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7 **UNITED STATES DISTRICT COURT**

8 EASTERN DISTRICT OF CALIFORNIA
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12 RICHARD VILLAPANDO,) 1:14cv00823 LJO DLB PC
13 Plaintiff,)
14 vs.) ORDER ADOPTING FINDINGS AND
15 CDCR,) RECOMMENDATIONS AND DENYING
16 Defendant.) PLAINTIFF’S MOTION FOR TEMPORARY
) RESTRAINING ORDER
) (Document 25)
)
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18 Plaintiff Richard Villapando (“Plaintiff”) is a California state prison inmate proceeding
19 pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On October
20 8, 2014, Plaintiff filed a motion for temporary restraining order. The matter was referred to a
21 United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

22 On November 14, 2014, the Magistrate Judge issued [Findings and Recommendations](#) that
23 Plaintiff’s motion be denied. The Findings and Recommendations were served on Plaintiff and
24 contained notice that any objections to the Findings and Recommendations were to be filed
25 within thirty (30) days. Plaintiff filed [objections](#) on December 19, 2014.
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1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted
2 a de novo review of this case. Having carefully reviewed the entire file, including Plaintiff's
3 objections, the Court finds that the Findings and Recommendations are supported by the record
4 and by proper analysis.

5 Plaintiff's motion seeks an order enjoining Defendant Beard from enforcing NCR 13-01,
6 and/or from making threats to take or destroy his religious property. Insofar as Plaintiff's motion
7 relates to the enforcement of NCR 13-01, the regulation is no longer in effect. Plaintiff's First
8 Amended Complaint was dismissed with leave to amend on May 7, 2015, to permit Plaintiff to
9 cite the relevant regulation. Therefore, at this time, there is no operative pleading and this action
10 no longer focuses on NCR 13-01. 18 U.S.C. § 3626(a)(1)(A); Summers v. Earth Island Institute,
11 129 S.Ct. 1142, 1149 (2009); Mayfield v. United States, 599 F.3d 964, 969 (9th Cir. 2010).

12 Plaintiff also requests that the Court enjoin Defendant, "his successors in office, his
13 officials, agents and employees, and all other persons acting in concern and participation with
14 Defendant" from retaliatory threats. However, the Court does not have jurisdiction over anyone
15 other than Defendant, it is does not appear that he was involved in the actions complained of.
16 Zenith Radio Corp. v. Hazeltine Research, Inc., 395 U.S. 100, 110, 89 S.Ct. 1562 (1969); S.E.C.
17 v. Ross, 504 F.3d 1130, 1138-39 (9th Cir. 2007).

18 Finally, the Magistrate Judge correctly noted that this action is not about retaliatory
19 threats or searches, and thus the issues are beyond the scope of available equitable relief. See
20 e.g., Steel Co. v. Citizens for a Better Env't, 523 U.S. 83, 103-04 (1998) ("[The] triad of injury
21 in fact, causation, and redressability constitutes the core of Article III's case-or-controversy
22 requirement, and the party invoking federal jurisdiction bears the burden of establishing its
23 existence.") (citation omitted); American Civil Liberties Union of Nevada v. Masto, 670 F.3d
24 1046, 1061-62 (9th Cir. 2012) ("[F]ederal courts may adjudicate only actual, ongoing cases or
25 controversies.") (citation and internal quotation marks omitted).

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1 Accordingly, IT IS HEREBY ORDERED that:

- 2 1. The Findings and Recommendations, filed November 14, 2014, are ADOPTED in
3 full; and
4 2. Plaintiff's motion for injunctive relief (Document 23) is DENIED.
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6 IT IS SO ORDERED.

7 Dated: May 11, 2015

/s/ Lawrence J. O'Neill
8 UNITED STATES DISTRICT JUDGE
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