

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HOLLIE JONES,
Plaintiff,
v.
Y. MAGALLON,
Defendant.

1:15-cv-01897-DAD-MJS (PC)
FINDINGS AND RECOMMENDATION TO DENY PLAINTIFF'S REQUEST FOR AN ORDER FACILITATING LAW LIBRARY ACCESS
ORDER DENYING PLAINTIFF'S SECOND MOTION TO EXTEND TIME TO FILE SECOND AMENDED COMPLAINT
(ECF No. 19)
ORDER DIRECTING PLAINTIFF TO FILE SECOND AMENDED COMPLAINT OR NOTICE OF WILLINGNESS TO PROCEED ON COGNIZABLE CLAIMS
FOURTEEN DAY DEADLINE

Plaintiff is a prisoner proceeding pro se and in forma pauperis in a civil rights action pursuant to 42 U.S.C. § 1983. He has declined Magistrate Judge jurisdiction.

On September 27, 2016, the Court screened Plaintiff's first amended complaint and found certain claims cognizable. (ECF No. 16.) The remaining non-cognizable claims were dismissed and Plaintiff was directed to either file a second amended complaint within thirty days or file a notice that he was willing to proceed only on his cognizable claims. (Id.) On October 21, 2016, Plaintiff filed a motion for a sixty day

1 extension of time to file his second amended complaint because of limited access to the
2 prison law library. (ECF No. 17.) On November 1, 2016, the Court granted in part
3 Plaintiff's motion and directed Plaintiff to file his second amended complaint within thirty
4 days of the Court's order. (ECF No. 18.) On December 13, 2016, Plaintiff filed a second
5 motion for a sixty day extension of time, again citing his limited access to the law library.
6 (ECF No. 19.) Plaintiff also requests the Court issue an order directing prison officials to
7 facilitate Plaintiff's access to law library materials. The court will construe the latter
8 request as a request for injunctive relief. (Id.)

9 **I. Law Library Access**

10 Plaintiff's claims arose at the California Substance Abuse and Treatment Facility
11 in Corcoran, California. He is currently incarcerated at California State Prison ("CSP") in
12 Corcoran. Plaintiff complains that he has insufficient access to the law library since he is
13 housed in the administrative segregation unit. He states this lack of library access
14 violates his right of access to the Courts. He seeks an order from the Court directing
15 prison officials to deliver law library materials to him in the administrative segregation
16 unit pursuant to the procedures outlined in California Code of Regulations section
17 3123(c). That section allows inmates who are unable to physically access the law library
18 to request legal material be delivered to them by library staff. Cal. Code Regs. tit. 15, §
19 3123(c) (2009).

20 First, to the extent Plaintiff alleges CSP officials have violated Plaintiff's rights by
21 limiting his access to the law library, such claims are unrelated to the claims in Plaintiff's
22 complaint and are made against a non-party over whom the Court lacks jurisdiction in
23 this case.

24 A plaintiff may only sue multiple defendants in the same action if at least one
25 claim against each defendant arises out of the same "transaction, occurrence, or series
26 of transactions or occurrences" and there is a "question of law or fact common to all
27 defendants."); Coughlin v. Rogers, 130 F.3d 1348, 1351 (9th Cir.1997); Desert Empire
28 Bank v. Ins. Co. of North America, 623 F.2d 1371, 1375 (9th Cir.1980).

1 Federal courts are courts of limited jurisdiction. The pendency of this action does
2 not give the Court jurisdiction over prison officials in general or over the relief requested
3 in Plaintiff's motion since it is not the subject of the operative complaint. Summers v.
4 Earth Island Institute, 555 U.S. 488, 492-93 (2009); Mayfield v. United States, 599 F.3d
5 964, 969 (9th Cir. 2010). The Court's jurisdiction is limited to the parties in this action
6 and to the cognizable legal claims upon which this action is proceeding. Summers, 555
7 U.S. at 491-93; Mayfield, 599 F.3d at 969. A court should not issue an injunction when
8 the relief sought is not of the same character, and the injunction deals with a matter lying
9 wholly outside the issues in the underlying action. De Beers Consol. Mines v. U.S., 325
10 U.S. 212, 220 (1945). Moreover, "[a] federal court may issue an injunction if it has
11 personal jurisdiction over the parties and subject matter jurisdiction over the claim; *it may*
12 *not attempt to determine the rights of persons not before the court.*" Zepeda v. United
13 States Immigration Serv., 753 F.2d 719, 727 (9th Cir. 1985) (emphasis added).

14 Plaintiff's request must be denied.

15 **II. Extension of Time**

16 Plaintiff has not shown good cause for the extension he requests. Plaintiff's
17 asserted need to access the law library in order to prepare his complaint is not
18 persuasive. At the screening stage, Plaintiff need only present facts showing that he is
19 entitled to relief. Fed. R. Civ. P. 8(a)(2); Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009).
20 Legal conclusions are not only unnecessary, they are discouraged. See Id. (noting that
21 while factual allegations are taken as true, legal conclusions are not.). Moreover,
22 applicable legal standards for Plaintiff's claims were outlined in each of the Court's two
23 previous screening orders. Plaintiff's motion for an extension will therefore be denied.

24 **III. Conclusion**

25 Based on the foregoing, IT IS HEREBY ORDERED that:

- 26 1. Plaintiff's motion for an extension of time to file a second amended complaint
(ECF No. 19) is DENIED;
- 27 2. Plaintiff must file his second amended complaint or notice of willingness to
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

proceed on his cognizable claims within **fourteen (14)** days of this order; and
3. Failure to comply with this order will result in the undersigned recommending
this case be dismissed for failure to obey a court order.

Further, IT IS HEREBY RECOMMENDED that:

4. Plaintiff's motion for an order directing CSP officials to facilitate law library
access (ECF No. 19) be DENIED.

These Findings and Recommendations will be submitted to the United States
District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. §
636(b)(1). Within **fourteen (14) days** after being served with these Findings and
Recommendations, Plaintiff may file written objections with the Court. The document
should be captioned "Objections to Magistrate Judge's Findings and Recommendations."
Failure to file objections within the specified time may result in the waiver of rights on
appeal. Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing Baxter v.
Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: December 18, 2016

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE