

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

MARK ANTHONY MORENO,

Plaintiff,

v.

DAVID MEDINA, et al.,

Defendants.

CASE NO. 1:11-cv-00784-GBC (PC)

ORDER DENYING REQUESTS FOR
INJUNCTIVE RELIEF

(Docs. 7, 8, 14, 15)

ORDER DENYING AS MOOT MOTION TO
PROCEED IFP

I. Procedural History

Plaintiff Mark Anthony Moreno (“Plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. (Doc. 1). Plaintiff originally filed the action on May 16, 2011. On August 16, 2011, the Court granted Plaintiff’s motion to proceed in forma pauperis (“IFP”) in this action. On July 11, 2011; July 25, 2011; August 12, 2011; and August 17 2011, Plaintiff filed motions for injunctive relief requesting that the Court order prison officials to provide him a copy of his trust fund account. (Docs. 7, 8, 14, 15). On August 17, 2011, Plaintiff filed another motion to proceed IFP. (Doc. 16).

II. Preliminary Injunction

“A preliminary injunction is an extraordinary remedy never awarded as a matter 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

1 in the public interest.” *Id.* at 374 (citations omitted). An injunction may only be awarded
2 upon a clear showing that the plaintiff is entitled to relief. *Id.* at 376 (citation
3 omitted)(emphasis added). The Ninth Circuit has made clear that “[T]o the extent that our
4 cases have suggested a lesser standard, they are no longer controlling, or even viable.”
5 *McDermott v. Ampersand Pub., LLC*, 593 F.3d 950 (9th Cir. 2010), quoting *Am. Trucking*
6 *Ass’ns, Inc. v. City of Los Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009). The moving party
7 has the burden of proof on each element of the test. *Environmental Council of Sacramento*
8 *v. Slater*, 184 F. Supp. 2d 1016, 1027 (E.D. Cal. 2000).

9 ‘A federal court may issue an injunction if it has personal jurisdiction over the parties and
10 subject matter jurisdiction over the claim; it may not attempt to determine the rights of persons not
11 before the court.’ *Price v. City of Stockton*, 390 F.3d 1105, 1117 (9th Cir. 2004) (quoting *Zepeda*
12 *v. U.S. INS*, 753 F.2d 719, 727 (9th Cir. 1985). The claims in this action arise from conduct
13 unrelated to Plaintiff’s access to his prison trust account. Thus, the court cannot issue an order
14 requiring the issuance of prison trust documents from prison officials who are not parties to this
15 current action. *Price v. City of Stockton*, 390 F.3d 1105, 1117 (9th Cir. 2004). Moreover, as the
16 Court already granted Plaintiff’s request to proceed IFP on August 17, 2011, Plaintiff’s request for
17 injunctive relief and his additional motion to proceed IFP filed on August 17, 2011, are moot.

18 **III. Conclusion and Recommendations**

19 Therefore, the court HEREBY ORDERS that:

- 20 1. Plaintiff’s motions for injunctive relief, filed on July 11, 2011; July 25, 2011; August
21 12, 2011; and August 17 2011, December 28, 2011, are DENIED (Docs. 7, 8, 14,
22 15); and
- 23 2. Plaintiff’s motion to proceed in forma pauperis, filed on August 17, 2011 is
24 DENIED. (Doc. 16).

25
26 IT IS SO ORDERED.

27 Dated: October 13, 2011

28 
UNITED STATES MAGISTRATE JUDGE