

1 alleges sustained injuries in this action.² Federal Rule of Evidence 706 ("Rule 706") provides for
2 court appointment of an expert witness upon a party's motion or on its own volition. "If scientific,
3 technical, or other specialized knowledge will assist the trier of fact to understand the evidence or
4 to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience,
5 training, or education, may testify thereto in the form of an opinion or otherwise . . ." Fed. R.
6 Evid. 702.

7 The Court has the discretion to appoint an expert and to apportion costs, including the
8 apportionment of costs to one side, Fed. R. Evid. 706; *Ford ex rel. Ford v. Long Beach Unified*
9 *School Dist.*, 291 F.3d 1086, 1090 (9th Cir. 2002); *Walker v. American Home Shield Long Term*
10 *Disability Plan*, 180 F.3d 1065, 1071 (9th Cir. 1999), however, where the costs would likely be
11 apportioned to the government, the Court should exercise caution. Plaintiff's *pro se, in forma*
12 *pauperis* status alone is not grounds for the appointment of an expert witness to assist Plaintiff
13 with his case and Rule 706 is certainly not a meant to provide an avenue to avoid the *in forma*
14 *pauperis* statute and its prohibition against using public funds to pay for the expenses of
15 witnesses. *Manriquez v. Huchins*, No. 1:09-cv-00456-LJO-BAM PC, 2012 WL 5880431, at *12
16 (E.D. Cal. Nov. 21, 2012) (quotation marks and citations omitted), nor does Rule 706
17 contemplate court appointment and compensation of an expert witness as an advocate for
18 Plaintiff, *Faletogo v. Moya*, No. 12cv631 GPC (WMc), 2013 WL 524037, at *2 (S.D. Cal. Feb.
19 23, 2013) (quotation marks omitted).

20 The appointment of an expert witness under Rule 706 is intended to benefit the trier of
21 fact, not a particular litigant, and here, the medical care issue is not of such complexity that the
22 Court requires the assistance of a neutral expert at this time. *Faletogo*, 2013 WL 524037, at *2;
23 *Bontemps v. Lee*, No. 2:12-cv-0771 KJN P, 2013 WL 417790, at *3-4 (E.D. Cal. Jan. 31, 2013);
24 *Honeycutt*, 2011 WL 6301429, at *1; *Wilds*, 2011 WL 737616, at *4; *Gamez v. Gonzalez*, No.

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26 ² While Plaintiff seeks a medical examination under Federal Rule of Civil Procedure 35, he clearly desires a court-
27 appointed expert witness under Federal Rules of Evidence 706 since there is no evidence before the Court that
28 Defendants have requested examination of Plaintiff's condition. If Defendants desire to have Plaintiff examined, they
may move for an order under Federal Rule of Civil Procedure 35. But this Rule does not provide a mechanism for
Plaintiff to secure his own examination.

1 08cv1113 MJL (PCL), 2010 WL 2228427, at *1 (E.D. Cal. Jun. 3, 2010). Moreover, there are
2 currently no pending matters in which the Court requires special assistance. *Ford*, 291 F.3d at
3 1090; *Walker*, 180 F.3d at 1071. However, Plaintiff is not foreclosed from requesting
4 appointment of an expert witness if/when the issues in this action are presented to the trier of fact.

5 In his motion, Plaintiff requests that he be granted immediate injunctive relief ordering
6 "Wasco State Prison to allow [him] to make photo copies at least once a week, if needed, to
7 prepare motions" (Doc. 27.)

8 Federal courts are courts of limited jurisdiction and in considering a request for
9 preliminary injunctive relief, the Court is bound by the requirement that as an initial matter, it
10 have before it an actual case or controversy. *City of Los Angeles v. Lyons*, 461 U.S. 95, 102
11 (1983); *Valley Forge Christian Coll. v. Ams. United for Separation of Church and State, Inc.*, 454
12 U.S. 464, 471 (1982). If the Court does not have an actual case or controversy before it, it has no
13 power to hear the matter in question. *Id.* Requests for prospective relief are further limited by 18
14 U.S.C. § 3626(a)(1)(A) of the Prison Litigation Reform Act, which requires that the Court find
15 the "relief [sought] is narrowly drawn, extends no further than necessary to correct the violation
16 of the Federal right, and is the least intrusive means necessary to correct the violation of the
17 Federal right."

18 Regardless, the pendency of this action does not give the Court jurisdiction over prison
19 officials in general or over Plaintiff's issues of obtaining copies of documents for filing in this
20 action. *Summers v. Earth Island Institute*, 555 U.S. 488, 492-93 (2009); *Mayfield v. United*
21 *States*, 599 F.3d 964, 969 (9th Cir. 2010). The Court's jurisdiction is limited to the parties in this
22 action and to the cognizable legal claims upon which this action is proceeding. *Summers*, 129
23 S.Ct. at 1148-49; *Mayfield*, 599 F.3d at 969.

24 The claims which Plaintiff is proceeding on in this action allegedly occurred at the Fresno
25 County Jail. Plaintiff is currently housed at Wasco State Prison (WSP). Accordingly, Plaintiff
26 lacks standing to seek relief directed at remedying his current conditions of confinement at WSP.
27 Thus, Plaintiff's motion for injunctive relief must be denied for lack of jurisdiction over "Wasco
28 State Prison" in this action.

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Accordingly, it is HEREBY ORDERED that Plaintiff's motion for the appointment of an expert witness and for weekly copies of his legal documents, filed on December 31, 2014 (Doc. 27), is DENIED.

IT IS SO ORDERED.

Dated: March 10, 2015

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE