

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
10

11 RODERICK WILLIAM LEAR,

12 Plaintiff,

13 v.

14 A. MANASRAH,

15 Defendant.  
16  
17  
18  
19

Case No. 1:17-cv-00071-DAD-MJS (PC)

**FINDINGS AND RECOMMENDATIONS  
TO DENY PLAINTIFF'S MOTION FOR  
INJUNCTIVE RELIEF**

**(ECF NO. 18.)**

**FOURTEEN (14) DAY OBJECTION  
DEADLINE**

**CLERK TO SEND COPY OF THIS  
ORDER TO LITIGATION  
COORDINATOR AT PLAINTIFF'S  
INSTITUTION**

20 Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil  
21 rights action brought pursuant to 42 U.S.C. § 1983. Plaintiff brings what the Court  
22 construes as a motion for injunctive relief requesting Plaintiff's institution: (1) Timely  
23 process his requests for library access; (2) Timely process all court orders; and  
24 (3) Cease withholding or delaying mail pertaining to his case. (ECF No. 18.) Plaintiff is  
25 currently incarcerated at High Desert State Prison ("HDSP"). He bases this motion on  
26 his alleged denial of access to the law library at HDSP and his institution's alleged  
27 withholding and/or delay of mail related to this matter.

28 Plaintiff filed a first amended complaint ("FAC") on April 5, 2017. (ECF No. 15.)

1 The Court subsequently dismissed Plaintiff's FAC with leave to amend. (ECF No. 21.) In  
2 its screening order dismissing Plaintiff's FAC, the Court noted that Plaintiff had not  
3 properly identified Defendants under Federal Rule of Civil Procedure 10. Accordingly,  
4 the Court regarded Defendant A. Manasrah, the only individual specified as a  
5 Defendant and named in the caption of Plaintiff's FAC, as the sole Defendant properly  
6 pleaded under Rule 10.

7 Manasrah is not an official at HDSP, Plaintiff's current institution. Rather,  
8 Manasrah is an official at California State Prison, Corcoran. Thus, as Plaintiff already  
9 has been advised (ECF No. 11), any requests for injunctive relief against Manasrah  
10 would appear to be moot. See Preiser v. Newkirk, 422 U.S. 395, 402-03 (1975);  
11 Johnson v. Moore, 948 F.2d 517, 519 (9th Cir. 1991); see also Andrews v. Cervantes,  
12 493 F.3d 1047, 1053 n.5 (9th Cir. 2007).

13 Additionally, the Court previously severed and transferred Plaintiff's claims  
14 against officials at HDSP to the Sacramento Division of the Eastern District of California  
15 under Federal Rule 21 and 28 U.S.C. § 1391(b). (ECF No. 9.) As the Court stated in its  
16 Order for severance and transfer, ECF No. 9, HDSP is in Lassen County, which lies in  
17 the Sacramento Division of this Court. As Plaintiff already has been advised, the Court  
18 does not have jurisdiction to order injunctive relief which would require directing parties  
19 not before the Court, such as officials at HDSP, to take action. Zepeda v. United States  
20 Immigration and Naturalization Serv., 753 F.2d 719, 727 (9th Cir. 1985) ("A federal court  
21 may issue an injunction if it has personal jurisdiction over the parties and subject matter  
22 jurisdiction over the claim; it may not attempt to determine the rights of persons not  
23 before the court."). (ECF No. 11.) Accordingly, the Court cannot grant Plaintiff his  
24 requested relief at HDSP.

25 The Court will, however, ask the Clerk's Office to send this Order to the Litigation  
26 Coordinator at Plaintiff's institution, and will request the Litigation Coordinator's  
27 assistance in providing Plaintiff access to his institution's law library as expeditiously as  
28 possible. The Court will also request that the Litigation Coordinator assist Plaintiff in

1 gaining access to legal materials and facilitate the mailing of materials related to  
2 Plaintiff's matter as practicably and expeditiously as possible.

3 Based on the foregoing, it is HEREBY ORDERED that:

- 4 1. The Clerk's Office is directed to send a copy of this Order to the Litigation  
5 Coordinator at Plaintiff's institution; and
- 6 2. The Court requests the assistance of the Litigation Coordinator at  
7 Plaintiff's institution in facilitating Plaintiff's access to the law library, his  
8 legal materials, and the mailing of materials pertaining to this matter.

9 Additionally, it is HEREBY RECOMMENDED that Plaintiff's motion for injunctive  
10 relief (ECF No. 18) be DENIED.

11 The findings and recommendations will be submitted to the United States District  
12 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1).  
13 Within fourteen (14) days after being served with the findings and recommendations,  
14 Plaintiff may file written objections with the Court. The document should be captioned  
15 "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised  
16 that failure to file objections within the specified time may result in the waiver of rights  
17 on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing Baxter v.  
18 Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

19  
20 IT IS SO ORDERED.

21 Dated: May 22, 2017

22 /s/ Michael J. Seng  
23 UNITED STATES MAGISTRATE JUDGE  
24  
25  
26  
27  
28