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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MICHAEL LENOIR SMITH,

Plaintiff,

v.

SGT. DAVIS, et al.,

Defendants.

CASE NO. 1:07-cv-01632-AWI-GSA PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS IN FULL, AND
DENYING PLAINTIFF’S MOTION FOR A
PRELIMINARY INJUNCTION

(Docs. 54 and 55)

ORDER DIRECTING CLERK OF THE COURT
TO SERVE A COURTESY COPY OF THIS
ORDER, PLAINTIFF’S MOTION, AND
PLAINTIFF’S OBJECTION ON WARDEN
KELLY HARRINGTON AT KVSP

(Docs. 54 and 56)

Plaintiff Michael Lenoir Smith (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis 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 72-302.

On March 5, 2009, the Magistrate Judge filed [Findings and Recommendations](#) which recommended denial of Plaintiff’s motion for a preliminary injunction. Plaintiff was given thirty days within which to object. Plaintiff filed an [Objection](#) on April 3, 2009.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a de novo 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.

///

1 The claims being litigated in this action occurred at Pleasant Valley State Prison in 2007.
2 The Court does not have jurisdiction to issue any orders directed at remedying Plaintiff's current
3 conditions of confinement at Kern Valley State Prison. 18 U.S.C. § 3626(a)(1)(A); City of Los
4 Angeles v. Lyons, 461 U.S. 95, 102, 103 S.Ct. 1660, 1665 (1983); Valley Forge Christian Coll. v.
5 Ams. United for Separation of Church and State, Inc., 454 U.S. 464, 471, 102 S.Ct. 752, 757-58
6 (1982); Jones v. City of Los Angeles, 444 F.3d 1118, 1126 (9th Cir. 2006). Therefore, Plaintiff's
7 motion must be denied.

8 Pursuant to the Magistrate Judge's invitation, Plaintiff has indicated that he would like the
9 Court to notify the Warden of his concerns. The Court will direct the Clerk's Office to send the
10 Warden a copy of this Order, and copies of Plaintiff's Motion and Objection. **Warden Harrington**
11 **is requested to look into Plaintiff's allegations that his safety is in danger because of his**
12 **placement at the same prison as Officer Lindquist, who is a defendant in this action, and that**
13 **Warden Harrington look into Plaintiff's allegation that Plaintiff is being housed in a more**
14 **restrictive design in retaliation for pursuing this action.** In making this request, the court
15 expresses no opinion regarding the merits of Plaintiff's allegations.

16 Accordingly, IT IS HEREBY ORDERED that:

- 17 1. The Findings and Recommendations, filed March 5, 2009, is adopted in full;
- 18 2. Plaintiff's motion for preliminary injunctive relief, filed January 15, 2009, is
19 DENIED for lack of jurisdiction;
- 20 3. The Clerk of the Court shall serve a courtesy copy of this Order, Plaintiff's Motion
21 (Doc # 54), and Plaintiff's Objection (Doc # 58) on Warden Kelly Harrington at Kern
22 Valley State Prison; and
- 23 4. Warden Harrington is requested to look into Plaintiff's allegations that his safety is
24 being endangered and that he is being retaliated against.

25
26 IT IS SO ORDERED.

27 **Dated: April 17, 2009**

28 **/s/ Anthony W. Ishii**
CHIEF UNITED STATES DISTRICT JUDGE