

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

JESUS ESTEVEZ,

Plaintiff,

v.

ERIC LUNSFORD, et al.,

Defendants.

CASE NO. 1:10-cv-01444-AWI-GBC (PC)

FINDINGS AND RECOMMENDATIONS
RECOMMENDING DENYING MOTION FOR
PRELIMINARY INJUNCTION

(Doc. 16)

DEADLINE THIRTY DAYS

Jesus Estevez (“Plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. On September 14, 2010, Plaintiff filed a motion for a preliminary injunction requesting that officials at the High Dessert State Prison be required to provide him expanded access to his legal materials and the law library. (Doc. 16.). Plaintiff is currently housed at Salinas Valley State Prison. (Doc. 20).

“A preliminary injunction is an extraordinary remedy never awarded as of right.” *Winter v. Natural Resources Defense Council, Inc.*, 129 S. Ct. 365, 376 (2008) (citation omitted). “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.” *Id.* at 374 (citations omitted). An injunction may only be awarded upon a *clear showing* that the plaintiff is entitled to relief. *Id.* at 376 (citation omitted) (emphasis added). As a court of limited jurisdiction, the Court is bound by the requirement that it has before it an actual case or controversy before considering a request for preliminary injunctive relief. *City of Los Angeles v. Lyons*, 461 U.S. 95, 102 (1983); *Valley Forge*

1 *Christian Coll. v. Ams. United for Separation of Church and State, Inc.*, 454 U.S. 464, 471 (1982).

2 Furthermore, the Court must have personal jurisdiction over the parties in order to issue an
3 injunction against any individual and the Court may not enjoin individuals who are not yet served
4 or before the court. *Zepeda v. United States I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983).

5 The pendency of this action does not provide a basis for Plaintiff to obtain a court order
6 directing he be provided with greater access to his legal materials or the law library. The Court has
7 jurisdiction over the parties and claims in this action. Jurisdiction does not extend to the issuance
8 of orders that will not remedy the claims at issue in this action. *City of Los Angeles v. Lyons*, 461
9 U.S. 95, 101, 103 S.Ct. 1660, 1665 (1983); *Jones v. City of Los Angeles*, 444 F.3d 1118, 1126 (9th
10 Cir. 2006). Moreover, Plaintiff has made no showing that he is being prevented from accessing
11 specific legal documents that he has immediate need for at this stage in the litigation. Since the
12 allegations in Plaintiff's motion for injunctive relief suggests a remedy by enjoining individuals that
13 are not a part of this action, the Court does not have jurisdiction to grant injunctive relief. *See*
14 *Zepeda v. United States I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983); *City of Los Angeles v. Lyons*, 461
15 U.S. 95, 101, 103 S.Ct. 1660, 1665 (1983); *Jones v. City of Los Angeles*, 444 F.3d 1118, 1126 (9th
16 Cir. 2006). Moreover, as Plaintiff has been transferred after filing his request for injunctive relief,
17 his request is moot.

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 Accordingly, it is recommended that Plaintiff's motion for preliminary injunctive relief, filed
2 on September 14, 2010, be DENIED, with prejudice.

3 It is ordered that this finding and recommendation be submitted to the United States District
4 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within
5 **THIRTY (30) DAYS** after being served with the finding and recommendation, Plaintiff may file
6 written objections with the Court. The document should be captioned "Objections to Magistrate
7 Judge's Finding and Recommendation." Plaintiff is advised that failure to file objections within the
8 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d
9 1153 (9th Cir. 1991).

10
11 IT IS SO ORDERED.

12 Dated: January 11, 2011

13 
14 _____
15 UNITED STATES MAGISTRATE JUDGE
16
17
18
19
20
21
22
23
24
25
26
27
28