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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

SANTOS VALENZUELA,)	Case No.: 1:17-cv-01440-LJO-SAB (PC)
)	
Plaintiff,)	
)	FINDINGS AND RECOMMENDATIONS
v.)	RECOMMENDING PLAINTIFF’S MOTION
)	FOR INJUNCTIVE RELIEF BE DENIED
SMITH, et al.,)	
)	[ECF No. 34]
Defendants.)	
)	
)	
)	
)	

18 Plaintiff Santos Valenzuela is appearing pro se and in forma pauperis in this civil rights action
19 pursuant to 42 U.S.C. § 1983.

20 Currently before the Court is Plaintiff’s motion seeking a court order to stop prison officials
21 from tampering with his legal mail and interfering with his access to the courts, filed December 7,
22 2018. The Court construes Plaintiff’s motion as a request for a preliminary injunction.

**I.
DISCUSSION**

A. Legal Standards

25 A preliminary injunction is an extraordinary remedy never awarded as of right. Winter v.
26 Natural Resources Defense Council, Inc., 555 U.S. 7, 9 (2008). For each form of relief sought in
27 federal court, Plaintiff must establish standing. Summers v. Earth Island Institute, 555 U.S. 488, 493
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1 (2009); Mayfield v. United States, 599 F.3d 964, 969 (9th Cir. 2010). This requires Plaintiff to show
2 that he is under threat of suffering an injury in fact that is concrete and particularized; the threat must
3 be actual and imminent, not conjectural or hypothetical; it must be fairly traceable to challenged
4 conduct of the defendant; and it must be likely that a favorable judicial decision will prevent or redress
5 the injury. Summers, 555 U.S. at 493; Mayfield, 599 F.3d at 969.

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

16 Plaintiff has not met the requirements for the injunctive relief he seeks in this motion. As an
17 initial matter, “a court has *no* power to adjudicate a personal claim or obligation unless it has
18 jurisdiction over the person of the defendant.” Zenith Radio Corp. v. Hazeltine Research, Inc., 395
19 U.S. 100, 110 (1969) (emphasis added); S.E.C. v. Ross, 504 F.3d 1130, 1138-39 (9th Cir. 2007). On
20 November 30, 2018, Plaintiff filed a first amended complaint. (ECF No. 33.) On December 5, 2018,
21 the undersigned screened Plaintiff’s first amended complaint pursuant to 28 U.S.C. § 1915A, and
22 found that Plaintiff failed to state any cognizable claims for relief warranting dismissal of the action.
23 (ECF No. 33.) In this case, no defendant has yet made an appearance. Thus, the Court lacks personal
24 jurisdiction over the defendants and it cannot issue an order requiring them to take any action. Zenith
25 Radio Corp., 395 U.S. at 110; Ross, 504 F.3d at 1138-39.

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1 With regard to law library access, inmates have a fundamental constitutional right of access to
2 the courts. Lewis v. Casey, 518 U.S. 343, 346 (1996); Silva v. Di Vittorio, 658 F.3d 1090, 1101 (9th
3 Cir. 2011); Phillips v. Hust, 588 F.3d 652, 655 (9th Cir. 2009). However, to state a viable claim for
4 relief, Plaintiff must show that he suffered an actual injury, which requires “actual prejudice to
5 contemplated or existing litigation.” Nevada Dep’t of Corr. v. Greene, 648 F.3d 1014, 1018 (9th Cir.
6 2011) (citing Lewis, 518 U.S. at 348) (internal quotation marks omitted); Christopher v. Harbury, 536
7 U.S. 403, 415 (2002); Lewis, 518 U.S. at 351; Phillips, 588 F.3d at 655.

8 A prisoner cannot submit conclusory declarations of injury by claiming his access to the courts
9 has been impeded. Thus, it is not enough for an inmate to show some sort of denial of access without
10 further elaboration. Plaintiff must demonstrate “actual injury” from the denial and/or delay of access.
11 The Supreme Court has described the “actual injury” requirement:

12 [T]he inmate ... must go one step further and demonstrate that the alleged
13 shortcomings in the library or legal assistance program hindered his efforts to pursue a
14 legal claim. He might show, for example, that a complaint he prepared was dismissed
15 for failure to satisfy some technical requirement which, because of deficiencies in the
16 prison’s legal assistance facilities, he could not have known. Or that he suffered
17 arguably actionable harm that he wished to bring before the courts, but was so stymied
18 by inadequacies of the law library that he was unable even to file a complaint.

19 Lewis, 518 U.S. at 351.

20 In this instance, Plaintiff has failed to allege or demonstrate “actual injury” by the failure of
21 access to his legal mail. In fact, as noted above, the Court received and filed Plaintiff’s first amended
22 complaint on November 30, 2018. (ECF No. 32.) Thus, Plaintiff has failed to demonstrate that in the
23 absence of preliminary injunctive relief he is likely to suffer actual injury in prosecuting his case.
24 “Speculative injury does not constitute irreparable injury sufficient to warrant granting a preliminary
25 injunction.” Caribbean Marine Servs. Co. v. Baldrige, 844 F.2d 668, 674 (9th Cir. 1988), citing
26 Goldies Bookstore, Inc. v. Superior Court, 739 F.2d 466, 472 (9th Cir. 1984). Plaintiff has provided
27 no basis for this Court to interfere with the prison’s administration of its access to the law library and
28 legal property, and his request for injunctive relief should be denied.

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II.
RECOMMENDATION

Based on the foregoing, it is HEREBY RECOMMENDED that Plaintiff’s motion for a preliminary injunction, filed December 7, 2018, be denied.

This Findings and Recommendation will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen (14) days** after being served with this Findings and Recommendation, Plaintiff may file written objections with the Court. The document should be captioned “Objections to Magistrate Judge’s Findings and Recommendation.” Plaintiff is advised that failure to file objections within the specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: December 10, 2018


UNITED STATES MAGISTRATE JUDGE