

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

KELVIN SIMS,

Plaintiff,

v.

SHERRY LOPEZ, et al.,

Defendants.

CASE NO. 1:10-cv-01409-BAM PC

ORDER DENYING PLAINTIFF’S MOTION
FOR AN ORDER TO SHOW CAUSE

(ECF No. 43)

Plaintiff Kelvin Sims is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on the complaint, filed August 6, 2010, against Defendant Lopez for retaliation in violation of the First Amendment and Defendants Akanno and Lopez for deliberate indifference to Plaintiff’s medical needs in violation of the Eighth Amendment and medical malpractice under state law. (ECF Nos. 22, 27.) On October 9, 2012, an order issued denying Plaintiff’s motions for an order to show cause and motion for a temporary restraining order. (ECF No. 42.) On the same date, Plaintiff filed a second motion for an order to show cause. (ECF No. 43.)

In the motion for an order to show cause Plaintiff states that on September 9, 2012, prison officials at Salinas Valley State Prison (“SVSP”) confiscated his wheelchair at the request of Defendant Lopez to prevent Plaintiff from physical access to the law library. Plaintiff requests an order directing the Chief Medical Officer at SVSP to show cause why he is not allowed disability assistance in leaving his cell.

The claims which are proceeding in this action involve incidents that occurred from 2007

1 through 2010 while Plaintiff was housed at Kern Valley State Prison. Plaintiff was advised in the
2 order issued on September 9, 2012, that he lacks standing in this action to seek an order remedying
3 his current conditions of confinement at SVSP. Additionally, although Plaintiff alleges that his
4 wheelchair was confiscated at the request of Defendant Lopez, there are no facts supporting such an
5 accusation and Plaintiff's conclusory allegation is not sufficient to confer jurisdiction to grant the
6 relief requested. Plaintiff is advised that any further motions in this action seeking injunctive relief
7 regarding Plaintiff's conditions of confinement at SVSP shall be stricken from the record.

8
9 IT IS SO ORDERED.

10 **Dated: October 11, 2012**

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE