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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

NICHOLAS PATRICK,  
Plaintiff,  
v.  
REYNAGA, et al.,  
Defendants.

CASE NO. 1:16-cv-00239-LJO-MJS (PC)  
**FINDINGS AND RECOMMENDATION TO  
DENY PLAINTIFF'S MOTION FOR  
INJUNCTIVE RELIEF**  
**(ECF No. 15)**  
**FOURTEEN (14) DAY OBJECTION  
DEADLINE**

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.

Before the Court is Plaintiff's June 29, 2016 motion for injunctive relief. (ECF No. 15.) The motion seeks to have several individuals – some who are named as Defendants in this action and some who are not – transferred from Wasco State Prison, where Plaintiff was housed at the time of filing his motion. Plaintiff claimed that he was being sexually harassed and that female staff was being forced to have sex against their will. Attached to the motion are apparently unrelated minutes from proceedings in a separate case brought by Plaintiff in the United States District Court for the Central District of California.

1 As an initial matter, the Court does not have jurisdiction to order injunctive relief  
2 which would require directing parties not before the Court to take action. Zepeda v.  
3 United States Immigration & Naturalization Serv., 753 F.2d 719, 727 (9th Cir. 1985) (“A  
4 federal court may issue an injunction if it has personal jurisdiction over the parties and  
5 subject matter jurisdiction over the claim; it may not attempt to determine the rights of  
6 persons not before the court.”).

7 Furthermore, the Court finds no basis for awarding the relief Plaintiff requests.  
8 Injunctive relief, whether temporary or permanent, is an “extraordinary remedy, never  
9 awarded as of right.” Winter v. Natural Res. Def. Council, 555 U.S. 7, 22 (2008). “A  
10 plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the  
11 merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that  
12 the balance of equities tips in his favor, and that an injunction is in the public interest.”  
13 Am. Trucking Ass’ns, Inc. v. City of Los Angeles, 559 F.3d 1046, 1052 (9th Cir. 2009)  
14 (quoting Winter, 555 U.S. at 20).

15 Plaintiff heretofore has failed to state a cognizable claim and there presently is no  
16 operative pleading in this matter. The Court therefore cannot conclude that Plaintiff is  
17 likely to succeed on the merits of any claims. Plaintiff also fails to suggest a real and  
18 immediate threat of irreparable injury. See City of Los Angeles v. Lyons, 461 U.S. 95,  
19 101–102 (1983) (plaintiff must show “real and immediate” threat of injury, and “[p]ast  
20 exposure to illegal conduct does not in itself show a present case or controversy  
21 regarding injunctive relief . . . if unaccompanied by any continuing, present, adverse  
22 effects.”). He no longer is housed at Wasco State Prison and any threat of injury arising  
23 out of his placement in that facility appears to be moot. See Preiser v. Newkirk, 422 U.S.  
24 395, 402-03 (1975); Johnson v. Moore, 948 F.2d 517, 519 (9th Cir. 1991); see also  
25 Andrews v. Cervantes, 493 F.3d 1047, 1053 n.5 (9th Cir. 2007). The Court finds nothing  
26 to tip the balance of equities in Plaintiff’s favor. And, while the public has an interest in  
27 providing inmates with constitutionally adequate conditions of confinement, the record  
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1 before the Court does not justify the Court substituting its judgment for that of  
2 correctional staff. These criteria not having been met, Plaintiff is not entitled to  
3 preliminary injunctive relief.

4 Accordingly, it is HEREBY RECOMMENDED that Plaintiff's motion for injunctive  
5 relief be DENIED.

6 The findings and recommendation will be submitted to the United States District  
7 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1).  
8 Within fourteen (14) days after being served with the findings and recommendation, the  
9 parties may file written objections with the Court. The document should be captioned  
10 "Objections to Magistrate Judge's Findings and Recommendation." A party may respond  
11 to another party's objections by filing a response within fourteen (14) days after being  
12 served with a copy of that party's objections. The parties are advised that failure to file  
13 objections within the specified time may result in the waiver of rights on appeal.  
14 Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing Baxter v. Sullivan, 923  
15 F.2d 1391, 1394 (9th Cir. 1991)).

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17 IT IS SO ORDERED.

18 Dated: January 15, 2017

1st Michael J. Seng  
UNITED STATES MAGISTRATE JUDGE

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