

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

TIMOTHY JOHNSON,

Plaintiff,

V.

C/O SHAW, et al.,

Defendants.

Case No. 1:13-cv-00042 DLB PC

ORDER DENYING MOTION FOR INJUNCTIVE RELIEF

[ECF No. 13]

Plaintiff Timothy Johnson, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on January 3, 2013. Plaintiff consented to the jurisdiction of the Magistrate Judge on January 22, 2013.

On October 9, 2013, the Court screened the initial complaint and dismissed it with leave to amend. On October 23, 2013, Plaintiff filed a First Amended Complaint. On October 20, 2014, the Court screened the First Amended Complaint and directed Plaintiff to either file a Second Amended Complaint or notify the Court of his willingness to proceed only on the cognizable claim. Plaintiff notified the Court on November 17, 2014, of his willingness to proceed only on the claim found cognizable by the Court. Therefore, on December 2, 2014, the Court ordered that the action proceed only on the First Amendment retaliation claim against Defendant Remotigoe. All other claims and Defendants were dismissed.

On April 23, 2014, Plaintiff filed a motion for judicial assistance in the form of injunctive

1 relief. Plaintiff asks that the Court order CDCR officers to provide access to a wheelchair for
2 outside use, and to be transferred to a medical high risk and mobility-impaired, deaf-impaired
3 prison.

4 A preliminary injunction is an extraordinary remedy never awarded as of right. Winter v.
5 Natural Resources Defense Council, Inc., 555 U.S. 7, 24 (2008) (citation omitted). For each
6 form of relief sought in federal court, Plaintiff must establish standing. Summers v. Earth Island
7 Institute, 555 U.S. 488, 493 (2009) (citation omitted); Mayfield v. United States, 599 F.3d 964,
8 969 (9th Cir. 2010) (citation omitted). This requires Plaintiff to show that he is under threat of
9 suffering an injury in fact that is concrete and particularized; the threat must be actual and
10 imminent, not conjectural or hypothetical; it must be fairly traceable to challenged conduct of the
11 defendant; and it must be likely that a favorable judicial decision will prevent or redress the
12 injury. Summers, 555 U.S. at 493 (quotation marks and citation omitted); Mayfield, 599 F.3d at
13 969. Further, any award of equitable relief is governed by the Prison Litigation Reform Act,
14 which provides in relevant part, “Prospective relief in any civil action with respect to prison
15 conditions shall extend no further than necessary to correct the violation of the Federal right of a
16 particular plaintiff or plaintiffs. The court shall not grant or approve any prospective relief
17 unless the court finds that such relief is narrowly drawn, extends no further than necessary to
18 correct the violation of the Federal right, and is the least intrusive means necessary to correct the
19 violation of the Federal right.” 18 U.S.C. § 3626(a)(1)(A).

20 In this action, as set forth in detail in the Court’s screening order, there is an actual case
21 or controversy arising out of a past incident of retaliation at Corcoran, which allegedly occurred
22 on August 27, 2013. Plaintiff’s other claims have been dismissed from this action.

23 As a result, while Plaintiff has standing to seek damages for the past violation of his
24 rights *vis a vis* the alleged retaliation that occurred on August 27, 2013, he does not have
25 standing to seek any other form of relief and the Court is without jurisdiction to intervene in
26 Plaintiff’s current conditions of confinement. 18 U.S.C. § 3626(a)(1)(A); Summers, 555 U.S. at
27 493; Mayfield, 599 F.3d at 969. The pendency of this action does not entitle Plaintiff to the
28 relief he seeks.

1 Accordingly, Plaintiff's motion for preliminary injunctive relief is HEREBY DENIED
2 for lack of jurisdiction.

3 IT IS SO ORDERED.

4 Dated: January 21, 2015

5 /s/ *Dennis L. Beck*

6 UNITED STATES MAGISTRATE JUDGE

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