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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

GERALD LEE MILLER, JR.,  
Plaintiff,  
v.  
DR. J. AKANNO, M.D.,  
Defendant.

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Case No. 1:12-cv-01013-LJO-SKO (PC)  
**ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS, AND DENYING  
PLAINTIFF’S MOTION TO PRELIMINARY  
INJUNCTIVE RELIEF**  
(Doc. 29 and 38)

Plaintiff Gerald Lee Miller, Jr., a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on June 22, 2012. This action for damages is proceeding on Plaintiff’s second amended complaint against Defendant J. Akanno, M.D. (“Defendant”), for violating Plaintiff’s right to adequate medical care under the Eighth Amendment of the United States Constitution.

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 August 1, 2014, the Magistrate Judge filed a Findings and Recommendations recommending Plaintiff’s motion for preliminary injunctive relief related to medical care be denied. Plaintiff filed a timely Objection on August 28, 2014; Defendant did not file a response. Local Rule 304(b), (d).

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

1 Plaintiff's challenge to the Magistrate Judge's authority to issue findings and  
2 recommendations is frivolous, 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b)(1); Local Rules  
3 302(c)(17), 304(a), and his other arguments are unavailing. This action is proceeding against  
4 Defendant for his past involvement in Plaintiff's medical care at Kern Valley State Prison, and  
5 Plaintiff lacks entitlement to seek prospective relief in this action regarding his current medical  
6 needs at California State Prison-Corcoran.<sup>1</sup> 18 U.S.C. § 3626(a)(1)(A); *Summers v. Earth Island*  
7 *Institute*, 555 U.S. 488, 493, 129 S.Ct. 1142, 1149 (2009); *Winter v. Natural Resources Defense*  
8 *Council, Inc.*, 555 U.S. 7, 24, 129 S.Ct. 365, 376 (2008); *Mayfield v. United States*, 599 F.3d 964,  
9 969 (9th Cir. 2010).

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. The Findings and Recommendations, filed on August 1, 2014, is adopted in full;
- 12 and
- 13 2. Plaintiff's motion for preliminary injunctive relief, filed on May 27, 2014, is
- 14 DENIED.

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16 IT IS SO ORDERED.

17 Dated: December 3, 2014

/s/ Lawrence J. O'Neill  
UNITED STATES DISTRICT JUDGE

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27 <sup>1</sup> Plaintiff's argument that he has a pending motion to amend to add a doctor at his current prison is moot in light of  
28 the denial of that motion on the ground that the claim Plaintiff sought to add is not related to the claim in this action.  
Fed. R. Civ. P. 20.