

1 reaching power not to be indulged except in a case clearly warranting it. Dymo Indus. V. Tapeprinter,
2 Inc., 326 F.2d 141, 143 (9th Cir. 1964). “The proper legal standard for preliminary injunctive relief
3 requires a party to demonstrate ‘that he is likely to succeed on the merits, that he is likely to suffer
4 irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and
5 that an injunction is in the public interest.’” Stormans, Inc., v. Selecky, 586 F.3d 1109, 1127 (9th Cir.
6 2009), quoting Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7 (2008). In cases brought by
7 prisoners involving conditions of confinement, any preliminary injunction “must be narrowly drawn,
8 extend no further than necessary to correct the harm the court finds requires preliminary relief, and be
9 the least intrusive means necessary to correct the harm.” 18 U.S.C. § 3626(a)(2).

10 In his April 5, 2017 motion, Plaintiff seeks a permanent injunction based on alleged retaliation
11 by Defendants. Plaintiff contends that a search of his cell was conducted on behalf of Defendant
12 Deathriage and others to retaliate for this action. (Mot. at 2, ECF No. 106.) More specifically,
13 Plaintiff alleges that on March 14, 2017, his cell was searched by the Institutional Security Unit who
14 confiscated his mail and photographed legal documents pertaining to this case. Plaintiff alleges his
15 cell was searched again on March 15, 2017, by non-Defendant, officer Shallenverh who stated she was
16 advised to conduct the search by her supervisor. Plaintiff attaches three inmate declarations to support
17 his contention that his cell was searched by prison officials in an effort to confiscate and/or photograph
18 his legal materials pertaining to the instant action.

19 Defendants, by way of counsel, have responded to Plaintiff’s motion and submit the following:

20 On April 11, 2017, I spoke with Correctional Officer Marmaduke, from the SATF Prison
21 Investigative Services Unit (ISU), regarding the search of Plaintiff’s cell on March 14, 2017.
22 The Officer informed me that ISU was instructed to search Plaintiff’s cell by the Office of
23 Occupational Safety, which is a division of the California Department of Corrections and
24 Rehabilitation (CDCR). Specifically, ISU was asked to photograph material that relates to an
25 outside investigation into a radicalized prison group. In compliance with orders, the Officer
26 photographed books, Plaintiff’s tattoos, and other miscellaneous records. Plaintiff was then
27 informed that the search was due to an outside investigation and permitted to return to his cell.
28 The Officer confirmed that no legal material was photographed, no items were confiscated, he
had no knowledge of any lawsuit Plaintiff was involved in, and that no mention of a lawsuit
was made by the Office of Correctional Safety when the cell search was requested. Officer
Marmaduke is unaware of any search of Plaintiff’s cell that occurred after March 14, 2017.

1 Based on the investigation and information provided by Defendants' counsel, the March 14,
2 2017, search was conducted for an independent investigation and Plaintiff was not the focus of such
3 investigation. Further, the inquiry by Defendants' counsel did not reveal any search on March 15,
4 2017, by the ISU. Therefore, given the inquiry and response by Defendants' counsel, there is no
5 evidence before the Court that Plaintiff's legal property was photographed or that items were
6 confiscated, and Plaintiff's motion for injunctive relief is denied.

7
8 IT IS SO ORDERED.

9 Dated: May 5, 2017



UNITED STATES MAGISTRATE JUDGE