

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

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN E. WEST,

Plaintiff,

vs.

1: 07 CV 0551 OWW WMW PC

FINDINGS AND RECOMMENDATION

ORDER RE MOTIONS (DOCS 16, 20)

JAMES A. YATES, et al.,

Defendants.

Plaintiff has filed requests for injunctive relief regarding his medical care. The purpose of a preliminary injunction is to preserve the status quo if the balance of equities so heavily favors the moving party that justice requires the court to intervene to secure the positions until the merits of the action are ultimately determined. University of Texas v. Camenisch, 451 U.S. 390, 395 (1981). A preliminary injunction is available to a plaintiff who “demonstrates either (1) a combination of probable success and the possibility of irreparable harm, or (2) that serious questions are raised and the balance of hardship tips in its favor.” Arcamuzi v. Continental Air Lines, Inc., 819 F. 2d 935, 937 (9th Cir. 1987). Under either approach the plaintiff “must demonstrate a significant threat of irreparable injury.” Id. Also, an injunction should not issue if the plaintiff “shows no chance of success on the merits.” Id. At a bare minimum, the plaintiff

1 “must demonstrate a fair chance of success of the merits, or questions serious enough to require
2 litigation.” Id.

3 Federal courts are courts of limited jurisdiction, and as a preliminary matter, the court
4 must have before it an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S. 95, 102
5 (1983); Valley Forge Christian Coll. v. Ams. United for Separation of Church and State, Inc.,
6 454 U.S. 464, 471,(1982); Jones v. City of Los Angeles, 444 F.3d 1118, 1126 (9th Cir. 2006). If
7 the court does not have an actual case or controversy before it, it has no power to hear the matter
8 in question. Id. “A federal court may issue an injunction *if* it has personal jurisdiction over the
9 parties and subject matter jurisdiction over the claim; it may *not* attempt to determine the rights
10 of persons not before the court.” Zepeda v. United States Immigration Service, 753 F.2d 719, 727
11 (9th Cir. 1985) (emphasis added). By an order issued with this recommendation, the court
12 dismissed plaintiff’s amended complaint, with leave to amend, for failure to state any claims
13 upon which relief may be granted. Thus, at this point in time, there is no case or controversy
14 before the court, and the court has no jurisdiction to issue any preliminary injunctions.

15 Accordingly, IT IS HEREBY RECOMMENDED that Plaintiff’s requests for injunctive
16 relief be denied.

17 These findings and recommendations are submitted to the United States District Judge
18 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within thirty days
19 after being served with these findings and recommendations, any party may file written
20 objections with the court and serve a copy on all parties. Such a document should be captioned
21 “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections
22 shall be served and filed within ten days after service of the objections. The parties are advised
23 that failure to file objections within the specified time waives all objections to the judge’s
24 findings of fact. See Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998). Failure to file
25 objections within the specified time may waive the right to appeal the District Court’s order.
26

1 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

2 IT IS SO ORDERED.

3 **Dated:** January 30, 2009

/s/ William M. Wunderlich
UNITED STATES MAGISTRATE JUDGE

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26