

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

REX CHAPPELL,

Plaintiff,

vs.

GERBER, *et al.*,

Defendants.

Case No. 1:12-cv-01767-RRB

**ORDER TO SHOW CAUSE**  
and  
**ORDER RE MOTION AT DOCKET 10**

Rex Chappell, a state prisoner appearing *pro se* and *in forma pauperis*, filed a civil rights action under 42 U.S.C. § 1983. Chappell also filed a Motion for Temporary Restraining Order and Preliminary Injunction.<sup>1</sup> Chappell is currently in the custody of the California Department of Corrections and Rehabilitation (“CDCR”), incarcerated at the California State Prison, Corcoran (“CSP-C”). This action arises out of incidents that occurred while Chappell was incarcerated at the California Correctional Institute, Tehachapi (“CCI”).<sup>2</sup>

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<sup>1</sup> Dkt. 10.

<sup>2</sup> In addition to C/O Gerber, Chappell has named as defendants C/O R. Morales; Sgt. B. Werdetz; Capt. P. Matzen; C/O Wartz; Lt. T. Harris; Warden (A) K. Holland; Dr. M. Vu; Dr. Tate; Dr. S. Shiesha; and A. Joaquin, CMO.

## I. IN FORMA PAUPERIS STATUS

This Court granted Chappell leave to proceed *in forma pauperis*.<sup>3</sup> Further review of the file indicates that the Order granting leave to proceed *in forma pauperis* was improvidently entered. The Application to proceed *in forma pauperis* was incomplete: it did not include the required certification of the amounts held for the benefit of Chappell by CDCR.<sup>4</sup>

Perhaps more importantly, however, attached to the Complaint is a copy of a letter written by Chappell to K. Holland, Warden (A), of CCI. In that letter, Chappell states: “The reason I am here and not Pelican Bay SHU or Corcoran SHU, is because I won \$255,000 from Pelican supposed professionals.’ Then turned around and settle [*sic*] for \$10,000, then \$86,500. Then \$30,000 at Corcoran, then \$23,000 settlement.”<sup>5</sup> Accordingly, it appears that Chappell has the financial ability to pay the filing fee in full.<sup>6</sup>

## II. MOTION FOR TRO AND PRELIMINARY INJUNCTION

In his Motion for Temporary Restraining Order and Preliminary Injunction, Chappell seeks relief against the Defendants. Because he has been transferred from CCI to CSP-C,

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<sup>3</sup> Dkt. 9.

<sup>4</sup> 28 U.S.C. § 1915(a)(2).

<sup>5</sup> Dkt. 1 at 58 (internal quotation marks omitted).

<sup>6</sup> 28 U.S.C. § 1915(e)(2)(A) (“allegation of poverty is untrue”).

Chappell's request for injunctive relief against the staff and medical personnel at CCI has been rendered moot.

### **III. ORDER**

Based on the foregoing, the Court hereby **ORDERS** as follows:

1. On or before **June 21, 2013**, Plaintiff must show cause why the Order granting him leave to proceed *in forma pauperis* should not be vacated; and
2. The Motion for Temporary Restraining Order and Preliminary Injunction at Docket 10 is **DENIED** as moot.

**IT IS SO ORDERED** this 16<sup>th</sup> day of May, 2013.

S/RALPH R. BEISTLINE  
UNITED STATES DISTRICT JUDGE