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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

GARRISON S. JOHNSON,)	Case No.: 1:10-cv-00582-AWI-SAB (PC)
Plaintiff,)	
v.)	FINDINGS AND RECOMMENDATION
CDCR, et al.,)	REGARDING PLAINTIFF’S MOTION FOR
Defendants.)	COURT ORDER TO RECEIVE HIS LEGAL
)	PROPERTY
)	[ECF No. 44]
)	
)	

Plaintiff Garrison S. Johnson is appearing pro se in this civil rights action pursuant to 42 U.S.C. § 1983.

Now pending before the Court is Plaintiff’s motion for a Court order to allow him to receive his legal property. Plaintiff contends that in October 2012, he was transferred from Kern Valley State Prison to Salinas Valley State Prison, and he was required to mail some of his legal property home because he exceeded the space allowed for such property. The Court construes Plaintiff’s motion as a request for a preliminary injunction.

This action is proceeding on Plaintiff’s second amended complaint against Defendants D. Foston, M.D. Biter, R. Grissom, F. Ozaeta, Matthew Cate, M. Bostanjian, and an unknown number of Does for subjecting Plaintiff to conditions of confinement, in violation of the Eighth Amendment, and against Defendant California Department of Corrections and Rehabilitation (CDCR) in its official capacity for violations of the Americans with Disabilities Act and Rehabilitation Act.

1 Defendant CDCR is the only party who has made an appearance in this action. Plaintiff is
2 still in the process of serving all of the other named defendants.

3 **I.**

4 **DISCUSSION**

5 The purpose of a temporary restraining order or a preliminary injunction is to preserve the
6 status quo if the balance of equities so heavily favors the moving party that justice requires the court to
7 intervene to secure the positions until the merits of the action are ultimately determined. University of
8 Texas v. Camenisch, 451 U.S. 390, 395 (1981). “A plaintiff seeking a preliminary injunction [or
9 temporary restraining order] must establish that he is likely to succeed on the merits, that he is likely
10 to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his
11 favor, and that an injunction is in the public interest.” Winter v. Natural Resources Defense Council,
12 Inc., 555 U.S. 7, 20 (2008).

13 “[A] preliminary injunction is an extraordinary and drastic remedy, one that should not be
14 granted unless the movant, *by a clear showing*, carries the burden of persuasion.” Mazurek v.
15 Armstrong, 520 U.S. 968, 972 (1997) (quotations and citations omitted) (emphasis in original). A
16 party seeking a temporary restraining order or preliminary injunction simply cannot prevail when that
17 motion is unsupported by evidence.

18 Federal courts are courts of limited jurisdiction and in considering a request for preliminary
19 injunctive relief, the Court is bound by the requirement that as a preliminary matter, it have before it
20 an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S. 95 102 (1983); Valley Forge
21 Christian Coll. V. Ams. United for Separation of Church and State, Inc., 454 U.S. 464, 471 (1982). If
22 the Court does not have an actual case or controversy before it, it has no power to hear the matter in
23 question. Id. Requests for prospective relief are further limited by 18 U.S.C. § 3626(a)(1)(A) of the
24 Prison Litigation Reform Act, which requires that the Court find the “relief [sought] is narrowly
25 drawn, extends no further than necessary to correct the violation of the Federal right, and is the least
26 intrusive means necessary to correct the violation of the Federal right.”

27 Plaintiff is not entitled to any relief that is not narrowly drawn to correct the violation of his
28 rights at issue in this action. The constitutional and statutory requirements applicable to equitable

1 relief preclude Plaintiff from entitlement to generalized relief such an order directing that prison
2 officials allow Plaintiff to receive his legal property through the mail services. The equitable relief
3 requested herein is not sufficiently related to Plaintiff's underlying legal claims to satisfy the
4 jurisdictional requirements that apply to federal courts.

5 Additionally, in the Court's experience, some disruption with property access occurs following
6 a transfer between prisons, and absent the existence of exceptional circumstances not present here, the
7 Court will not intervene in the day-to-day management of prisons. See e.g., Overton v. Bazzetta, 539
8 U.S. 126, 132, 123 S.Ct. 2162 (2003) (prison officials entitled to substantial deference); Sandin v.
9 Conner, 515 U.S. 472, 482-83, 115 S.Ct. 2293 (1995) (disapproving the involvement of federal courts
10 in the day-to-day-management of prisons).

11 **II.**
12 **RECOMMENDATION**

13 Based on the foregoing,

14 IT IS HEREBY RECOMMENDED that Plaintiff's motion for a preliminary injunction be
15 DENIED.

16 This Findings and Recommendation is submitted to the assigned United States District Court
17 Judge, pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and Rule 304 of the Local Rules of
18 Practice for the United States District Court, Eastern District of California. Within thirty (30) days
19 after being served with a copy, Plaintiff may file written objections with the court and serve a copy on
20 all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and
21 Recommendation." The Court will then review the Magistrate Judge's ruling pursuant to 28 U.S.C. §
22 636 (b)(1)(C). The parties are advised that failure to file objections within the specified time may
23 waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

24
25 IT IS SO ORDERED.

26 Dated: November 18, 2013

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28 UNITED STATES MAGISTRATE JUDGE

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