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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KELLY MORGAN,)	1:08-cv-00233-OWW-GSA-PC
Plaintiff,)	FINDINGS AND RECOMMENDATIONS, RECOMMENDING THAT PLAINTIFF’S MOTION FOR INJUNCTIVE RELIEF BE DENIED (Doc. 21) OBJECTIONS, IF ANY, DUE IN 30 DAYS
v.)	
TILTON, et al.,)	
Defendants.)	

I. BACKGROUND

Kelly Morgan ("plaintiff") is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the complaint commencing this action on February 15, 2008. (Doc. 1.) On September 25, 2009, plaintiff filed a motion for preliminary injunctive relief. (Doc. 21.) On October 15, 2009, plaintiff filed a first amended complaint. (Doc. 23.) Plaintiff’s motion for preliminary injunctive relief is now before the court.

II. PRELIMINARY INJUNCTION

“A preliminary injunction is an extraordinary remedy never awarded as of right.” Winter v. Natural Resources Defense Council, Inc., 129 S.Ct. 365, 376 (2008) (citation omitted). “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely

1 to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his
2 favor, and that an injunction is in the public interest.” Id. at 374 (citations omitted). An injunction may
3 only be awarded upon a *clear showing* that the plaintiff is entitled to relief. Id. at 376 (citation omitted)
4 (emphasis added).

5 Federal courts are courts of limited jurisdiction, and as a preliminary matter, the court must have
6 before it an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S. 95, 102, 103 S.Ct. 1660,
7 1665 (1983); Valley Forge Christian Coll. v. Ams. United for Separation of Church and State, Inc., 454
8 U.S. 464, 471, 102 S.Ct. 752, 757-58 (1982); Jones v. City of Los Angeles, 444 F.3d 1118, 1126 (9th
9 Cir. 2006). If the court does not have an actual case or controversy before it, it has no power to hear the
10 matter in question. Id.

11 **III. DISCUSSION**

12 Plaintiff requests a preliminary injunction requiring prison officials to provide him with access
13 to the law library, access to his legal and personal property, yard time, canteen privileges, and packages.
14 In the first amended complaint, plaintiff brings claims against defendants for harassment, retaliation,
15 inadequate medical treatment, and violation of due process.¹ Because an order mandating plaintiff’s
16 access to the law library, access to his property, and privileges at the prison would not remedy any of
17 the claims upon which this action proceeds, the court lacks jurisdiction to issue the order sought by
18 plaintiff.

19 **IV. CONCLUSION AND RECOMMENDATIONS**

20 Based on the foregoing, the court HEREBY RECOMMENDS that plaintiff’s motion for
21 preliminary injunctive relief, filed September 25, 2009, be DENIED.

22 These Findings and Recommendations will be submitted to the United States District Judge
23 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **thirty (30) days**
24 after being served with these Findings and Recommendations, plaintiff may file written objections with
25 the court. The document should be captioned “Objections to Magistrate Judge’s Findings and

26 ¹The court has not screened the first amended complaint to determine if it states cognizable claims. 28 U.S.C. §
27 1915A(a).

1 Recommendations.” Plaintiff is advised that failure to file objections within the specified time may
2 waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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IT IS SO ORDERED.

Dated: October 16, 2009

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE