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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

EBONE LEROY EAST,

Plaintiff,

v.

G. KABONIC, et al.,

Defendants.

CASE NO. 1:10-CV-01053-AWI-DLB PC

FINDINGS AND RECOMMENDATION
RECOMMENDING PLAINTIFF’S MOTION
FOR PRELIMINARY INJUNCTION BE
DENIED AS MOOT

(DOC. 8)

OBJECTIONS DUE WITHIN 14 DAYS

_____ /

Plaintiff Ebone LeRoy East (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court is Plaintiff’s motion for temporary restraining order or preliminary injunction, filed August 25, 2010. The Court treats the motion as one for preliminary injunction.

“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 Resources Defense Council, Inc.*, 129 S. Ct. 365, 374 (2008) (citations omitted). The purpose of preliminary injunctive relief is to preserve the status quo or to prevent irreparable injury pending the resolution of the underlying claim. *Sierra On-line, Inc. v. Phoenix Software, Inc.*, 739 F.2d 1415, 1422 (9th Cir. 1984).

Plaintiff seeks injunctive relief for actions taken by prison officials at California Correctional Institution (“CCI”). However, Plaintiff is no longer incarcerated at CCI pursuant to

1 a notice of change of address filed on December 30, 2010. Doc. 9. When an inmate seeks
2 injunctive or declaratory relief concerning the prison where he is incarcerated, his claims for such
3 relief become moot when he is no longer subjected to those conditions. *See Weinstein v.*
4 *Bradford*, 423 U.S. 147, 149 (1975); *Dilley v. Gunn*, 64 F.3d 1365, 1368-69 (9th Cir. 1995).
5 Plaintiff's motion is thus moot.

6 Accordingly, it is HEREBY RECOMMENDED that Plaintiff's motion for preliminary
7 injunctive relief, filed August 25, 2010, should be DENIED.

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

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IT IS SO ORDERED.

Dated: March 7, 2011

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE