilities, to allow him to use a research
3 computer, to provide pre-stamped envelopes to inmates housed in administrative segregation ("Ad-
4 Seg"), to allow inmates in Ad-Seg one phone call to family members, and to compel the California
5 Department of Corrections and Rehabilitation to provide him with free copies from his C-file. (Doc.
6 98.) Plaintiff's motion for preliminary injunction is now before the Court.

7 **II. PRELIMINARY INJUNCTION**

8 "A preliminary injunction is an extraordinary remedy never awarded as of right." Winter v.
9 Natural Resources Defense Council, Inc., 129 S.Ct. 365, 376 (2008) (citation omitted). "A plaintiff
10 seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is
11 likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips
12 in his favor, and that an injunction is in the public interest." Id. at 374 (citations omitted). An
13 injunction may only be awarded upon a *clear showing* that the plaintiff is entitled to relief. Id. at 376
14 (citation omitted) (emphasis added).

15 Federal courts are courts of limited jurisdiction and in considering a request for preliminary
16 injunctive relief, the Court is bound by the requirement that as a preliminary matter, it have before
17 it an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S. 95, 102, 103 S.Ct. 1660,
18 1665 (1983); Valley Forge Christian Coll. v. Ams. United for Separation of Church and State, Inc.,
19 454 U.S. 464, 471, 102 S.Ct. 752, 757-58 (1982). If the Court does not have an actual case or
20 controversy before it, it has no power to hear the matter in question. Id. Requests for prospective
21 relief are further limited by 18 U.S.C. § 3626(a)(1)(A) of the Prison Litigation Reform Act, which
22 requires that the Court find the "relief [sought] is narrowly drawn, extends no further than necessary
23 to correct the violation of the Federal right, and is the least intrusive means necessary to correct the
24 violation of the Federal right."

25 Plaintiff has requested a court order directing prison officials at CSP-SAC to act. However,
26 the order requested by Plaintiff would not remedy any of the claims upon which this action proceeds.
27 This action is proceeding against defendants for subjecting Plaintiff to adverse conditions of
28 confinement at the Modesto County Jail in 2003. Plaintiff now requests a court order directing

1 prison officials at CSP-SAC to modify Plaintiff's present conditions of confinement. Because such
2 an order would not remedy any of the claims upon which this action proceeds, the Court lacks
3 jurisdiction to issue the order sought by Plaintiff, and Plaintiff's motion must be denied.

4 **III. CONCLUSION AND RECOMMENDATION**

5 Based on the foregoing, **IT IS HEREBY RECOMMENDED** that Plaintiff's motion for
6 preliminary injunction, filed June 10, 2011, be DENIED.

7 These findings and recommendation are submitted to the United States District Judge
8 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within thirty days
9 after being served with these findings and recommendations, the parties may file written objections
10 with the court. Such a document should be captioned "Objections to Magistrate Judge's Findings
11 and Recommendations." The parties are advised that failure to file objections within the specified
12 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th
13 Cir. 1991).

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15 IT IS SO ORDERED.

16 **Dated: June 14, 2011**

17 /s/ Gary S. Austin
18 UNITED STATES MAGISTRATE JUDGE
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