

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**

9 EASTERN DISTRICT OF CALIFORNIA

10
11 KYLE PETERSEN,

12 Plaintiff,

13 v.

14 FRESNO COUNTY SHERIFF'S OFFICE,
15 et al.,

16 Defendants.

Case No. 1:18-cv-00531-LJO-BAM (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS REGARDING
DENIAL OF MOTION FOR PRELIMINARY
INJUNCTION

(ECF No. 10)

17 Plaintiff Kyle Petersen ("Plaintiff") is a county jail inmate proceeding *pro se* and *in forma*
18 *pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to a
19 United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

20 On May 22, 2018, Plaintiff filed a motion seeking a court order allowing him access to the
21 legal research kiosk at the Fresno County Jail. (ECF No. 9.) On May 23, 2018, the assigned
22 Magistrate Judge construed the request as a motion for a preliminary injunction and issued
23 findings and recommendations recommending denial of the motion. (ECF No. 10.) Plaintiff
24 timely filed objections on June 4, 2018. (ECF No. 11.)

25 In his objections, Plaintiff argues that the Court should grant his request because he does
26 not have control over whether the Court has screened his complaint and found cognizable claims,
27 he requires access to the applicable case law and statutes to cite in his grievances regarding the
28 claims presented in this action, and the relief sought is narrowly drawn. In addition, Plaintiff

1 argues that the Court has jurisdiction over the Fresno County Jail, because he has named it as a
2 party to this action. (Id.)

3 Plaintiff's objections are unpersuasive. As discussed in the findings and
4 recommendations, Plaintiff's complaint has not yet been screened, and the Court has made no
5 determination that Plaintiff has stated cognizable claims for relief. Therefore, Plaintiff has failed
6 to meet the threshold requirement of showing a likelihood of success on the merits.

7 Furthermore, the Court may not issue an order requiring the Fresno County Jail to take
8 any action. Although Plaintiff has named the Fresno County Jail as a defendant in his complaint,
9 no defendant has been ordered served, and no defendant has made an appearance. Thus, the
10 Court lacks personal jurisdiction over the Fresno County Jail.

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

16 Accordingly, IT IS HEREBY ORDERED that:

- 17 1. The findings and recommendations issued on May 23, 2018, (ECF No. 10), are adopted in
18 full;
- 19 2. Plaintiff's motion for injunctive relief, (ECF No. 9), is denied; and
- 20 3. The matter is referred back to the assigned Magistrate Judge for further proceedings
21 consistent with this order.

22
23 IT IS SO ORDERED.

24 Dated: June 5, 2018

/s/ Lawrence J. O'Neill
UNITED STATES CHIEF DISTRICT JUDGE