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6 **UNITED STATES DISTRICT COURT**
7
8 EASTERN DISTRICT OF CALIFORNIA

9 DEON WADE,

1:09cv0599 AWI DLB

10 Plaintiff,

FINDINGS AND RECOMMENDATION
REGARDING MOTION FOR PRELIMINARY
INJUNCTIVE RELIEF

11 v.

12 FRESNO POLICE DEPARTMENT, et al.,

(Doc. 50)

13 Defendants.
14 _____/

15 Plaintiff Deon Wade, a state prisoner proceeding pro se and in forma pauperis, filed this civil
16 rights action pursuant to 42 U.S.C. § 1983 on April 3, 2009. On October 4, 2010, Plaintiff filed a
17 motion requesting various forms of equitable relief, none of which Plaintiff is entitled to at this
18 juncture, if at all. Plaintiff seeks an order requiring officers at High Desert State Prison to allow him
19 access to the law library, prohibiting High Desert State Prison officers from withholding his mail and
20 mandating that he be transferred from state prison to the Fresno County Jail until the conclusion of
21 this lawsuit. Plaintiff's underlying action does not involve officers at High Desert State Prison.
22 Defendants are officers with the Fresno Police Department.

23 The time for Defendants to submit any opposition to Plaintiff's request for preliminary relief
24 has not expired. However, the Court's resolution of Plaintiff's request prior to Defendants' response
25 will not result in prejudice to Defendants because there is no merit to Plaintiff's request.

26 "A preliminary injunction is an extraordinary remedy never awarded as of right." Winter v.
27 Natural Resources Defense Council, Inc., 129 S.Ct. 365, 376 (2008) (citation omitted). "A plaintiff
28 seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is

1 likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips
2 in his favor, and that an injunction is in the public interest.” Id. at 374 (citations omitted). An
3 injunction may only be awarded upon a *clear showing* that the plaintiff is entitled to relief. Id. at 376
4 (citation omitted) (emphasis added).

5 Federal courts are courts of limited jurisdiction and in considering a request for preliminary
6 injunctive relief, the Court is bound by the requirement that as a preliminary matter, it have before
7 it an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S. 95, 102, 103 S.Ct. 1660,
8 1665 (1983); Valley Forge Christian Coll. v. Ams. United for Separation of Church and State, Inc.,
9 454 U.S. 464, 471, 102 S.Ct. 752, 757-58 (1982). If the Court does not have an actual case or
10 controversy before it, it has no power to hear the matter in question. Id. “[The] triad of injury in
11 fact, causation, and redressability constitutes the core of Article III’s case-or-controversy
12 requirement, and the party invoking federal jurisdiction bears the burden of establishing its
13 existence.” Steel Co. v. Citizens for a Better Env’t, 523 U.S. 83, 103-04, 118 S.Ct. 1003 (1998).
14 Requests for prospective relief are further limited by 18 U.S.C. § 3626(a)(1)(A) of the Prison
15 Litigation Reform Act, which requires that the Court find the “relief [sought] is narrowly drawn,
16 extends no further than necessary to correct the violation of the Federal right, and is the least
17 intrusive means necessary to correct the violation of the Federal right.”

18 Plaintiff is not entitled to any relief that is not narrowly drawn to correct the violation of his
19 rights at issue in this action. The constitutional and statutory requirements applicable to equitable
20 relief preclude Plaintiff from entitlement to generalized relief such as an order prohibiting non-
21 parties from retaliating against him for filing this lawsuit, an order requiring non-parties to permit
22 Plaintiff to access the law library and his mail, or an order transferring him from state prison to
23 county jail. Such equitable relief, by its very nature, is not sufficiently related to Plaintiff’s
24 underlying legal claim to satisfy the jurisdictional requirements that apply to federal courts.

25 Accordingly, the Court RECOMMENDS that Plaintiff’s motion for preliminary injunctive
26 relief BE DENIED because the Court lacks jurisdiction to issue the orders sought.

27 These Findings and Recommendations are submitted to the Honorable Anthony W. Ishii
28 pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within thirty (30) days after being served

1 with a copy, any party may file written objections with the court and serve a copy on all parties.
2 Such a document should be captioned "Objections to Magistrate Judge's Findings and
3 Recommendations." Replies to the objections shall be served and filed within fourteen (14) days
4 after service of the objections. The Court will then review the Magistrate Judge's ruling pursuant
5 to 28 U.S.C. § 636 (b)(1)(C). The parties are advised that failure to file objections within the
6 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d
7 1153 (9th Cir. 1991).

8 IT IS SO ORDERED.

9 Dated: October 9, 2010

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE

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