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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RODERICK WILLIAM LEAR,

Plaintiff,

v.

MARTIN BITER, et al.,

Defendants.

CASE NO. 1:15-cv-01903-DAD-MJS (PC)

**ORDER GRANTING PLAINTIFF'S
MOTION FOR AN EXTENSION OF TIME
TO RESPOND TO DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT**

**FINDINGS AND RECOMMENDATION TO
DENY PLAINTIFF'S MOTION FOR COURT
TO REQUEST PELICAN BAY STATE
PRISON TO ISSUE PLAINTIFF HIS
DISCOVERY MATERIAL AND LEGAL
PROPERTY**

(ECF NO. 52)

**FORTY-FIVE (45) DAY DEADLINE TO
FILE OPPOSITION TO MOTION FOR
SUMMARY JUDGMENT**

**FOURTEEN (14) DAY DEADLINE TO
FILE OBJECTIONS TO FINDINGS AND
RECOMMENDATION**

**CLERK TO SERVE COPY OF THIS
ORDER ON LITIGATION COORDINATOR**

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 42 U.S.C. § 1983. The matter proceeds on Plaintiff's Second Amended Complaint against Defendants Akanno and Palomino for medical indifference under the Eighth Amendment. (ECF No. 31.)

Before the Court is Plaintiff's February 20, 2018 motion (ECF No. 52.) requesting additional time to file an opposition to the Defendants' motion for summary judgment

1 (ECF No. 51) and asking the Court to request Pelican Bay State Prison to issue Plaintiff's
2 discovery material and legal files.

3 **I. Extension of time.**

4 Plaintiff seeks an extension of time of time to file a response to Defendants' motion
5 for summary judgment. Plaintiff states that he has not been able to access his legal files
6 because he has been housed in the prison infirmary.

7 Good cause having been presented, Plaintiff's motion will be granted and Plaintiff
8 will be afforded forty-five days from the date of service of this order to file an opposition to
9 Defendants' motion for summary judgment.

10 **II. Access to Legal Files**

11 Plaintiff also states that he is unable to respond to Defendants' motion for
12 summary judgment because he has not had access his legal files or discovery materials
13 while housed (as he is currently) at Pelican Bay State Prison infirmary. He seeks Court
14 assistance in obtaining these files, impliedly requesting injunctive relief in the form of a
15 court order.

16 Federal courts are courts of limited jurisdiction. The pendency of this action does
17 not give the Court jurisdiction over prison officials in general or enable it to provide relief
18 that is not the subject of the operative complaint. Summers v. Earth Island Institute, 555
19 U.S. 488, 492-93 (2009); Mayfield v. United States, 599 F.3d 964, 969 (9th Cir. 2010).
20 The Court's jurisdiction is limited to the parties in this action and to the cognizable legal
21 claims upon which the action proceeds. Summers, 555 U.S. at 491-93; Mayfield, 599
22 F.3d at 969. A court should not issue an injunction when the relief sought is not of the
23 same character as that sought in the underlying action and the injunction deals with a
24 matter lying wholly outside the issues in the underlying action. De Beers Consol. Mines v.
25 U.S., 325 U.S. 212, 220 (1945). Moreover, while "[a] federal court may issue an injunction
26 if it has personal jurisdiction over the parties and subject matter jurisdiction over the
27 claim; *it may not attempt to determine the rights of persons not before the court.*" Zepeda
28 v. United States Immigration Serv., 753 F.2d 719, 727 (9th Cir. 1985) (emphasis added).

1 Here, the individuals in charge of Plaintiff's legal files and discovery materials are
2 not before the court. The Court does not have jurisdiction to order prison officials at
3 Pelican Bay State Prison to act.

4 Additionally, access to Plaintiff's legal files is not an issue in the underlying action
5 which challenges Plaintiff's medical treatment at Kern Valley State Prison.

6 Therefore, to the extent that Plaintiff is requesting injunctive relief, the Court will
7 recommend his motion be denied.

8 Nevertheless, the Court is cognizant that Plaintiff's ability to access his records
9 may impact his ability to timely and effectively litigate this action. Accordingly, the Court
10 will, by way of this order, request the assistance of the Litigation Coordinator at Plaintiff's
11 institution, Pelican Bay State Prison, in ensuring that Plaintiff is afforded adequate
12 opportunities to access his files, to the extent doing so is consistent with institutional
13 order and security. See Whitley v. Albers, 475 U.S. 312, 321-322 (1986) (quoting Bell v.
14 Wolfish, 441 U.S. 520, 547 (1970)). The Clerk's Office will be directed to serve a copy of
15 this order on the Litigation Coordinator at Pelican Bay State Prison.

16 **III. Conclusion, Order, and Recommendation**

17 Considering the foregoing, Plaintiff's request for an extension of time to file an
18 opposition to the motion for summary judgment is HEREBY GRANTED. Plaintiff shall file
19 an opposition to the motion for summary judgment within forty-five days of the date of
20 service of this order.

21 Additionally, it is HEREBY RECOMMENDED that Plaintiff's request for court
22 assistance accessing his legal files, to the extent it is construed as a motion for injunctive
23 relief, be DENIED. **However, the Clerk of Court is directed to serve a copy of this**
24 **order on the Litigation Coordinator at Pelican Bay State Prison.**

25 The findings and recommendation will be submitted to the United States District
26 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1).
27 Within fourteen (14) days after being served with the findings and recommendation, the
28 parties may file written objections with the Court. The document should be captioned

1 "Objections to Magistrate Judge's Findings and Recommendation." A party may respond
2 to another party's objections by filing a response within fourteen (14) days after being
3 served with a copy of that party's objections. The parties are advised that failure to file
4 objections within the specified time may result in the waiver of rights on appeal.
5 Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing Baxter v. Sullivan, 923
6 F.2d 1391, 1394 (9th Cir. 1991)).

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IT IS SO ORDERED.

Dated: March 9, 2018

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE