

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
27
28

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

GEORGE H. ROBINSON,

Plaintiff,

v.

D. G. ADAMS, et al.,

Defendants.

CASE NO. 1:08-cv-01380-AWI-GSA PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, AND DENYING
PLAINTIFF’S MOTION FOR PRELIMINARY
INJUNCTIVE RELIEF

(Docs. 16 and 20)

This is a civil rights action filed by Plaintiff George H. Robinson, a state prisoner proceeding pro se. The action was removed from Kings County Superior Court on September 11, 2008, by Defendants Adams, David, Melo, Martinez, Ruiz, Miranda, Mendoza, and Masiel.

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, and on February 11, 2009, the Magistrate Judge filed a Findings and Recommendations recommending denial of Plaintiff’s motion for preliminary injunctive relief. On March 5, 2009, Plaintiff filed objections. 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.

“A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” Winter v. Natural Resources Defense Council, Inc., 129 S.Ct. 365, 374 (2008) (citations omitted). An

1 injunction may only be awarded upon a *clear showing* that the plaintiff is entitled to relief. Id. at 376
2 (citation omitted) (emphasis added).

3 This action is proceeding against Defendants for specific incidents that Plaintiff alleges
4 violated of Plaintiff's rights, but in his motions Plaintiff seeks orders directed at remedying his
5 current and ongoing conditions of confinement. Because issuance of the orders sought by Plaintiff
6 would not remedy the legal claims at issue in this action, the Court lacks jurisdiction to issue the
7 orders sought, 18 U.S.C. § 3626(a)(1)(A); City of Los Angeles v. Lyons, 461 U.S. 95, 101, 103 S.Ct.
8 1660, 1665 (1983); Jones v. City of Los Angeles, 444 F.3d 1118, 1126 (9th Cir. 2006), and Plaintiff
9 has not and cannot show he is entitled to the relief sought, Winter, 129 S.Ct. at 376 (citation
10 omitted). Accordingly, it is HEREBY ORDERED that:

- 11 1. The Findings and Recommendations, filed February 11, 2009, is adopted in full; and
- 12 2. Plaintiff's motion for preliminary injunctive relief, filed January 9, 2009, is DENIED.

13
14 IT IS SO ORDERED.

15 **Dated: September 15, 2009**

15 /s/ Anthony W. Ishii
16 CHIEF UNITED STATES DISTRICT JUDGE