

1 on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that
2 the balance of equities tips in his favor, and that an injunction is in the public interest.” Id. at 20
3 (citations omitted). An injunction may only be awarded upon a clear showing that the plaintiff is
4 entitled to relief. Id. at 22 (citation omitted) (emphasis added).

5 Plaintiff’s complaint has been dismissed with leave to amend. Until Plaintiff files an
6 amended complaint and the Court is able to determine which claims are cognizable and
7 appropriately raised in this action, the Court lacks jurisdiction to issue any preliminary
8 injunctions. 18 U.S.C. § 3626(a)(1)(A); Summers v. Earth Island Institute, 555 U.S. 488, 493,
9 129 S.Ct. 1142, 1149 (2009); Mayfield v. United States, 599 F.3d 964, 969 (9th Cir. 2010).

10 Finally and more importantly, Plaintiff must establish that he has standing to seek
11 preliminary injunctive relief. Summers, 555 U.S. at 493; Mayfield v. United States, 599 F.3d
12 964, 969 (9th Cir. 2010). To do so, he “must show that he is under threat of suffering an ‘injury
13 in fact’ that is concrete and particularized; the threat must be actual and imminent, not
14 conjectural or hypothetical; it must be fairly traceable to challenged conduct of the defendant;
15 and it must be likely that a favorable judicial decision will prevent or redress the injury.”
16 Summers, 555 U.S. at 493 (citation omitted); Mayfield, 599 F.3d at 969.

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18 As the Court explained in the screening order, the regulation at issue permitted inmates to
19 keep non-allowable items until June 9, 2014. At the time Plaintiff filed his complaint and this
20 motion, his items had not yet been confiscated and it is unclear whether the regulation will
21 actually be enforced. Indeed, Plaintiff argues that he is “under the continuing threat” of having
22 his religious items taken, but under these circumstances, a threat is not sufficient. Mot. 15.
23 Plaintiff also points to his “potential suffering should such threats come to fruition,” but this
24 *potential* action is also insufficient to establish standing.

25 **RECOMMENDATION**

26 For these reasons, the Court RECOMMENDS that Plaintiff’s motion be DENIED.

27 These Findings and Recommendations are submitted to the United States District Judge
28 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within thirty (30) days

1 after being served with these Findings and Recommendations, Plaintiff may file written
2 objections with the court. Such a document should be captioned "Objections to Magistrate
3 Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections
4 within the specified time may waive the right to appeal the District Court's order. Martinez v.
5 Ylst, 951 F.2d 1153, 1157 (9th Cir. 1991).
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7 IT IS SO ORDERED.

8 Dated: July 3, 2014

9 /s/ Dennis L. Beck
10 UNITED STATES MAGISTRATE JUDGE
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