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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MANUEL ANTONIO GONZALEZ III,
Plaintiff,
v.
J. RAZO, et al.,
Defendants.

No. 1:15-cv-01098-DAD-SKO (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DENYING
PLAINTIFF'S MOTION FOR A
TEMPORARY RESTRAINING ORDER
AND/OR PRELIMINARY INJUNCTION
AND AN INVESTIGATOR

(Docs. No. 3, 23)

Plaintiff Manuel Antonio Gonzalez III is a state prisoner proceeding pro se in this civil rights action brought pursuant to 42 U.S.C. § 1983. With his complaint plaintiff filed a motion for a temporary restraining order and/or preliminary injunction seeking an order prohibiting certain prison staff members from coming within two-hundred feet of him. Plaintiff also moved for the appointment of an investigator to meet with him every thirty days during the pendency of this action. On December 29, 2015, findings and recommendations were entered, recommending that plaintiff's motion for temporary restraining order and/or preliminary injunction, as well as his motion for appointment of an investigator, be denied. (Doc. No. 23.) Plaintiff was provided an opportunity to file objections to the findings and recommendations within thirty days. No objections to the findings and recommendations were filed.

1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 304, the
2 undersigned has conducted a de novo review of this case. Having carefully reviewed the entire
3 file, the court adopts the recommendation that plaintiff's motions be denied.

4 Plaintiff requests a temporary restraining order or preliminary injunctive relief to be
5 issued against all defendants because in June 2015, prior to the filing of the instant lawsuit, one of
6 the named defendants (defendant Brennan) allegedly threatened him with harm for pursuing this
7 litigation. (Doc. No. 3, at 6.) "A plaintiff seeking a preliminary injunction must establish that he
8 is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of
9 preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the
10 public interest." *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008). A
11 preliminary injunction is an "extraordinary remedy never awarded as of right." *Winter*, 555 U.S.
12 at 24. Here, even assuming the court could grant the preliminary relief sought, plaintiff has not
13 made a sufficient showing of the likelihood of irreparable harm or of the likelihood of success on
14 the merits to warrant the granting of preliminary relief.¹ Therefore, the court adopts the
15 recommendation that plaintiff's motion for a temporary restraining order or a preliminary
16 objection be denied.

17 The undersigned also adopts the analysis and conclusion set forth in the findings and
18 recommendations concerning plaintiff's request to be appointed an investigator. Accordingly,
19 plaintiff's motion for appointment of an expert will be denied.

20 For the reasons set forth above:

- 21 1. The court adopts the recommendation of the findings and recommendations (Doc. No.
22 23), as discussed above; and

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26 ¹ The analysis in the findings and recommendations which focused on plaintiff's purported lack
27 of standing to seek injunctive relief generally in this case is not adopted. Since plaintiff has not
28 sought general injunctive relief for the harm alleged in his underlying complaint, the undersigned
finds it unnecessary to address plaintiff's standing to seek such relief.

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2. Plaintiff's motion for temporary restraining order and/or preliminary injunction to be appointed an investigator (Doc. No. 3) is DENIED.

IT IS SO ORDERED.

Dated: March 7, 2016



UNITED STATES DISTRICT JUDGE