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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

GARDELL COWART,  
Plaintiff,  
v.  
RAHMAN, et al.,  
Defendants.

No. 1:16-CV-00004-AWI-SKO (PC)  
**ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS DENYING  
PLAINTIFF'S MOTION FOR  
PRELIMINARY INJUNCTIVE RELIEF**  
**(Doc. 16)**

Plaintiff, Gardell Cowart, is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. Plaintiff filed a motion seeking injunctive relief on August 15, 2016. (Doc. 16.) On September 23, 2016, the Magistrate Judge issued a Findings and Recommendations to deny Plaintiff's motion for lack of jurisdiction. (Doc. 17.) The Findings and Recommendation was served that same date and allowed for filing of objections. (*Id.*)

On October 7, 2016, Plaintiff filed objections in which he argues that he has presented cognizable claims upon which he should be allowed to proceed. (Doc. 18.) As correctly noted in the Findings and Recommendations, Plaintiff's First Amended Complaint is in line for screening, but it has not been ascertained whether Plaintiff's claims therein are cognizable, let alone whether he is entitled to the relief he requests. *Farmer v. Brennan*, 511 U.S. 825, 845-46 (1994) (citations

1 and quotations omitted). Further, even after screening, assuming that the First Amended  
2 Complaint contains at least one cognizable claim, his request for a temporary restraining  
3 order/injunctive relief cannot be adequately addressed until evidence is submitted. *Barrett v.*  
4 *Belleque*, 544 F.3d 1060 (9th Cir. 2008). This is not to say that Plaintiff will not be allowed to  
5 proceed on claims stated in the First Amended Complaint; nor is it presumed that he will not  
6 prevail thereon. However, at this stage in the litigation, the relief he seeks cannot be granted as it  
7 goes to the very merits of his claim(s), which he will be required to prove upon submission of  
8 evidence at the appropriate time.

9 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a  
10 *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the  
11 Findings and Recommendations to be supported by the record and by proper analysis.

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. The Findings and Recommendations, issued on September 23, 2016 (Doc. 17), is  
14 adopted in full; and
- 15 2. Plaintiff's motion for injunctive relief, filed on August 15, 2016 (Doc. 16), is DENIED  
16 without prejudice.

17 IT IS SO ORDERED.

18 Dated: October 14, 2016

19   
20 SENIOR DISTRICT JUDGE