



1 be actual and imminent, not conjectural or hypothetical; it must be fairly traceable to challenged  
2 conduct of the defendant; and it must be likely that a favorable judicial decision will prevent or redress  
3 the injury. Summers, 555 U.S. at 493; Mayfield, 599 F.3d at 969.

4 Further, any award of equitable relief is governed by the Prison Litigation Reform Act, which  
5 provides in relevant part, “Prospective relief in any civil action with respect to prison conditions shall  
6 extend no further than necessary to correct the violation of the Federal right of a particular plaintiff or  
7 plaintiffs. The court shall not grant or approve any prospective relief unless the court finds that such  
8 relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right,  
9 and is the least intrusive means necessary to correct the violation of the Federal right.” 18 U.S.C. §  
10 3626(a)(1)(A). Thus, the federal court’s jurisdiction is limited in nature and its power to issue  
11 equitable orders may not go beyond what is necessary to correct the underlying constitutional  
12 violations which form the actual case or controversy. 18 U.S.C. § 3626(a)(1)(A); Summers, 555 U.S.  
13 at 493; Steel Co. v. Citizens for a Better Env’t, 523 U.S. 83, 103-104 (1998).

14 Plaintiff has not met the requirements for the injunctive relief he seeks in this motion.  
15 A preliminary injunction cannot be issued directing prison officials to respond and/or process his  
16 inmate grievance. The Prison Litigation Reform Act (“PLRA”) requires inmates to exhaust  
17 administrative remedies before filing civil actions in federal court. 42 U.S.C. § 1997e(a). Thus,  
18 exhaustion of administrative remedies is a prerequisite to prison suits. However, “the PLRA requires  
19 only that a prisoner exhaust available remedies, and ... a failure to exhaust a remedy that is effectively  
20 unavailable does not bar a claim from being heard in federal court.” McBride v. Lopez, 807 F.3d 982,  
21 986 (9th Cir. 2015) (citing Nunez v. Duncan, 591 F.3d 1217, 1225-26 (9th Cir. 2010)). In this action  
22 Plaintiff is proceeding solely on his claim of deliberate indifference to his serious medical needs.

23 If Plaintiff is unable to exhaust his administrative remedies because prison officials failed to  
24 respond or to properly process his inmate appeals regarding the loss of his legal property, such  
25 argument can be raised when and if the issue arises in the appropriate action. Therefore, an order from  
26 this Court requiring prison officials to respond or process Plaintiff’s inmate appeal cannot be granted  
27 nor is it necessary.

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1 Furthermore, Plaintiff is advised the Due Process Clause of the Fourteenth Amendment of the  
2 United States Constitution protects Plaintiff from being deprived of property without due process of  
3 law, Wolff v. McDonnell, 418 U.S. 539, 5563 (1974), and Plaintiff has a protected interest in his  
4 personal property, Hansen v. May, 502 F.2d 728, 730 (9th Cir. 1974). Authorized, intentional  
5 deprivations of property are actionable under the Due Process Clause. See Hudson v. Palmer, 468  
6 U.S. 517, 532, n.13 (1984); Quick v. Jones, 754 F.2d 1521, 1524 (9th Cir. 1985). However, the Due  
7 Process Clause is not violated by the random, unauthorized deprivation of property so long as the state  
8 provides an adequate post-deprivation remedy. Hudson v. Palmer, 468 U.S. 517, 533 (1984); Barnett  
9 v. Centoni, 31 F.3d 813, 816-17 (9th Cir. 1994). In this instance, to the extent that Plaintiff is alleging  
10 that his legal property was lost, it is based on a negligent or unauthorized deprivation, which is not  
11 actionable because he has an adequate post-deprivation remedy under California law, and therefore, he  
12 may not pursue a due process claim arising out of the unlawful confiscation of his personal property.  
13 See Barnett, 31 F.3d at 816-17 (citing Cal. Gov't Code §§ 810-895).

14 Based on the foregoing, it is HEREBY RECOMMENDED that Plaintiff's motion for an order  
15 to return his case file exhibits 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 28 U.S.C. § 636(b)(1). Within **fourteen (14) days**  
18 after being served with these Findings and Recommendations, the parties may file written objections  
19 with the Court. The document should be captioned "Objections to Magistrate Judge's Findings and  
20 Recommendations." The parties are advised that failure to file objections within the specified time  
21 may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir.  
22 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

23  
24 IT IS SO ORDERED.

25 Dated: January 29, 2019

  
26 UNITED STATES MAGISTRATE JUDGE