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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL LOUIS FOSTER,

1:08-cv-01849-LJO-SMS-PC

Plaintiff,

ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS
(Doc. 11.)

vs.

A. ENENMOH, et al.,

ORDER DENYING MOTION FOR
PRELIMINARY INJUNCTION,
WITHOUT PREJUDICE
(Doc. 8.)

Defendants.

_____ /

Michael Louis Foster (“plaintiff”) is a state prisoner proceeding pro se 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 30, 2009, the Magistrate Judge entered [findings and recommendations](#), recommending that plaintiff’s motion for preliminary injunction be denied, on the ground that the court lacked jurisdiction due to the dismissal of plaintiff’s complaint.¹ (Doc. 11.) On May 15, 2009, plaintiff filed a first amended complaint. (Doc. 15.) Also on May 15, 2009, plaintiff filed [objections](#) to the findings and recommendations, arguing that the filing of the first amended complaint reinstated the court’s jurisdiction to decide the motion for preliminary injunction. (Doc. 14.)

¹On March 30, 2009, after screening the complaint pursuant to 28 U.S.C. § 1915A, the court dismissed plaintiff’s complaint for failure to state a claim, with leave to file a first amended complaint within thirty days. (Doc. 10.) Plaintiff sought and was granted an extension of time to file the first amended complaint. (Docs. 12, 13.)

1 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 73-
2 305, this court has conducted a de novo review of this case. Having carefully reviewed the entire
3 file, the court finds the findings and recommendations to be supported by the record and proper
4 analysis. Plaintiff's objections have been duly considered. However, due to the subsequent
5 dismissal of the first amended complaint, the court presently lacks jurisdiction over this matter.²
6 Zepeda v. United States Immigration Service, 753 F.2d 719, 727 (9th Cir. 1985). Therefore, the
7 motion for preliminary injunction shall be dismissed, without prejudice to plaintiff's renewal of the
8 motion at a later stage of the proceedings.

9 Accordingly, THE COURT HEREBY ORDERS that:

- 10 1. The Findings and Recommendations issued by the Magistrate Judge on March
11 30, 2009, are adopted in full; and
- 12 2. Plaintiff's motion for preliminary injunctive relief, filed on December 19,
13 2008, is denied without prejudice.

14 IT IS SO ORDERED.

15 **Dated: August 6, 2009**

15 /s/ Lawrence J. O'Neill
16 UNITED STATES DISTRICT JUDGE

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26 ²On July 31, 2009, after screening the first amended complaint pursuant to 28 U.S.C. § 1915A, the court dismissed
27 the first amended complaint for failure to state a claim, with leave to file a second amended complaint within thirty days.
(Doc. 16.) To date, plaintiff has not filed a second amended complaint.