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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN E. MITCHELL,
Plaintiff,
v.
WARDEN D. DAVEY, et al.,
Defendants.

1:16-cv-01148-EPG (PC)
ORDER GRANTING PLAINTIFF’S MOTION
TO WITHDRAW MOTIONS FOR
INJUNCTIVE RELIEF AND DENYING
MOTION FOR INJUNCTION DIRECTED AT
THE WARDEN OF R.J. DONOVAN
CORRECTIONAL FACILITY
(ECF NOS. 8, 15, 19, & 24)

John Mitchell (“Plaintiff”) is a prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on August 5, 2016. (ECF No. 1). Plaintiff has consented to magistrate judge jurisdiction (ECF No. 7), and no other parties have appeared.¹

Plaintiff filed three motions (ECF Nos. 8, 19, & 24) that all essentially asked for either safe keeping or return of Plaintiff’s personal and legal property, as well as a motion for reconsideration of the Court’s denial of one of the three motions (ECF No. 15). On January 23,

¹ The Office of the Attorney General appeared only to respond one of the motions for injunctive relief. It did not appear on behalf of any defendants. (ECF No. 11, p. 1 n. 1).

1 2017, Plaintiff filed a notice of withdrawal his motions for injunctive relief, which the Court
2 construes as a motion to withdraw. (ECF No. 27).

3 According to Plaintiff, he wishes to withdraw his motions for injunctive relief regarding
4 his legal and personal property that was being withheld by the California Substance Abuse
5 Treatment Facility and California State Prison Corcoran, because he has now received what
6 appears to be all of his legal property. The Court grant will grant Plaintiff’s motion to withdraw
7 his motions for injunctive relief. Because Plaintiff is asking to withdraw the underlying motion
8 for injunctive relief, the Court will treat the motion for reconsideration as withdrawn as well.

9 It is unclear whether the request for withdrawal extends to Plaintiff’s request for an
10 injunction directed at the warden of the R.J. Donovan Correctional Facility (ECF No. 19).
11 Plaintiff has alleged that his legal property, as well as a religious chain and medallion, were taken
12 by a sergeant at R.J. Donovan Correctional Facility. Among other things, Plaintiff asks for return
13 of the property, as well as to be allowed to keep all of his legal and religious items on his person
14 at all times. Plaintiff’s motion to withdraw states that Plaintiff has received what appears to be all
15 of his legal property, so it appears that portion of the injunction request has been resolved.
16 However, Plaintiff does not mention his religious chain and medallion, or his request to be
17 allowed to keep his legal and religious items on his person at all times. To the extent that these
18 requests have not been withdrawn, they will be denied. The Court will also deny the request for
19 an extension of time to respond to the screening order, because Plaintiff has already responded to
20 the screening order (ECF No. 25).

21 “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on
22 the merits and to suffer irreparable harm in the absence of preliminary relief, that the balance of
23 equities tips in his favor, and that an injunction is in the public interest.” Winter v. Natural
24 Resources Defense Council, Inc., 555 U.S. 7, 20 (2008) (citations omitted). “A preliminary
25 injunction is an extraordinary remedy never awarded as a matter of right. In each case, courts
26 must balance the competing claims of injury and must consider the effect on each party of the
27 granting or withholding of the requested relief. In exercising their sound discretion, courts of
28 equity should pay particular regard for the public consequences in employing the extraordinary

1 remedy of injunction.” Id. at 24 (citations and quotations omitted). An injunction may only be
2 awarded upon a clear showing that the plaintiff is entitled to such relief. Id. at 22.

3 Additionally, a federal district court may issue emergency injunctive relief only if it has
4 personal jurisdiction over the parties and subject matter jurisdiction over the lawsuit. See Murphy
5 Bros., Inc. v. Michetti Pipe Stringing, Inc., 526 U.S. 344, 350 (1999) (noting that one “becomes a
6 party officially, and is required to take action in that capacity, only upon service of summons or
7 other authority-asserting measure stating the time within which the party served must appear to
8 defend.”). The court may not attempt to determine the rights of persons not before it. See, e.g.,
9 Hitchman Coal & Coke Co. v. Mitchell, 245 U.S. 229, 234-35 (1916); Zepeda v. INS, 753 F.2d
10 719, 727-28 (9th Cir. 1983); see also Califano v. Yamasaki, 442 U.S. 682, 702 (1979) (injunctive
11 relief must be “narrowly tailored to give only the relief to which plaintiffs are entitled”). Under
12 Federal Rule of Civil Procedure 65(d)(2), an injunction binds only “the parties to the action,”
13 their “officers, agents, servants, employees, and attorneys,” and “other persons who are in active
14 concert or participation.” Fed. R. Civ. P. 65(d)(2)(A)-(C).

15 Plaintiff’s remaining injunction requests will be denied because Plaintiff has failed to
16 satisfy the standard for a preliminary injunction, and because the Court does not currently have
17 jurisdiction over the parties Plaintiff is requesting the injunction against. Plaintiff has directed his
18 injunction request at non-parties (J. Beard and S. Kernan), and he asks for relief that is factually
19 unrelated to the underlying case (See ECF Nos. 16 & 25). This case is proceeding on a claim for
20 failure to provide religious meals against defendants who worked at California State Prison
21 Corcoran. The remaining injunction requests involve return of a religious chain and medallion
22 and Plaintiff’s request to keep all of his religious items and legal documents on his person at all
23 time, and are aimed at non-parties who work at R.J. Donovan Correctional Facility.

24 Additionally, even if Plaintiff did direct this injunction towards a party, and even if the
25 request did relate to this case, there would almost assuredly be safety concerns which would
26 prevent Plaintiff from being able to keep his legal and religious items on his person *at all times*.
27 Accordingly, to the extent the remaining injunction requests have not been withdrawn, they will
28 be denied.

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If Plaintiff believes he has additional claims he may file a separate case alleging those claims.

Accordingly, IT IS ORDERED that Plaintiff's motion to withdraw his motions for injunctive relief is GRANTED. (ECF No. 27)

Plaintiff's motions for injunctive relief (ECF Nos 8, 15, 24) are hereby withdrawn by the Plaintiff.

IT IS FURTHER ORDERED that, to the extent Plaintiff's motion for an injunction directed at the warden of R.J. Donovan Correctional Facility (ECF No. 19) was not withdrawn, it is DENIED.

IT IS SO ORDERED.

Dated: January 24, 2017

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE