

1
2
3
4
5
6 **UNITED STATES DISTRICT COURT**

7 EASTERN DISTRICT OF CALIFORNIA

8 THOMAS BODNAR,

9 Plaintiff,

10 v.

11 CALIFORNIA DEPARTMENT OF
12 CORRECTIONS AND REHABILITATION,
13 et al.,

14 Defendants

Case No. 1:16-cv-01398-SAB (PC)

ORDER GRANTING PLAINTIFF'S
MOTION FOR AN EXTENSION OF TIME
TO AMEND COMPLAINT
(ECF No. 17)

ORDER DENYING PLAINTIFF'S
REQUEST FOR AN ORDER DIRECTING
FACILITY TO MAKE LEGAL COPIES
(ECF No. 18)

ORDER DENYING REQUEST FOR AN
ORDER DIRECTING JAIL TO STOP
OPENING LEGAL MAIL
(ECF No. 19)

15
16
17
18 Plaintiff Thomas Bodnar is proceeding pro se and in forma pauperis in this civil rights
19 action pursuant to 42 U.S.C. § 1983

20 Currently before the Court are three motions by Plaintiff, all filed on May 30, 2017: (1) a
21 motion for an extension of time to amend his complaint; (2) a motion for an order directing a
22 correctional facility to make legal copies for Plaintiff; and (3) a motion for an order directing the
23 jail not to open Plaintiff's legal mail. (ECF Nos. 17, 18, 19.) The Court will address each motion
24 in turn.

25 **I.**

26 **EXTENSION OF TIME**

27 Plaintiff requests a thirty-day extension of time to amend his complaint, stating that he
28 has not had sufficient law library access yet to work on the complaint.

1 Good cause being shown, the Court GRANTS Plaintiff's request for an extension of time.
2 Plaintiff shall file his amended complaint or notice of voluntary dismissal on or before thirty (30)
3 days from the date of service of this order.

4 **II.**

5 **REQUEST FOR COPIES**

6 Plaintiff next requests that the Court issue an order directing the jail commander at the
7 correctional facility where he is being held to make legal copies for Plaintiff. Plaintiff states that
8 he asked the deputy about copying legal work, and was told that they do not make legal copies.
9 Plaintiff states that this means he will have to send his only copy out when need be, which
10 infringes on his access to the courts.

11 The order requested by Plaintiff is a form of preliminary injunction. The federal court's
12 jurisdiction is limited in nature and its power to issue equitable orders may not go beyond what is
13 necessary to correct the underlying constitutional violations which form the actual case or
14 controversy. 18 U.S.C. § 3626(a)(1)(A); Summers v. Earth Island Institute, 555 U.S. 488, 493,
15 129 S. Ct. 1142, 1149, 173 L. Ed. 2d 1 (2009); Steel Co. v. Citizens for a Better Env't, 523 U.S.
16 83, 103–04, 118 S. Ct. 1003, 140 L. Ed. 2d 210 (1998); Mayfield v. United States, 599 F.3d 964,
17 969 (9th Cir.2010).

18 This action concerns Plaintiff's allegations of the denial of medical care while he was
19 housed at Valley State Prison. Plaintiff's original complaint was dismissed with leave to amend,
20 and thus no complaint has yet been served nor have any defendants appeared.

21 Plaintiff's request for copies has no relation to the defendants he has named or the causes
22 of action this matter concerns. There is no jurisdiction generally over the jail commander at the
23 jail where Plaintiff is currently being held. Thus, the pendency of this action provides no basis
24 upon which to award Plaintiff injunctive relief. Steel Co., 523 U.S. at 102–103.

25 Furthermore, although inmates do have a constitutional right to access to the courts, it
26 does not include unlimited access to the law library and photocopies. Sands v. Lewis, 886 F.2d
27 1166, 1169 (9th Cir.1989) overruled on other grounds by Lewis v. Casey, 581 U.S. 343, 350–55
28 (1996). There is no authority, statutory or Constitutional, that requires a State to provide free

1 Further, although prisoners have a protected interest in having certain legal mail opened
2 only in their presence, such mail must be properly marked legal mail. See Hayes v. Idaho Corr.
3 Ctr., 849 F.3d 1204, 1211 (9th Cir. 2017). Also, generally prison or jail officials are not
4 prohibited from opening and scanning mail sent by the courts outside of an inmate's presence.
5 See id. (quoting Keenan v. Hall, 83 F.3d 1083, 1094 (9th Cir. 1996) ("Mail from the courts, as
6 contrasted to mail from a prisoner's lawyer, is not legal mail.")). Accordingly, Plaintiff's motion
7 for an injunction requiring the jail commander to open mail from the courts in his presence, even
8 if it is not properly-marked legal mail, is denied.

9 **IV.**

10 **CONCLUSION**

11 For these reasons, the Court HEREBY ORDERS as follows:

- 12 1. Plaintiff's motion for an extension of time to amend his complaint (ECF No. 17),
13 is GRANTED. Plaintiff's amended complaint or notice of voluntary dismissal is due thirty (30)
14 days from the date of service of this order;
- 15 2. Plaintiff's motion for an order directing a correctional facility to make legal
16 copies for Plaintiff (ECF No. 18), is DENIED; and
- 17 3. Plaintiff's motion for an order directing the jail not to open Plaintiff's mail from
18 the courts, regardless of labelling (ECF No. 19), is DENIED.

19
20
21 IT IS SO ORDERED.

22 Dated: June 2, 2017

23
24
25
26
27
28


UNITED STATES MAGISTRATE JUDGE