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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JONATHAN W. MUNDO,
Plaintiff,
v.
TAYLOR, et al.,
Defendants.

No. 1:15-cv-01681-DAD-DLB

ORDER DECLINING TO ADOPT FINDINGS
AND RECOMMENDATIONS AS MOOT
BUT DENYING PLAINTIFF'S MOTION FOR
TEMPORARY RESTRAINING ORDER

(Doc. Nos. 21, 24)

Plaintiff Jonathan W. Mundo is a state prisoner proceeding *pro se* and *in forma pauperis*. (Doc. No. 4.) On November 5, 2015, plaintiff filed this civil rights action pursuant to 42 U.S.C. § 1983. (Doc. No. 1.) The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On January 19, 2016, after having been granted leave to amend, plaintiff filed a Third Amended Complaint in this action. (Doc. Nos. 19, 20.) On January 22, 2016, plaintiff filed the motion for a temporary restraining order which is now pending before the court. (Doc. No. 21.) Thereafter, on January 29, 2016, the court dismissed plaintiff's Third Amended Complaint with leave to amend. (Doc. No. 25.) On that same day the assigned magistrate judge issued findings and recommendations recommending that plaintiff's motion for a temporary restraining order be denied on the basis that the court lacked jurisdiction to grant preliminary relief since no Fourth

1 Amended Complaint had yet been filed. (Doc. No. 24.) In addition, the assigned magistrate
2 judge noted that plaintiff's motion be denied because in his complaint he presented a failure to
3 protect claim stemming from an incident at Centinela State Prison in 2015, while his motion
4 sought while his motion for a temporary restraining order complained of verbal threats and
5 harassment in 2016 and sought relief aimed at his access to the prison library. Accordingly, the
6 magistrate judge alternatively recommended that plaintiff's motion be denied because "he is not
7 entitled to any relief that is not narrowly drawn to correct the violation of his rights at issue in this
8 action." (Doc. No. 24 at 2.)

9 Those findings and recommendations were served on the parties and contained notice that
10 any objections had to be filed within thirty days. Plaintiff did not file objections to the findings
11 and recommendations. On February 10, 2016, plaintiff did file a timely Fourth Amended
12 Complaint which is now the operative pleading in this action. (Doc. No. 26.) In that Fourth
13 Amended Complain plaintiff presents similar claims as he previously presented, all relating to a
14 failure to protect incident that allegedly occurred at Centinela State Prison in 2015. However,
15 plaintiff is currently incarcerated at the California Correctional Institution located at Tehachapi.
16 As the magistrate judge indicated in his alternative recommendation, plaintiff is not entitled to a
17 temporary restraining order that that is not narrowly drawn to correct the violation of his rights
18 placed at issue by his complaint - in this case a failure to protect at Centinela State Prison.
19 Moreover, a plaintiff cannot, as a general matter, seek injunctive relief in a case against parties
20 who are not named as defendants in that case. *Zenith Radio Corp. v. Hazeltine Research, Inc.*,
21 395 U.S. 100 (1969) (recognizing that the court cannot issue an order against individuals who are
22 not parties to a suit pending before it); *George v. Smith*, 507 F.3d 605, 607 (7th Cir.2007)
23 ("Unrelated claims against different defendants belong in different suits[.]"). It does not appear
24 that any of the named defendants are alleged to be employed at Tehachapi where plaintiff is
25 currently incarcerated. Finally, plaintiff has timely filed his Fourth Amended complaint in this
26 action and the court' docket provides ample evidence that he is not being unreasonably denied
27 access to the court in this case.

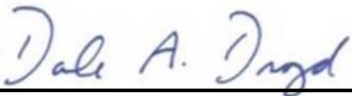
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In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the court finds that the findings and recommendations are supported by the record and by proper analysis. Accordingly, the alternative recommendation set forth in the findings and recommendations will be adopted and plaintiff's motion for a temporary restraining order and/or preliminary injunction (Doc. No. 21) will be denied.

IT IS SO ORDERED.

Dated: March 28, 2016



UNITED STATES DISTRICT JUDGE