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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ARTHUR T. BUSSIERE,	CASE NO. 1:10-cv-00945-AWI-GBC (PC)
Plaintiff,	FINDINGS AND RECOMMENDATION RECOMMENDING DENIAL OF PLAINTIFF'S MOTION FOR INJUNCTIVE RELIEF  (ECF No. 37)
v.	
CANO, et al.,	/ OBJECTIONS DUE WITHIN THIRTY DAYS
Defendants.	

**I. PROCEDURAL HISTORY**

Plaintiff Arthur T. Bussiere ("Plaintiff") is a state prisoner and is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on May 26, 2010. (ECF No. 1.) This action proceeds on Plaintiff's Complaint against Defendants Cano and Lopez for deliberate indifference in violation of the Eighth Amendment. (ECF Nos. 13 & 16.)

Pending before the Court is Plaintiff's Motion for Injunctive Relief filed August 25, 2011. (ECF No. 37.)

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1 **II. LEGAL STANDARDS**

2 To be entitled to preliminary injunctive relief, a party must demonstrate “that he is  
3 likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence  
4 of preliminary relief, that the balance of equities tips in his favor, and that an injunction is  
5 in the public interest.” Stormans, Inc. v. Selecky, 586 F.3d 1109, 1127 (9th Cir. 2009)  
6 (citing Winter v. Natural Res. Def. Council, Inc., 129 S.Ct. 365, 374 (2008)). The Ninth  
7 Circuit has also held that the “sliding scale” approach it applies to preliminary injunctions  
8 as it relates to the showing a plaintiff must make regarding his chances of success on the  
9 merits survives Winter and continues to be valid. Alliance for Wild Rockies v. Cottrell, 622  
10 F.3d 1045, 1052-53 (9th Cir. 2010). Under this sliding scale, the elements of the  
11 preliminary injunction test are balanced. As it relates to the merits analysis, a stronger  
12 showing of irreparable harm to plaintiff might offset a lesser showing of likelihood of  
13 success on the merits. Id.

14 In cases brought by prisoners involving conditions of confinement, any preliminary  
15 injunction “must be narrowly drawn, extend no further than necessary to correct the harm  
16 the court finds requires preliminary relief, and be the least intrusive means necessary to  
17 correct the harm.” 18 U.S.C. § 3626(a)(2).

18 **III. ANALYSIS**

19 In the his Motion, Plaintiff states that he is being harassed by CDCR by being  
20 repeatedly moved from building to building at his current facility. Plaintiff states that the  
21 moving has hindered him from filing motions and also from receiving things from the Court.  
22 Plaintiff also states that he has been housed in places where he cannot use his electric  
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1 typewriter and that his law library access has been curtailed. Plaintiff then makes several  
2 requests including copies of certain filings, an order requiring CDCR to house him in a  
3 specific place, that he have law library access, that his legal mail be delivered timely,  
4 among others.

5  
6 The Court finds that, at this stage in the proceedings, Plaintiff fails to meet the legal  
7 standards required to be granted injunctive relief. To succeed on such motion, Plaintiff  
8 must establish that he is likely to succeed on the merits, that he is likely to suffer  
9 irreparable harm in the absence of preliminary relief, that the balance of equities tips in his  
10 favor, and that an injunction is in the public interest. Plaintiff has not addressed any of the  
11 legal requirements to meet the standard. He does not state anything about the merits of  
12 this action, does not refer to any irreparable harm, the balance of equities or the public  
13 good. The Court also notes that CDCR is not a Defendant in this action, thus, the Court  
14 does not have jurisdiction over it.

15  
16 The Court also notes the following in response to several of Plaintiff's concerns:  
17 there are no pending deadlines for Plaintiff at the present time, thus library access is not  
18 necessary; handwritten pleadings are accepted as long as they are legible, thus, ability to  
19 use a typewriter is not necessary; Defendant Lopez's waiver of service was returned  
20 executed the day after Plaintiff filed the present motion, which is why he had not yet  
21 received a copy; and Defendant Cano did not file a reply to Plaintiff's Opposition to his  
22 Motion to Dismiss.

#### 23 24 **IV. CONCLUSION**

25 Based on the foregoing, the Court HEREBY RECOMMENDS that Plaintiff's Motion  
26 for Injunctive Relief be DENIED.  
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1           These Findings and Recommendations will be submitted to the United States  
2 District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. §  
3 636(b)(1). Within thirty (30) days after being served with these Findings and  
4 Recommendations, plaintiff may file written objections with the court. The document  
5 should be captioned "Objections to Magistrate Judge's Findings and Recommendations."  
6 Plaintiff is advised that failure to file objections within the specified time may waive the right  
7 to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir.1991).

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9 IT IS SO ORDERED.

10 Dated: September 2, 2011

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13 UNITED STATES MAGISTRATE JUDGE  
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