



1 likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips  
2 in his favor, and that an injunction is in the public interest.” Marlyn Nutraceuticals, Inc. v. Mucos  
3 Pharma GmbH & Co., 571 F.3d 873, 877 (9th Cir. 2009) quoting Winter, 129 S. Ct. at 374. An  
4 injunction may only be awarded upon a *clear showing* that the plaintiff is entitled to relief. Winter,  
5 129 S. Ct. at 376 (citation omitted) (emphasis added).

6 For each form of relief sought in federal court, Plaintiff must establish standing. Mayfield  
7 v. United States, 599 F.3d 964, 969 (9th Cir. 2010), *cert.denied*, 131 S. Ct. 503 (2010). This requires  
8 Plaintiff to “show that he is under threat of suffering ‘injury in fact’ that is concrete and  
9 particularized; the threat must be actual and imminent, not conjectural or hypothetical; it must be  
10 fairly traceable to challenged conduct of the defendant; and it must be likely that a favorable judicial  
11 decision will prevent or redress the injury.” Summers v. Earth Island Institute, 129 S. Ct. 1142, 1149  
12 (2009) (citation omitted); Mayfield, 599 F.3d at 969 (citation omitted).

13 In addition, any award of equitable relief is governed by the Prison Litigation Reform Act,  
14 which provides in relevant part, “Prospective relief in any civil action with respect to prison  
15 conditions shall extend no further than necessary to correct the violation of the Federal right of a  
16 particular plaintiff or plaintiffs. The court shall not grant or approve any prospective relief unless  
17 the court finds that such relief is narrowly drawn, extends no further than necessary to correct the  
18 violation of the Federal right, and is the least intrusive means necessary to correct the violation of  
19 the Federal right.” 18 U.S.C. § 3626(a)(1)(A).

20 At this stage in the action, the Court cannot make a finding that Plaintiff is likely to prevail  
21 on the merits in this action because he does not have a cognizable claim pending before the court.  
22 Even if Plaintiff is able to state a cognizable claim, the claims that have been revived by the Ninth  
23 Circuit Court of Appeals allege retaliation and a conspiracy to deny access to the court in violation  
24 of the First Amendment. (Motion for Preliminary Injunction 3-4, ECF No. 69.) Plaintiff’s claim in  
25 this action arises from a past incidents that occurred while Plaintiff was housed at the California  
26 Correctional Institution, Tehachapi. The pendency of this action does not confer on the Court  
27 jurisdiction to issue an order directing that Plaintiff be transferred to a federal institution, because  
28 such an order would not remedy the underlying legal claim, which involves the past conduct of

