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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MICHAEL GONZALES,

Plaintiff,

v.

PODSAKOFF, et al.,

Defendants.

Case No. 1:15-cv-00924-SKO (PC)

**FINDINGS AND RECOMMENDATIONS
TO DENY PLAINTIFF’S REQUEST FOR
PRELIMINARY INJUNCTIVE RELIEF**

(Doc. 47)

TWENTY-ONE (21) DAY DEADLINE

FINDINGS

I. Introduction

Plaintiff, Michael Gonzales, is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff proceeds in this action based on allegations that the defendants involuntarily tainted his food with antipsychotic medications at California State Prison in Corcoran, California (“CSP-Cor”) without a *Keyhea* order.¹ On August 28, 2017, Plaintiff filed a motion seeking injunctive relief. (Doc. 47.) Defendants did not file an opposition within the permitted time period. Plaintiff’s motion is deemed submitted. L.R. 230(l).

In his motion, Plaintiff alleges that “Defendants and others” continue to engage in activities tainting his food with antipsychotic medication, placing him in imminent danger of harm because it is burning his esophagus. Plaintiff alleges that Defendant “Nurse Gonzales et al.

¹ *Keyhea v. Rushen*, 178 Cal.App.3d 526, 542 (Cal. Ct. App. 1986), sets forth the substantive and procedural safeguards which must be adhered to when the state seeks to involuntarily medicate state prisoners with long-term psychotropic medications. Such courts orders are commonly known as “*Keyhea* orders.”

1 nurses have started medicating” his Mintox tablets so that now even his antacids are burning and
2 damaging his esophagus.

3 **II. Discussion**

4 Federal courts are courts of limited jurisdiction and in considering a request for
5 preliminary injunctive relief, the Court is bound by the requirement that as a preliminary matter, it
6 have before it an actual case or controversy. *City of Los Angeles v. Lyons*, 461 U.S. 95, 102, 103
7 S.Ct. 1660, 1665 (1983); *Valley Forge Christian Coll. v. Ams. United for Separation of Church*
8 *and State, Inc.*, 454 U.S. 464, 471 (1982). Requests for prospective relief are further limited by
9 18 U.S.C. § 3626 (a)(1)(A) of the Prison Litigation Reform Act, which requires that the Court
10 ensure the relief “is narrowly drawn, extends no further than necessary to correct the violation of
11 the Federal Right, and is the least intrusive means necessary to correct the violation of the Federal
12 Right.”

13 The pendency of this action does not give the Court jurisdiction over prison personnel in
14 general. *Summers v. Earth Island Institute*, 555 U.S. 488, 492-93 (2009); *Mayfield v. United*
15 *States*, 599 F.3d 964, 969 (9th Cir. 2010). “A federal court may issue an injunction if it has
16 personal jurisdiction over the parties and subject matter jurisdiction over the claim; it may not
17 attempt to determine the rights of persons not before the court.” *Zepeda v. United States*
18 *Immigration Service*, 753 F.2d 719, 727 (9th Cir. 1985). The Court’s jurisdiction is thus limited
19 to the parties in this action and to the cognizable legal claims upon which it proceeds. *Summers*,
20 129 S.Ct. at 1148-49; *Mayfield*, 599 F.3d at 969. Hence, to the extent Plaintiff’s motion is based
21 on the actions of “others” and “et al nurses” it must be denied for lack of jurisdiction.

22 Further, “[a] preliminary injunction is an extraordinary remedy never awarded as a matter
23 of right.” *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 24 (2008) (citations
24 omitted). “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed
25 on the merits and to suffer irreparable harm in the absence of preliminary relief, that the balance
26 of equities tips in his favor, and that an injunction is in the public interest.” *Id.*, at 24 (citations
27 and quotations omitted). An injunction may only be awarded upon a clear showing that the
28 plaintiff is entitled to such relief. *Id.*, at 22.

