

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

STEVEN WILLIAMS

CASE NO. 1:09-cv-00062-LJO-GSA PC

Plaintiff,

v.

ORDER DENYING PLAINTIFF’S MOTION
FOR A PROTECTIVE ORDER PURSUANT
TO F.R.Civ.P. 26 (e)

W.J. SULLIVAN, et al.,

Defendants.

(Doc. 12)

Plaintiff moves for a protective order, pursuant to F.R.Civ.P. 26 (e), alleging that since being transferred from Tehachapi State Prison (“TSP”) to High Desert State Prison (“HDSP”), he has been denied access to the law library and associated services. Plaintiff’s motion presents multiple substantive and procedural problems that require this court to deny his motion.

First, F.R.Civ.P. 26 (e) addresses supplemental disclosures in the context of discovery requests. The underlying case (Williams v. Sullivan, Case No. 1:09-cv-00062-LJO-GSA PC) is a prisoner civil rights case brought pursuant to 42 U.S.C. § 1983. The case is presently being screened pursuant to 28 U.S.C. § 1915A. No defendant has yet been served, and no discovery has been initiated. Applying a discovery rule to plaintiff’s situation is inappropriate.

Second, plaintiff seeks a protective order against HDSP, which is not a party to this lawsuit. Because HDSP is not a party to this suit, the court lacks jurisdiction over it. The court is unable to issue an order against entities which are not parties to a suit pending before it. Zenith Radio Corp. v. Hazeltine Research, Inc., 395 U.S. 100, 110 (1969).

1 Nor could plaintiff add HDSP as a plaintiff by amendment of the underlying lawsuit.
2 Fed.R.Civ.P. 20 precludes such joinder. Rule 20 provides:

3 Persons may join in one action as plaintiffs if:

4 (A) they assert any right to relief jointly, severally, or in the
5 alternative with respect to or arising out of the same transaction,
occurrence, or series of transactions or occurrences; and

6 (B) any question of law or fact common to all plaintiffs will arise in
7 the action.

8 Although "Rule 20 . . . is to be construed liberally in order to promote trial convenience and to
9 expedite the final determination of disputes, thereby preventing multiple lawsuits" (League to Save
10 Lake Tahoe v. Tahoe Reg'l Planning Agency, 558 F.2d 914, 917 (9th Cir. 1977)), the goal of
11 promoting judicial economy is not served when the underlying incidents are completely separate and
12 would require completely separate proofs. Harris v. Spellman, 150 F.R.D. 130, 132 (N.D.Ill. 1993).

13 Because the claims articulated in plaintiff's motion do not arise from the same transaction
14 or occurrence as the underlying case, they fail the rule's first prong and are inappropriate for joinder.
15 See Coughlin v. Rogers, 130 F.3d 1348, 1350 (9th Cir. 1997); Harris, 150 F.R.D. at 131; Heath v.
16 Bell, 448 F.Supp. 416, 418 (M.D. Penn. 1977). Plaintiff's allegation of denial of court access is
17 appropriately brought as a separate action under 42 U.S.C. § 1983.

18 For the above-stated reasons, this court hereby DENIES plaintiff's motion for a protective
19 order in its entirety.

20 IT IS SO ORDERED.

21 **Dated:** September 10, 2009

22 /s/ Lawrence J. O'Neill
23 UNITED STATES DISTRICT JUDGE
24
25
26
27
28