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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANTHONY NGUYEN,

Plaintiff,

v.

M. D. BITER,

Defendant.

CASE NO. 1:11-cv-00809-AWI-SKO PC

FINDINGS AND RECOMMENDATIONS
RECOMMENDING PLAINTIFF’S MOTIONS
FOR PRELIMINARY INJUNCTIVE RELIEF
BE DENIED, WITH PREJUDICE, FOR LACK
OF JURISDICTION

(Docs. 40-42)

THIRTY- DAY OBJECTION DEADLINE

Plaintiff Anthony Nguyen, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on May 18, 2011. On December 16, 2011, Plaintiff filed motions seeking a preliminary injunction admonishing Correctional Officer Ortiz, disciplining him, and removing him from the prison, and prohibiting correctional officers from retaliating against Plaintiff and harassing Plaintiff. Plaintiff also seeks an order prohibiting prison officials from separating him from his cellmate and an order mandating the removal of an inmate appeal from his file because of its future effect on his parole proceedings.

This action is proceeding on Plaintiff’s claim that Defendant Biter is subjecting Plaintiff to water contaminated with arsenic, in violation of the Eighth Amendment. (Doc. 37.) The Court’s jurisdiction in this action is limited to that legal claim and to the current parties to this action. Summers v. Earth Island Institute, 555 U.S. 488, 493, 129 S.Ct. 1142, 1149 (2009); Mayfield v. United States, 599 F.3d 964, 969 (9th Cir. 2010). Plaintiff may not, via this action, seek orders directed at remedying his current, unrelated conditions of confinement. Summers, 555 U.S. at 493,

1 129 S.Ct. at 1149; Mayfield, 599 F.3d at 969. Accordingly, the Court HEREBY RECOMMENDS
2 that Plaintiff's motions be denied, with prejudice.¹

3 These Findings and Recommendations will be submitted to the United States District Judge
4 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **thirty (30)**
5 **days** after being served with these Findings and Recommendations, Plaintiff may file written
6 objections with the Court. The document should be captioned "Objections to Magistrate Judge's
7 Findings and Recommendations." 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).

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11 IT IS SO ORDERED.

12 **Dated: December 20, 2011**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

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27 ¹ Plaintiff's motions also fail to make the requisite showing, supported by admissible evidence, to obtain a
28 preliminary injunction. Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 20-4, 129 S.Ct. 365, 376
(2008). However, it is unnecessary to reach the merits of Plaintiff's motions in light of the fact that the jurisdictional
issue is fatal to his requests for relief. Summers, 555 U.S. at 493, 129 S.Ct. at 1149; Mayfield, 599 F.3d at 969.