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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

NATHANIEL MARCUS GANN,
Plaintiff,
v.
KOKOR, et al.,
Defendants.

Case No. 1:18-cv-00084-AWI-BAM (PC)
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS REGARDING
DENIAL OF MOTION FOR PRELIMINARY
INJUNCTION
(ECF No. 18)

Plaintiff Nathaniel Marcus Gann (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action in Kings County Superior Court on August 16, 2017, and it was removed to this court by Defendants on January 16, 2018. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 12, 2018, Plaintiff filed a motion for an injunction to prevent Defendants from searching through Plaintiff’s central file until discovery is opened in this action. (ECF No. 12.) On May 11, 2018, the assigned Magistrate Judge issued findings and recommendations recommending denial of the motion. (ECF No. 18.) Plaintiff timely filed objections on May 30, 2018. (ECF No. 19.)

In his objections, Plaintiff argues that his medical records should remain as confidential as if he were any other citizen bringing a complaint, citing HIPAA. He also states his belief that information is being placed into his records without his knowledge, which is somehow interfering

1 with his ongoing medical care. Plaintiff further argues that he does not believe there is a
2 legitimate penological interest in accessing his central file or health records, merely a litigation
3 interest. Finally, Plaintiff believes that Defendants believe in the merits of his claims, or they
4 would have asked for summary judgment when this action was before the state court. (Id.)

5 Plaintiff's objections are unpersuasive. As discussed in the findings and
6 recommendations, Plaintiff has placed his own medical care at issue by bringing this lawsuit,
7 thereby waiving any right to privacy he may otherwise have maintained. Furthermore, as a
8 prisoner, Plaintiff's privacy expectations are not the same as any other citizen bringing a
9 complaint. Seaton v. Mayberg, 610 F.3d 530, 534 (9th Cir. 2010).

10 Additionally, Plaintiff's complaint has not yet been screened, and the Court has made no
11 determination that Plaintiff has stated cognizable claims for relief. Therefore, Plaintiff has failed
12 to meet the threshold requirement of showing a likelihood of success on the merits.

13 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this Court has conducted a
14 *de novo* review of the case. None of Plaintiff's objections provide a legal basis on which to
15 question the Magistrate Judge's findings and recommendations. Having carefully reviewed the
16 entire file, the Court concludes that the Magistrate Judge's findings and recommendations are
17 supported by the record and by proper analysis.

18 Accordingly, IT IS HEREBY ORDERED that:

- 19 1. The findings and recommendations issued on May 11, 2018, (ECF No. 18), are adopted in
20 full;
- 21 2. Plaintiff's motion for injunctive relief, (ECF No. 12), is denied; and
- 22 3. The matter is referred back to the assigned Magistrate Judge for further proceedings
23 consistent with this order.

24 IT IS SO ORDERED.

25 Dated: June 22, 2018

26 
27 SENIOR DISTRICT JUDGE
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