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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

CESAR URIBE,

Plaintiff,

v.

J. McKESSON, et al.,

Defendants.

CASE NO. 1:08-cv-01285-SMS PC

ORDER DENYING PLAINTIFF’S MOTION FOR  
EQUITABLE RELIEF AND GRANTING THE  
MODIFICATION OF WRIT OF HABEAS  
CORPUS AD TESTIFICANDUM

(ECF No. 131)

ORDER STRIKING PLAINTIFF’S  
APPLICATION FOR ORDER SHORTENING  
TIME

/ (ECF No. 134)

Plaintiff Cesar Uribe (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on Plaintiff’s complaint, filed August 29, 2008, against Defendants McKesson, Martinez, and Zaragosa for retaliation in violation of the First Amendment. On April 1, 2011, Plaintiff filed a motion for equitable relief, or alternatively, modification of the writ of habeas corpus ad testificandum. On April 4, 2011, Plaintiff filed an application for an order shortening time. The application for an order shortening time will be stricken from the record as unnecessary.

Plaintiff is seeking an order from the Court prohibiting the Correctional Training Facility and State Prison (“CTFSP”) in Soledad and California Substance Abuse Treatment Facility and State Prison (“CSATFSP”) in Corcoran from altering the job assignments or status of himself or his witnesses in any adverse manner due to their attendance at the trial in this matter. For each form of relief sought, Plaintiff must demonstrate standing. Mayfield v. United States, 599 F.3d 964, 969 (9th

1 Cir. 2010) (citing Friends of the Earth, Inc. v. Laidlaw Env'tl. Serv. Inc., 528 U.S. 167, 185 (2000)),  
2 *petition for cert. filed*, 79 U.S.L.W. 3007 (U.S. Jun. 22, 2010) (No. 09-1561). While Plaintiff has  
3 standing to seek damages for the past violation of his rights by Defendants McKesson, Martinez, and  
4 Zaragosa, he has no standing to seek the equitable relief requested. Plaintiff's claims against  
5 Defendants McKesson, Martinez, and Zaragosa arise from the alleged retaliation on February 22,  
6 2007, while he was housed at CSATFSP. Plaintiff and inmates Fernando Monges and Gilbert Vaiza  
7 are currently incarcerated at the CTFSP and inmate Quiroz is incarcerated at CSATFSP. Because  
8 there is no ongoing injury resulting from the retaliation in 2007 that is capable of being redressed  
9 through the equitable relief requested, there is no prospective relief available to Plaintiff in this  
10 action. Mayfield, 599 F.3d at 969 (citations omitted); 18 U.S.C. § 3626(a)(1)(A).

11 Additionally, the Prison Litigation Reform Act places limitations on injunctive relief.  
12 Section 3626(a)(1)(A) provides in relevant part, “[p]rospective relief in any civil action with respect  
13 to prison conditions shall extend no further than necessary to correct the violation of the Federal right  
14 of a particular plaintiff or plaintiffs. The court shall not grant or approve any prospective relief  
15 unless the court finds that such relief is narrowly drawn, extends no further than necessary to correct  
16 the violation of the Federal right, and is the least intrusive means necessary to correct the violation  
17 of the Federal right.” 18 U.S.C. § 3626(a)(1)(A). The relief requested by Plaintiff is not related to  
18 the underlying claims that Defendants retaliated against him. Since the relief sought would not  
19 remedy the violation of the Federal right at issue here, the Court cannot grant the requested relief and  
20 Plaintiff's motion for equitable relief shall be denied.

21 Alternately, Plaintiff requests that the writ of habeas corpus ad testificandum be amended and  
22 Carlos Quiroz be removed from his application for writ of habeas corpus ad testificandum. The  
23 Court will grant Plaintiff's request and no writ of habeas corpus ad testificandum will be issued for  
24 Carlos Quiroz.

25 Accordingly, it is HEREBY ORDERED that:

- 26 1. Plaintiff's application for an order shortening time filed April 4, 2011, is  
27 STRICKEN;
- 28 2. Plaintiff's motion for equitable relief filed April 1, 2011, is DENIED; and

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3. Plaintiff's motion for a writ of habeas corpus ad testificandum filed December 6, 2010, is MODIFIED and inmate Carlos Quiroz is removed from the motion.

IT IS SO ORDERED.

**Dated:** April 8, 2011

/s/ Sandra M. Snyder  
UNITED STATES MAGISTRATE JUDGE