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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SAM CONSIGLIO, JR.,
Plaintiff,
v.
EDMUND G. BROWN, et al.,
Defendants.

Case No. 1:16-cv-01268-AWI-SAB (PC)
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO DENY
PLAINTIFF’S REQUEST FOR
PRELIMINARY INJUNCTION
(ECF Nos. 1, 7)

Plaintiff Sam Consiglio, Jr. is a civil detainee 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.

On August 26, 2016, Plaintiff filed his complaint in this action. In his complaint, Plaintiff requested a preliminary injunction to prevent the officials at the institution where he is being civilly detained from enforcing a ban pursuant to 9 C.C.R. § 891 (“Section 891”) (which prohibits non-LPS patients, such as sexually violent predators, from having any access to the internet) and 9 C.C.R. § 4350 (“Section 4350”) (which prohibits all patients in the custody of state hospitals from possessing any electronic devices with wireless capabilities, including but not limited to cell phones, computers, PDAs, electronic gaming devices, and graphing calculators with internet capabilities) during the pendency of this action.

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1 On April 10, 2017, the assigned Magistrate Judge issued a screening order finding that
2 Plaintiff's complaint stated cognizable claims based on allegations that Sections 891 and 4350
3 amount to punishment under the Fourteenth Amendment, and granting him leave to amend his
4 other allegations. (ECF No. 8.) The Magistrate Judge also issued findings and recommendations
5 to deny Plaintiff's request for a preliminary injunction, finding that although Plaintiff alleged
6 enough facts to plead a claim, he has not shown that he is likely to succeed on the merits of his
7 claim, that he is in immediate need of the relief he seeks, or that he is under a significant threat of
8 irreparable harm without a preliminary injunction. (ECF No. 7.) Further, he did not demonstrate
9 that the balance of equities tips in his favor, or that an injunction is in the public interest. (*Id.* at
10 2.) Plaintiff was directed to file his objections to those findings and recommendations within
11 fourteen days. That deadline has passed, and no objections have been filed.¹

12 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, the
13 Court has conducted a *de novo* review of Plaintiff's request. The Court finds the findings and
14 recommendations to be supported by the record and by proper analysis.

15 Accordingly, it is HEREBY ORDERED that:

- 16 1. The findings and recommendations filed on April 10, 2017 (ECF No. 7) are
17 ADOPTED in full; and
18 2. Plaintiff's request for a preliminary injunction (ECF No. 1) is DENIED, without
19 prejudice.

20 IT IS SO ORDERED.

21 Dated: May 25, 2017

22 
23 SENIOR DISTRICT JUDGE
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27 ¹ Plaintiff was also directed to notify the Court whether he intended to proceed on his cognizable claims
28 or to file an amended complaint. (ECF No. 7.) Plaintiff has since notified the Court in writing that he
elects to proceed only on the claims found cognizable. (ECF No. 9.) Separate findings and
recommendations from the Magistrate Judge are pending regarding that matter. (ECF No. 10.)