

1 preventing the irreparable loss of right before judgment.” Sierra On-Line, Inc. v. Phoenix Software,
2 Inc., 739 F.2d 1415, 1422 (9th Cir. 1984). A preliminary injunction represents the exercise of a far
3 reaching power not to be indulged except in a case clearly warranting it. Dymo Indus. V. Tapeprinter,
4 Inc., 326 F.2d 141, 143 (9th Cir. 1964). “The proper legal standard for preliminary injunctive relief
5 requires a party to demonstrate ‘that he is likely to succeed on the merits, that he is likely to suffer
6 irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and
7 that an injunction is in the public interest.’” Stormans, Inc., v. Selecky, 586 F.3d 1109, 1127 (9th Cir.
8 2009), quoting Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7 (2008). In cases brought by
9 prisoners involving conditions of confinement, any preliminary injunction “must be narrowly drawn,
10 extend no further than necessary to correct the harm the court finds requires preliminary relief, and be
11 the least intrusive means necessary to correct the harm.” 18 U.S.C. § 3626(a)(2).

12 Inmates have a fundamental constitutional right of access to the courts. Lewis v. Casey, 518
13 U.S. 343, 346 (1996); Silva v. Di Vittorio, 658 F.3d 1090, 1101 (9th Cir. 2011); Phillips v. Hust, 588
14 F.3d 652, 655 (9th Cir. 2009). However, to state a viable claim for relief, Plaintiff must show that he
15 suffered an actual injury, which requires “actual prejudice to contemplated or existing litigation.”
16 Nevada Dep’t of Corr. v. Greene, 648 F.3d 1014, 1018 (9th Cir. 2011) (citing Lewis, 518 U.S. at 348)
17 (internal quotation marks omitted); Christopher v. Harbury, 536 U.S. 403, 415 (2002); Lewis, 518
18 U.S. at 351; Phillips, 588 F.3d at 655.

19 A prisoner cannot submit conclusory declarations of injury by claiming his access to the courts
20 has been impeded. Thus, it is not enough for an inmate to show some sort of denial of access without
21 further elaboration. Plaintiff must demonstrate “actual injury” from the denial and/or delay of access.

22 The Supreme Court has described the “actual injury” requirement:

23 [T]he inmate ... must go one step further and demonstrate that the alleged
24 shortcomings in the library or legal assistance program hindered his efforts to pursue a
25 legal claim. He might show, for example, that a complaint he prepared was dismissed
26 for failure to satisfy some technical requirement which, because of deficiencies in the
27 prison’s legal assistance facilities, he could not have known. Or that he suffered
arguably actionable harm that he wished to bring before the courts, but was so stymied
by inadequacies of the law library that he was unable even to file a complaint.

28 Lewis, 518 U.S. at 351.

1 In this instance, Plaintiff has failed to allege or demonstrate “actual injury” by the alleged
2 misconduct by prison officials. Thus, Plaintiff has failed to demonstrate that in the absence of
3 preliminary injunctive relief he is likely to suffer actual injury in prosecuting his case. “Speculative
4 injury does not constitute irreparable injury sufficient to warrant granting a preliminary injunction.”
5 Caribbean Marine Servs. Co. v. Baldrige, 844 F.2d 668, 674 (9th Cir. 1988), citing Goldies
6 Bookstore, Inc. v. Superior Court, 739 F.2d 466, 472 (9th Cir. 1984). Plaintiff has provided no basis
7 for this court to interfere with the jail’s administration of its access to photocopy services.

8 Moreover, this action is proceeding against Defendants for Plaintiff’s claim of excessive force,
9 not denial of access to the courts and/or retaliation. Plaintiff seeks to enjoin prison officials, including
10 some named Defendants for alleged actions outside of the scope of his excessive force claim, and
11 Plaintiff has neither demonstrated a likelihood of success on the merits nor the threat of irreparable
12 injury as to any Defendant. Plaintiff also seeks injunctive relief against individuals who are not named
13 Defendants in this action. This Court is unable to issue an order against individuals who are not
14 parties to a suit pending before it. See Zenith Radio Corp. v. Hazeltine Research, Inc., 395 U.S. 100,
15 112 (1969). Accordingly, Plaintiff’s requests for a preliminary injunction must be denied.

16 II.

17 RECOMMENDATION

18 Based on the foregoing, it is HEREBY RECOMMENDED that Plaintiff’s motions for a
19 preliminary injunction be DENIED.

20 This Findings and Recommendation will be submitted to the United States District Judge
21 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **twenty-one (21)**
22 **days** after being served with this Findings and Recommendation, the parties may file written
23 objections with the Court. The document should be captioned “Objections to Magistrate Judge’s
24 Findings and Recommendation.” The parties are advised that failure to file objections within the
25 specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-
26 39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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III.
ORDER

In light of Plaintiff's claims that he has been unable to comply with the Court's May 10, 2017, order to complete and return the necessary service of process documents, on the basis of good cause, the Court will grant Plaintiff thirty days from the date of service of this order to submit the necessary documentation. The failure to comply with the Court's order will result in dismissal of the action.

IT IS SO ORDERED.

Dated: June 7, 2017



UNITED STATES MAGISTRATE JUDGE