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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

DAVID M. DAVID,

Plaintiff,

v.

A. GUTIERREZ, et al.,

Defendants.

CASE NO. 1:11-cv-00061-OWW-SMS PC

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DENYING  
PLAINTIFF’S MOTION FOR A PRELIMINARY  
INJUNCTION

(ECF Nos. 11, 19, 24)

Plaintiff David M. David (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 14, 2011, Plaintiff filed a [motion](#) seeking an order that Defendants cease and desist all disciplinary actions against Plaintiff and restore his good time credits and behavioral point credits; provide him copies of legal materials and court paper; cease and desist all retaliation against Plaintiff; restore the use of the yard chapel for Jewish services; feed Jewish inmates in their cells, and “out-count” Jewish inmates on Fridays so they may attend services. On May 10, 2011, the Magistrate Judge filed [findings and recommendations](#) herein which was served on Plaintiff. (ECF No. 19.) Plaintiff filed an [amended complaint](#) on June 13, 2011, and [objections](#) to the findings and recommendations on July 18, 2011. (ECF No. 23, 24.)

In his objection Plaintiff states that since the denial of his motion for a preliminary injunction was based upon there being no complaint on file in this action, and he has cured that by filing an amended complaint, the preliminary injunction should be issued. Plaintiff is currently incarcerated

1 at Mule Creek State Prison. The amended complaint in this action alleges claims against fourteen  
2 defendants and 100 Does. Plaintiff is alleging multiple unrelated claims that occurred from April  
3 22, 2010, through December 28, 2010, while he was incarcerated at Pleasant Valley State Prison.

4 For each form of relief sought, Plaintiff must demonstrate standing. Mayfield v. United  
5 States, 599 F.3d 964, 969 (9th Cir. 2010) (citing Friends of the Earth, Inc. v. Laidlaw Envtl. Serv.  
6 Inc., 528 U.S. 167, 185 (2000)), *petition for cert. filed*, 79 U.S.L.W. 3007 (U.S. Jun. 22, 2010) (No.  
7 09-1561). Generally, when an inmate seeks injunctive or declaratory relief concerning the prison  
8 where he is incarcerated, his claims for such relief become moot when he is no longer subjected to  
9 those conditions. Nelson v. Heiss, 271 F.3d 891, 897 (9th Cir. 2001); Dilley v. Gunn, 64 F.3d 1365,  
10 1368 (9th Cir. 1995); Johnson v. Moore, 948 F.2d 517, 519 (9th Cir. 1991). Since Plaintiff is no  
11 longer incarcerated at Pleasant Valley State Prison, the pendency of this action does not confer  
12 jurisdiction to issue a preliminary injunction against officials at Mule Creek State Prison.

13 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a  
14 de novo review of this case. Having carefully reviewed the entire file, the Court finds the findings  
15 and recommendations to be supported by the record and by proper analysis.

16 Accordingly, IT IS HEREBY ORDERED that:

- 17 1. The findings and recommendations, filed May 10, 2011, is adopted in full; and
- 18 2. Plaintiff's motion for a preliminary injunction filed February 14, 2011, is DENIED.

19 IT IS SO ORDERED.

20 **Dated: July 22, 2011**

21 /s/ Oliver W. Wanger  
22 UNITED STATES DISTRICT JUDGE  
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