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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

DALLAS JOSHUA JAMES MYERS,	)	Case No.: 1:16-cv-00638-AWI-SAB (PC)
	)	
Plaintiff,	)	
	)	FINDINGS AND RECOMMENDATIONS TO
v.	)	DENY PLAINTIFF’S MOTION FOR INJUNCTIVE
	)	RELIEF
L. PULIDO,	)	
	)	(ECF No. 52)
Defendant.	)	<b>FOURTEEN (14) DAY DEADLINE</b>
	)	
	)	
	)	

**I.  
INTRODUCTION**

Plaintiff Dallas J. Myers is a state prisoner appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On June 14, 2017, the parties stipulated to a voluntary dismissal of this action, and thus this matter was terminated and dismissed with prejudice. Fed. R. Civ. P. 41(a)(1)(A)(ii); Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997).

On June 30, 2017, Plaintiff filed a motion seeking an order requiring prison officials at Mule Creek State Prison to give him back his legal property immediately. Plaintiff states that when he was returned to the institution from Court and was told it could take up to 30 days for him to receive all of his property. Plaintiff seeks an order directing that he receive all of his property immediately. The Court construes Plaintiff’s request as a motion seeking preliminary injunctive relief.

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**II.**

**LEGAL STANDARDS**

“A preliminary injunction is an extraordinary remedy never awarded as of right.” Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 24, 129 S. Ct. 365, 376, 172 L.Ed.2d 249 (2008) (citation omitted). “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” Id. at 20 (citations omitted). An injunction may only be awarded upon a clear showing that the plaintiff is entitled to relief. Id. at 22 (citation omitted) (emphasis added).

As a threshold matter, Plaintiff must establish that he has standing to seek preliminary injunctive relief. Summers v. Earth Island Institute, 555 U.S. 488, 493, 129 S. Ct. 1142, 1149, 173 L.Ed.2d 1 (2009) (citation omitted); Mayfield v. United States, 599 F.3d 964, 969 (9th Cir. 2010). Plaintiff “must show that he is under threat of suffering an ‘injury in fact’ that is concrete and particularized; the threat must be actual and imminent, not conjectural or hypothetical; it must be fairly traceable to challenged conduct of the defendant; and it must be likely that a favorable judicial decision will prevent or redress the injury.” Summers, 555 U.S. at 493 (citation omitted); Mayfield, 599 F.3d at 969.

**III.**

**DISCUSSION**

This matter concerned Plaintiff’s claims regarding allegations of past uses of excessive force and unconstitutional conditions of confinement at California State Prison, Corcoran, against Correctional Officers J. Gonzales and H. Flores. Those claims have now been voluntarily dismissed with prejudice by stipulation, and this matter is closed.

The pendency of this action does not give Plaintiff standing to seek any court orders directed at remedying his current conditions of confinement at Mule Creek State Prison, against prison officials who are not a party to this action. Summers, 555 U.S. at 493 (citation omitted); Mayfield, 599 F.3d at 969. The Court’s jurisdiction is limited to the adjudication of Plaintiff’s Eighth Amendment claims

1 arising from prior events at California State Prison, Corcoran. Nor can this Court issue an order  
2 against individuals who are not parties to a suit pending before it. See Zenith Radio Corp. v. Hazeltine  
3 Research, Inc., 395 U.S. 100, 112 (1969).

4 Plaintiff has also failed to allege or demonstrate “actual injury” by the alleged misconduct by  
5 prison officials. Plaintiff asserts that his legal property is required because he has ongoing litigation. It  
6 is unclear what this litigation entails, whether Plaintiff has any pending deadlines, or whether he can  
7 receive any extension on those deadlines based on the need for some additional time to receive his  
8 legal property due to his transfer. Thus, Plaintiff has failed to demonstrate that in the absence of  
9 preliminary injunctive relief he is likely to suffer actual injury in prosecuting his case. “Speculative  
10 injury does not constitute irreparable injury sufficient to warrant granting a preliminary injunction.”  
11 Caribbean Marine Servs. Co. v. Baldrige, 844 F.2d 668, 674 (9th Cir. 1988) (citing Goldies  
12 Bookstore, Inc. v. Superior Court, 739 F.2d 466, 472 (9th Cir. 1984)). Plaintiff has provided no basis  
13 for this court to interfere with the jail’s administration of the delivery of his property.

14 **IV.**

15 **RECOMMENDATION**

16 Based on the foregoing, it is HEREBY RECOMMENDED that Plaintiff’s motion seeking an  
17 order to Mule Creek State Prison to give him back his property immediately, filed June 30, 2017 (ECF  
18 No. 52), be DENIED.

19 This Findings and Recommendation will be submitted to the United States District Judge  
20 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen (14) days**  
21 after being served with this Findings and Recommendation, the parties may file written objections  
22 with the Court. The document should be captioned “Objections to Magistrate Judge’s Findings and  
23 Recommendation.”

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The parties are advised that failure to file objections within the specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: July 12, 2017

  
UNITED STATES MAGISTRATE JUDGE