

1 **DISCUSSION**

2 A. **Legal Standard**

3 A preliminary injunction is an extraordinary remedy never awarded as of right. Winter v.
4 Natural Resources Defense Council, Inc., 555 U.S. 7, 24, 129 S.Ct. 365, 376 (2008) (citation and
5 quotation marks omitted). For each form of relief sought in federal court, Plaintiff must establish
6 standing. Summers v. Earth Island Institute, 555 U.S. 488, 493, 129 S.Ct. 1142, 1149 (2009) (citation
7 omitted); Mayfield v. United States, 599 F.3d 964, 969 (9th Cir. 2010) (citation omitted).

8 This requires Plaintiff to show that he is under threat of suffering an injury in fact that is concrete and
9 particularized; the threat must be actual and imminent, not conjectural or hypothetical; it must be fairly
10 traceable to challenged conduct of the defendant; and it must be likely that a favorable judicial
11 decision will prevent or redress the injury. Summers, 129 S.Ct. at 1149 (quotation marks and citation
12 omitted); Mayfield, 599 F.3d at 969.

13 Further, any award of equitable relief is governed by the Prison Litigation Reform Act, which
14 provides in relevant part, “Prospective relief in any civil action with respect to prison conditions shall
15 extend no further than necessary to correct the violation of the Federal right of a particular plaintiff or
16 plaintiffs. The court shall not grant or approve any prospective relief unless the court finds that such
17 relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right,
18 and is the least intrusive means necessary to correct the violation of the Federal right.” 18 U.S.C. §
19 3626(a)(1)(A).

20 B. **Analysis**

21 Plaintiff’s motion sets forth one specific claim for relief- Plaintiff contends that Defendants
22 have failed to issue “footwear conducive to meet his serious medical needs” and that as a result, he has
23 received numerous Rules Violation Reports for failing to report to work. He states that he is being
24 “forced to labor without issuance” of appropriate footwear. ECF No. 49, at 5-6. Plaintiff requests an
25 order from the Court directing Defendant Tann’s successor to ensure that he is issued appropriate
26 footwear to “enable him to safely participate in work, education and vocational assignment, including
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1 but not limited to ‘transportation, medical appointment, meal and personal hygiene which have been
2 left untreated for approximately five years and counting.’ ECF No. 49, at 6-7.

3 In his attached declaration, Plaintiff states that he only has “state-issued socks” to protect his
4 feet because “any attempt to place state issued boots/tennis shoes on [his] feet” causes swelling,
5 irritation and pain. ECF No. 49, at 11.

6 This action, which forms the basis of the requirements for injunctive relief, is proceeding on
7 Plaintiff’s claims related to medical care he received for his foot in 2009. Therefore, Plaintiff’s
8 complaints about Rules Violations Reports received for various reasons are outside of the scope of this
9 litigation and cannot be addressed herein.

10 Insofar as Plaintiff’s complaints relate to medical care for his foot, he has not shown that he is
11 under threat of actual and imminent injury, and that such threat is fairly traceable to any Defendant.

12 Summers, 129 S.Ct. at 1149 (quotation marks and citation omitted); Mayfield, 599 F.3d at 969.

13 Plaintiff contends that he needs appropriate footwear “conducive to his serious medical needs,” and
14 that when he attempts to place state-issued footwear on his feet, they become swollen, irritated and
15 painful. EFC No. 49, at 6, 11. However, there is no evidence that Plaintiff requires any additional
16 footwear. Plaintiff’s exhibits are comprised mainly of Rules Violation Reports from 2009 through
17 2013 for failing to report to work, and he submits no medical evidence to demonstrate that he is, in
18 fact, threatened with a concrete and particularized injury from any Defendant.¹

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¹ Defendants object to Plaintiff’s evidence as unauthenticated and irrelevant, and because some documents contain
26 hearsay. Defendants’ objections are overruled. While the records are subject to authentication under Rule 901(b)(6), the
27 Court notes the absence of any evidence or argument suggesting the existence of a legitimate challenge to the records on
28 authentication grounds. See Chamberlain v. Les Schwab Tire Center of California, Inc., No. 2012 WL 6020103, at *2
(E.D. Cal. 2012) (citing Burch v. Regents of Univ. of California, 433 F.Supp.2d 1110, 1120 (E.D. Cal. 2006)) (rejecting
“purely procedural” authentication objection). Moreover, the Court is not relying on statements other than those made by
Plaintiff.

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RECOMMENDATION

For these reasons, the Court RECOMMENDS that Plaintiff's Motion for Injunctive Relief be DENIED.

These Findings and Recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within thirty (30) days after being served with these Findings and Recommendations, Plaintiff may file written objections with the court. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153, 1157 (9th Cir. 1991).

IT IS SO ORDERED.

Dated: August 25, 2014

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE