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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

EDWARD FURNACE,

Plaintiff,

v.

VILLA,

Defendant.

Case No. 1:16-cv-00420-LJO-BAM (PC)

**ORDER DIRECTING CLERK OF COURT TO
UPDATE PLAINTIFF’S ADDRESS**

**FINDINGS AND RECOMMENDATIONS TO
DENY PLAINTIFF’S MOTION FOR
TRANSFER BACK TO PELICAN BAY
STATE PRISON**

(ECF No. 57)

FOURTEEN (14) DAY DEADLINE

Plaintiff Edward Furnace (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On December 27, 2018, the Court identified this case as an appropriate case for post-screening Alternative Dispute Resolution and stayed this action for 120 days to allow the parties to participate in a settlement conference set for March 19, 2019. (ECF No. 45.) On February 20, 2019, the Court issued an order and writ of habeas corpus ad testificandum ordering the Warden of Pelican Bay State Prison to produce Plaintiff for the purposes of participation in the scheduled settlement conference. (ECF No. 49.)

The settlement conference was held on March 19, 2019, and the case did not settle. That same date, the Court issued an order that Plaintiff was no longer needed as a witness in these proceedings and discharging the writ of habeas corpus ad testificandum. (ECF No. 52.)

1 **I. Plaintiff’s Motion for Transfer to Pelican Bay State Prison**

2 Currently before the Court is Plaintiff’s filing titled “Ex Parte Communication with the
3 Court,” filed March 27, 2019. (ECF No. 57.) Plaintiff states that after appearing for the March 19,
4 2019 settlement conference, he is still being housed at CSATF-Corcoran State Prison. Plaintiff
5 therefore requests an order to expedite his transfer back to Pelican Bay State Prison, as he has no
6 other court dates scheduled in this county, and he has other important matters to attend to at Pelican
7 Bay. Plaintiff states that staff have informed him “that as soon as they receive the order” he’ll be
8 transferred. (Id.) The Court construes Plaintiff’s request as a motion for preliminary injunctive
9 relief.

10 “A preliminary injunction is an extraordinary remedy never awarded as of right.” Winter v.
11 Nat. Res. Defense Council, Inc., 555 U.S. 7, 24 (2008) (citation omitted). “A plaintiff seeking a
12 preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to
13 suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his
14 favor, and that an injunction is in the public interest.” Id. at 20 (citations omitted). An injunction
15 may only be awarded upon a clear showing that the plaintiff is entitled to relief. Id. at 22 (citation
16 omitted).

17 Federal courts are courts of limited jurisdiction and in considering a request for preliminary
18 injunctive relief, the Court is bound by the requirement that as a preliminary matter, it have before it
19 an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S. 95, 101–02 (1983); Valley
20 Forge Christian Coll. v. Ams. United for Separation of Church & State, Inc., 454 U.S. 464, 471
21 (1982). If the Court does not have an actual case or controversy before it, it has no power to hear
22 the matter in question. Id.

23 **II. Discussion**

24 To the extent Plaintiff believes that the Court has continued to order his presence at an
25 institution in this county, as discussed above, the Court has already issued an order discharging the
26 writ of habeas corpus ad testificandum which states that Plaintiff is no longer needed by the Court
27 in this matter. (ECF No. 52.)

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1 However, if Plaintiff is requesting that the Court order prison officials to transfer him back
2 to a particular institution, Plaintiff seeks for this Court to interfere with CDCR's prison
3 administration in determining the housing of a prisoner, such relief cannot be granted. Although the
4 Court understands that Plaintiff may have important matters to attend to at his prior institution, he
5 does not have a constitutional right to be incarcerated at a particular correctional facility (or to be
6 transferred from one facility to another). Meachum v. Fano, 427 U.S. 215, 224–25 (1976); McCune
7 v. Lile, 536 U.S. 24, 38 (2002). The Court declines to intercede in the security issue presented by
8 placement of inmates in particular housing, merely because Plaintiff would simply like to leave the
9 institution where he is currently housed.

10 **III. Conclusion and Recommendation**

11 Accordingly, the Clerk of the Court is HEREBY DIRECTED to update Plaintiff's address,
12 as indicated on Plaintiff's motion for transfer, (ECF No. 57), and to serve these findings and
13 recommendations at Plaintiff's updated address.

14 Furthermore, it is HEREBY RECOMMENDED that Plaintiff's motion for transfer, (ECF
15 No. 57), be DENIED.

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

24 IT IS SO ORDERED.

25 Dated: March 29, 2019

26 /s/ Barbara A. McAuliffe
27 UNITED STATES MAGISTRATE JUDGE
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