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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FRANCISCO GIL,

Plaintiff,

v.

JAMES A. YATES, et al.,

Defendants.

CASE NO. 1:09-CV-00552-AWI-DLB PC

FINDINGS AND RECOMMENDATION
RECOMMENDING MOTION FOR ACCESS
TO LAW LIBRARY BE DENIED AS MOOT

(DOC. 33)

OBJECTIONS, IF ANY, DUE WITHIN
TWENTY-ONE DAYS

Plaintiff Francisco Gil (“Plaintiff”) is a former state prisoner, proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On April 9, 2010, Plaintiff filed a motion entitled “Motion for Court Order to Allow Law Library Access.” The Court construes this as a motion for preliminary injunctive relief.

“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 Res. Def. Council, Inc.*, 129 S. Ct. 365, 374 (2008) (citations omitted).

Plaintiff has since notified the Court that he is no longer incarcerated, and currently resides in Mexico. *See* Doc. 35. When an inmate seeks injunctive or declaratory relief concerning the prison where he is incarcerated, his claims for such relief become moot when he is no longer subjected to those conditions. *See Weinstein v. Bradford*, 423 U.S. 147, 149 (1975); *Dilley v. Gunn*, 64 F.3d 1365, 1368-69 (9th Cir. 1995). Accordingly, Plaintiff’s motion should be denied as moot.

1 Based on the foregoing, it is HEREBY RECOMMENDED that Plaintiff's motion for
2 access to the law library, filed April 9, 2010, should be denied as moot.

3 These Findings and Recommendations are submitted to the United States District Judge
4 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **twenty-one**
5 **(21) days** after being served with these Findings and Recommendations, the parties may file
6 written objections with the court. Such a document should be captioned "Objections to
7 Magistrate Judge's Findings and Recommendations." The parties are advised that failure to file
8 objections within the specified time may waive the right to appeal the District Court's order.
9 *Martinez v. Ylst*, 951 F.2d 1153, 1156-57 (9th Cir. 1991).

10 IT IS SO ORDERED.

11 **Dated: January 5, 2011**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE