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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CHESTER RAY WISEMAN,)	Case No.: 1:18-cv-00126-LJO-SAB (PC)
)	
Plaintiff,)	
)	FINDINGS AND RECOMMENDATION
v.)	REGARDING PLAINTIFF’S REQUEST FOR A
)	COURT ORDER REQUIRING LAW LIBRARIAN
MARTIN D. BITER, et al.,)	TO PROVIDE COPIES OF DISCOVERY
)	DOCUMENTS
Defendants.)	
)	[ECF No. 39]
)	

Plaintiff Chester Ray Wiseman is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

Currently before the Court is Plaintiff’s request for a court order requiring the law library to provide copies of discovery documents not mailed from the law library, filed September 13, 2018.

The Court construes Plaintiff’s request as a request for injunctive relief.

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

Further, any award of equitable relief is governed by the Prison Litigation Reform Act, which provides in relevant part, “Prospective relief in any civil action with respect to prison conditions shall

1 extend no further than necessary to correct the violation of the Federal right of a particular plaintiff or
2 plaintiffs. The court shall not grant or approve any prospective relief unless the court finds that such
3 relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right,
4 and is the least intrusive means necessary to correct the violation of the Federal right.” 18 U.S.C. §
5 3626(a)(1)(A). Thus, the federal court’s jurisdiction is limited in nature and its power to issue
6 equitable orders may not go beyond what is necessary to correct the underlying constitutional
7 violations which form the actual case or controversy. 18 U.S.C. § 3626(a)(1)(A); Summers, 555 U.S.
8 at 493; Steel Co. v. Citizens for a Better Env’t, 523 U.S. 83, 103-104 (1998).

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

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

20 Lewis, 518 U.S. at 351.

21 In this instance, Plaintiff contends that the law librarian at Corcoran State Prison has denied
22 him copies because Plaintiff is not mailing the legal documents directly from the library. Plaintiff was
23 informed to obtain copies from the program office or building counselor. Plaintiff has failed to allege
24 or demonstrate “actual injury” by the alleged misconduct by prison officials. Thus, Plaintiff has failed
25 to demonstrate that in the absence of preliminary injunctive relief he is likely to suffer actual injury in
26 prosecuting his case. “Speculative injury does not constitute irreparable injury sufficient to warrant
27 granting a preliminary injunction.” Caribbean Marine Servs. Co. v. Baldrige, 844 F.2d 668, 674 (9th
28 Cir. 1988), citing Goldies Bookstore, Inc. v. Superior Court, 739 F.2d 466, 472 (9th Cir. 1984).
Merely requiring Plaintiff to seek copies from other than the law library does not deny him access to
the courts, and Plaintiff has provided no basis for this court to interfere with the prison’s

1 administration of its access to photocopy services.

2 Moreover, this action is proceeding against Defendants Perez, Pompa, Rivera, Romero and
3 Swanson for Plaintiff's deliberate indifference to a serious medical, and not against law librarian
4 Collin Cormier for denial of access to the courts. Plaintiff seeks to enjoin prison officials, including
5 some named Defendants for alleged actions outside of the scope of his excessive force claim, and
6 Plaintiff has neither demonstrated a likelihood of success on the merits nor the threat of irreparable
7 injury as to any Defendant. Plaintiff also seeks injunctive relief against individuals who are not named
8 Defendants in this action. This Court is unable to issue an order against individuals who are not
9 parties to a suit pending before it. See Zenith Radio Corp. v. Hazeltine Research, Inc., 395 U.S. 100,
10 112 (1969). Accordingly, Plaintiff's requests for a preliminary injunction must be denied.

11 Based on the foregoing, it is HEREBY RECOMMENDED that Plaintiff's motion for a
12 preliminary injunction be DENIED.

13 This Findings and Recommendation will be submitted to the United States District Judge
14 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **twenty-one (21)**
15 **days** after being served with this Findings and Recommendation, the parties may file written
16 objections with the Court. The document should be captioned "Objections to Magistrate Judge's
17 Findings and Recommendation." The parties are advised that failure to file objections within the
18 specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-
19 39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

20
21 IT IS SO ORDERED.

22 Dated: September 18, 2018



UNITED STATES MAGISTRATE JUDGE