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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MICHAEL LOUIS FOSTER,

CASE NO. 1:08-cv-01849-LJO-SKO PC

Plaintiff,

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

v.

A. ENENMOH,

(Docs. 47, 62, and 66)

Defendant.

Plaintiff Michael Louis Foster, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on December 3, 2008. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On April 16, 2012, the Magistrate Judge issued a Findings and Recommendations recommending denial of Plaintiff’s motion seeking preliminary injunctive relief in the form of Metamucil and dietary supplementation, filed on December 29, 2011. The parties were provided thirty days within which to file objections and none were filed.

In addition, on May 31, 2012, Plaintiff filed a motion seeking a preliminary injunction prohibiting Defendant’s use of Plaintiff’s prison and medical records, which he argues will prejudice him at trial. Plaintiff is not entitled to a preliminary injunction enjoining the use of his prison records at trial.¹ 18 U.S.C. § 3626(a)(1)(A); Summers v. Earth Island Institute, 555 U.S. 488, 493,

¹ The purpose of a preliminary injunction is to preserve the status quo and the rights of the parties until a final judgment issues. U.S. Phillips Corp. v. KBC Bank N.V., 590 F.3d 1091, 1094 (9th Cir. 2010) (quotation marks and citation omitted). A preliminary injunction is not available to address evidentiary and other procedural issues which arise during the course of the litigation.

1 129 S.Ct. 1142 (2009); Lujan v. Defenders of Wildlife, 504 U.S. 555, 559-61, 112 S.Ct. 2130
2 (1992); Mayfield v. United States, 599 F.3d 964, 969 (9th Cir. 2010). Therefore, his motion is
3 denied.² Plaintiff is not precluded from filing a motion in limine once this matter is set for trial, as
4 that is the proper procedural mechanism to seek preclusion of documents or other evidence at trial.

5 Pursuant to 28 U.S.C. § 636(b)(1)(C), the Court has conducted a de novo review of this case.
6 Having carefully reviewed the entire file, the Court finds the Findings and Recommendations to be
7 supported by the record and by proper analysis.

8 Accordingly, it is HEREBY ORDERED that:

- 9 1. The Court adopts the Findings and Recommendations filed on April 16, 2012, in full;
- 10 2. Plaintiff's motion for a preliminary injunction, filed on December 29, 2011, is
11 DENIED; and
- 12 3. Plaintiff's motion for a preliminary injunction, filed on May 31, 2012, is DENIED,
13 without prejudice to renewal as a motion in limine once this matter is set for trial.
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15 IT IS SO ORDERED.

16 **Dated: June 1, 2012**

17 /s/ Lawrence J. O'Neill
18 UNITED STATES DISTRICT JUDGE
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27 ² Given that the relief Plaintiff seeks cannot be awarded via a preliminary injunction and there is no
28 prejudice to Defendant, the Court elects to resolve the motion without awaiting a response from Defendant. Local
Rule 230(l).