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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

DANIEL VALADEZ,  
  
  Plaintiff,  
  
  v.  
  
CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND  
REHABILITATION,  
  
  Defendant.

Case No. 1:17-cv-00551-LJO-BAM (PC)  
  
FINDINGS AND RECOMMENDATIONS  
RECOMMENDING DENIAL OF MOTION  
FOR INJUNCTIVE RELIEF  
  
(ECF No. 17)  
  
**FOURTEEN (14) DAY DEADLINE**

Plaintiff Daniel Valadez (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action under 42 U.S.C. § 1983.

On April 19, 2017, Plaintiff filed a motion for injunctive relief, requesting that the Court issue an order to the California Department of Corrections and Rehabilitation to immediately allow Plaintiff family visits overnight. (ECF No. 3.) The Court denied the motion, finding that Plaintiff had not met the requirements for injunctive relief, and that the Court lacked jurisdiction over the defendant. (ECF Nos. 12, 13.)

On October 6, 2017, the Court dismissed the complaint for failure to state a cognizable claim and granted leave to amend within thirty days. (ECF No. 14.) Plaintiff filed a first amended complaint and a renewed motion for injunctive relief on October 23, 2017. (ECF Nos. 17, 18.) Plaintiff seeks an order “taking away the defendant’s capabilities of denying plaintiff

1 family visiting when or if plaintiff chooses to pursue family visiting like the other inmates can  
2 get, due to the law of the defendant violates plaintiff's civil rights as it stands currently." (ECF  
3 No. 17.)

4 As Plaintiff has been informed, "[a] preliminary injunction is an extraordinary remedy  
5 never awarded as of right." Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 24 (2008) (citation  
6 omitted). "A plaintiff seeking a preliminary injunction must establish that he is likely to succeed  
7 on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that  
8 the balance of equities tips in his favor, and that an injunction is in the public interest." Id. at 20  
9 (citations omitted).

10 Plaintiff's motion again fails to establish that he is likely to succeed on the merits, that he  
11 will suffer irreparable harm in the absence of an injunction, that the balance of equities tips in his  
12 favor, or that an injunction is in the public interest. Indeed, on the basis of the motion, the Court  
13 cannot find that Plaintiff will suffer any, much less irreparable, harm if the relief is not granted, as  
14 Plaintiff states that the injunction would apply "when or if" he pursues family visitation. (ECF  
15 No. 17.)

16 Moreover, the Court has not screened Plaintiff's first amended complaint to determine  
17 whether it states a cognizable claim, no defendant has been ordered served, and no defendant has  
18 yet made an appearance. Thus, the Court remains without personal jurisdiction over the  
19 defendant, and cannot issue an order requiring it to take any action. Zenith Radio Corp. v.  
20 Hazeltine Research, Inc., 395 U.S. 100, 110 (1969); SEC v. Ross, 504 F.3d 1130, 1138–39 (9th  
21 Cir. 2007).

22 Accordingly, it is HEREBY RECOMMENDED that Plaintiff's motion for injunctive  
23 relief (ECF No. 17) be DENIED without prejudice.

24 These Findings and Recommendations will be submitted to the United States District  
25 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within  
26 **fourteen (14) days** after being served with these Findings and Recommendations, Plaintiff may  
27 file written objections with the Court. The document should be captioned "Objections to  
28 Magistrate Judge's Findings and Recommendation." Plaintiff is advised that failure to file

1 objections within the specified time may result in the waiver of the “right to challenge the  
2 magistrate’s factual findings” on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir.  
3 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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IT IS SO ORDERED.

Dated: November 6, 2017

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE