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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EFREN DANIELLE BULLARD,
Plaintiff,
v.
BENSON, *et al.*,
Defendants.

Case No. 1:17-cv-00328-LJO-JDP

FINDINGS AND RECOMMENDATIONS TO
DENY PLAINTIFF’S MOTION FOR
PRELIMINARY INJUNCTION

ECF No. 53

OBJECTIONS, IF ANY, DUE WITHIN
FOURTEEN DAYS

I. RELIEF REQUESTED

Plaintiff Efren Danielle Bullard is proceeding without counsel in this civil rights action brought under 42 U.S.C. § 1983. On October 15, 2018, plaintiff filed a proposed order¹ requiring defendants Benson, Jane Doe, and David to show cause why a preliminary injunction should not be issued in this case to enjoin:

- the defendants, their successors in office, agents and employees and all other persons acting in concert and participation with them,
- from, 1. From harassing plaintiff as alle[]ged in the complaint. 2. From sexually assaulting plaintiff. 3. Retaliating against plaintiff for using the gre[i]vance system. 4. Attempting to have

¹ Plaintiff states that he filed “supporting affidavits of plaintiff and [a] memorandum of law” with his proposed order, ECF. No. 53, at 1, but these documents were not received by the clerk of court.

1 inmates/third parties, actors harassing or otherwise retaliating
2 against plaintiff for using the gre[i]vance system. . . . [5.] [C]oming
3 within 100 yards of plaintiff.

4 ECF. No. 53.

5 II. LEGAL STANDARD

6 A federal district court may issue injunctive relief only if the court has personal
7 jurisdiction over the parties and subject matter jurisdiction over the lawsuit. *See Murphy Bros.,*
8 *Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 350 (1999) (noting that one “becomes a party
9 officially, and is required to take action in that capacity, only upon service of summons or other
10 authority-asserting measure stating the time within which the party served must appear to
11 defend”). The court may not attempt to determine the rights of persons not before it. *See*
12 *Hitchman Coal & Coke Co. v. Mitchell*, 245 U.S. 229, 234-35 (1916); *Zepeda v. INS*, 753 F.2d
13 719, 727-28 (9th Cir. 1983); *see also Califano v. Yamasaki*, 442 U.S. 682, 702 (1979) (requiring
14 injunctive relief to be “narrowly tailored to give only the relief to which plaintiffs are entitled”).
15 Under Federal Rule of Civil Procedure 65(d)(2), an injunction binds only “the parties to the
16 action,” their “officers, agents, servants, employees, and attorneys,” and “other persons who are
17 in active concert or participation.” Fed. R. Civ. P. 65(d)(2)(A)-(C). Requests for prospective
18 relief are further limited by 18 U.S.C. § 3626(a)(1)(A) of the Prison Litigation Reform Act,
19 which requires that the court find that the “relief [sought] is narrowly drawn, extends no further
20 than necessary to correct the violation of the Federal Right, and is the least intrusive means
21 necessary to correct the violation of the Federal Right.”

22 “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed
23 on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that
24 the balance of equities tips in his favor, and that an injunction is in the public interest.” *Glossip*
25 *v. Gross*, 135 S. Ct. 2726, 2736-37 (2015) (quoting *Winter v. Natural Res. Def. Council, Inc.*,
26 555 U.S. 7, 20 (2008)). “[P]laintiffs must establish that irreparable harm is likely, not just
27 possible, in order to obtain a preliminary injunction.” *Alliance for the Wild Rockies v. Cottrell*,
28 632 F.3d 1127, 1131 (9th Cir. 2011). In addition to establishing irreparable harm, the injunctive
relief sought must be related to the claims brought in the complaint. *See Pac. Radiation*

1 *Oncology, LLC v. Queen's Med. Ctr.*, 810 F.3d 631, 633 (9th Cir. 2015) (“When a plaintiff
2 seeks injunctive relief based on claims not pled in the complaint, the court does not have the
3 authority to issue an injunction.”).

4 **III. ANALYSIS**

5 As a preliminary matter, plaintiff frames his motion as a proposed order to show cause
6 why a preliminary injunction and temporary restraining order should not issue. The court
7 construes plaintiff’s filing as a request for a preliminary injunction under Federal Rule of Civil
8 Procedure 65.

9 The court will recommend that plaintiff’s motion for injunctive relief be denied because
10 plaintiff has not established any of the four factors outlined in *Glossip v. Gross*, 135 S. Ct. 2726,
11 2736-37 (2015). Plaintiff’s proposed order, which is a single page in length, does not provide
12 any justifications for why a preliminary injunction should issue. In it, plaintiff states that he
13 filed “supporting affidavits of plaintiff and [a] memorandum of law,” ECF. No. 53, at 1, but
14 these documents were not received by the clerk of court. Should plaintiff wish to refile his
15 motion for a preliminary injunction with the proper supporting documents, he may do so.

16 **IV. FINDINGS AND RECOMMENDATIONS**

17 **IT IS HEREBY RECOMMENDED** that plaintiff’s motion for injunctive relief, ECF
18 No. 53, be DENIED.

19 These findings and recommendations will be submitted to the U.S. district judge
20 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14)
21 days of service of these findings and recommendations, plaintiff may file written objections
22 with the court. If plaintiff files such objections, he should do so in a document captioned
23 “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that
24 failure to file objections within the specified time may result in the waiver of rights on appeal.
25 *See Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923
26 F.2d 1391, 1394 (9th Cir. 1991)).

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28 **IT IS SO ORDERED.**

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Dated: October 19, 2018


UNITED STATES MAGISTRATE JUDGE