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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ANTHONY CEASAR HERNANDEZ,

Plaintiff,

v.

BALLAM, et al.,

Defendants.

Case No.: 1:17-cv-00468-BAM (PC)

ORDER DIRECTING THE CLERK OF
COURT TO RANDOMLY ASSIGN A
DISTRICT JUDGE

FINDINGS AND RECOMMENDATIONS
RECOMMENDING DENIAL OF MOTION
FOR AN ORDER TO SHOW CAUSE FOR A
PRELIMINARY INJUNCTION

[ECF No. 24]

Plaintiff Anthony Ceasar Hernandez is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

I. Introduction

Currently before the Court is Plaintiff’s motion for an order to show cause for a preliminary injunction, filed on February 7, 2018. (ECF No. 24.)

In support of his motion, Plaintiff declares that prison officials have become “more aware” of his civil rights case, and have threatened and harassed him as a result. Plaintiff further asserts that he was assaulted, and his protective custody status was unnecessarily revoked by prison officials on February 1, 2018. Plaintiff is also concerned that his property may be lost or misplaced during his housing transfer. Based on the foregoing, Plaintiff seeks for the Court to issue a preliminary injunction directing Defendants and prison officials to (1) refrain from

1 revoking his protective custody status; (2) prevent him from being housed with general
2 population or non-protective custody inmates; (3) not lose his legal property or interfere with his
3 legal mail; (4) refrain from obstructing his access to the law library and duplication services; and
4 (5) restore Plaintiff's S.N.Y status.

5 **II. Discussion**

6 "A preliminary injunction is an extraordinary remedy never awarded as of right." *Winter*
7 *v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008) (citation omitted). "A plaintiff seeking a
8 preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to
9 suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his
10 favor, and that an injunction is in the public interest." *Id.* at 20 (citations omitted). An injunction
11 may only be awarded upon a clear showing that the plaintiff is entitled to relief. *Id.* at 22 (citation
12 omitted).

13 "[A] court has no power to adjudicate a personal claim or obligation unless it has
14 jurisdiction over the person of the defendant." *Zenith Radio Corp. v. Hazeltine Research, Inc.*,
15 395 U.S. 100, 110 (1969); *SEC v. Ross*, 504 F.3d 1130, 1138–39 (9th Cir. 2007). Similarly, the
16 pendency of this action does not give the Court jurisdiction over prison officials in general or
17 over Plaintiff's litigation issues. *Summers v. Earth Island Institute*, 555 U.S. 488, 492-93 (2009);
18 *Mayfield v. United States*, 599 F.3d 964, 969 (9th Cir. 2010). The Court's jurisdiction is limited
19 to the parties in this action and to the cognizable legal claims upon which this action is
20 proceeding. *Summers*, 555 U.S. at 492-93; *Mayfield*, 599 F.3d at 969.

21 In this case, although the Court has screened Plaintiff's second amended complaint and
22 found it has stated a claim, no defendant has yet been served, and no defendant has yet made an
23 appearance. Further, the Defendants are allegedly yard officers at Valley State Prison, not Mule
24 Creek State Prison, where Plaintiff is currently housed, and this case only concerns past events of
25 alleged excessive force and the failure to protect. The pendency of this action does not give the
26 Court jurisdiction over prison officials generally or over Plaintiff's litigation issues generally.
27 Thus, the Court lacks jurisdiction to issue the relief Plaintiff seeks here.

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1 The Court understands Plaintiff to be raising potential issues concerning his safety and
2 security. To the extent that Plaintiff believes he is in imminent danger, he has other avenues of
3 relief available to him, including filing a petition for writ of habeas corpus in state court. *E.g., In*
4 *re Estevez*, 83 Cal.Rptr.3d 479, 491 (Cal. Ct. App. 2008). At Plaintiff’s request, the Court is also
5 willing to provide a copy of his motion to the Warden of Mule Creek State Prison, if Plaintiff has
6 having difficulty reporting these issues otherwise. However, the pendency of this action does not
7 give the Court jurisdiction to issue the injunctive relief he requests.

8 **III. Conclusion**

9 Accordingly, it is HEREBY ORDERED for the Clerk of the Court to randomly assign a
10 district judge to this action.

11 Further, for the reasons explained above, it is HEREBY RECOMMENDED that
12 Plaintiff’s motion for an order to show cause for a preliminary injunction (ECF No. 24) be
13 DENIED, without prejudice.

14 These Findings and Recommendations will be submitted to the United States District
15 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within
16 **fourteen (14) days** after being served with these Findings and Recommendations, Plaintiff may
17 file written objections with the Court. The document should be captioned “Objections to
18 Magistrate Judge’s Findings and Recommendation.” Plaintiff is advised that failure to file
19 objections within the specified time may result in the waiver of the “right to challenge the
20 magistrate’s factual findings” on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir.
21 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

22
23 IT IS SO ORDERED.

24 Dated: February 9, 2018

/s/ Barbara A. McAuliffe
25 UNITED STATES MAGISTRATE JUDGE