



1 defendant; and it must be likely that a favorable judicial decision will prevent or redress the injury.  
2 Summers, 555 U.S. at 493; Mayfield, 599 F.3d at 969.

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

### 13 **B. Analysis**

14 Plaintiff has not met the requirements for the injunctive relief he seeks in this motion. Plaintiff  
15 seeks an order “enjoining Defendants, the Mental Health Services Delivery System (MHSDS) at Kern  
16 Valley State Prison (KVSP) and Custody staff employed at KVSP, from using “Outpatient Housing  
17 Unit” (OHU) cells at the prison for the purpose of monitoring Inmates placed on Suicide-Watch  
18 Observation status.” (Mot. at 1.) Plaintiff submits that his request for a copy of the suicide watch  
19 observation notes/records for February 5 and 6, 2018, was denied because the documents were not in  
20 his medical file. (Id. at 8.)

21 Plaintiff is advised that “[f]ederal courts have the implied or inherent power to issue  
22 preservation orders as part of their general authority ‘to manage their own affairs so as to achieve the  
23 orderly and expeditious disposition of cases.’” American LegalNet, Inc. v. Davis, 673 F.Supp.2d  
24 1063, 1071 (C.D. Cal. 2009) (quoting Pueblo of Laguna v. United States, 60 Fed. Cl. 133, 135-36  
25 (2004)). Spoliation occurs when a party destroys, significantly alters, or fails to preserve evidence in  
26 pending or reasonably foreseeable litigation. United States v. Kitsap Physicians Serv., 314 F.3d 995,  
27 1001 (9th Cir. 2002). The authority to impose sanctions for spoliation arises from a court’s inherent  
28 powers to control the judicial process. Medical Laboratory Mgmt. Consultants v. American

1 Broadcasting Companies, Inc., 306 F.3d 806, 824 (9th Cir. 2002). The exercise of a court’s inherent  
2 powers must be applied with “restraint and discretion” and only to the degree necessary to redress the  
3 abuse. Chambers v. NASCO, Inc., 501 U.S. 32, 45 (1991); see also Schmid v. Milwaukee Electric  
4 Tool Corp., 13 F.3d 76, 79 (3d Cir. 1994) (courts should choose “the least onerous sanction  
5 corresponding to the willfulness of the destructive act and the prejudice suffered by the victim”).

6 A party seeking sanctions based on the spoliation of evidence must establish the following  
7 three elements: (1) that the party having control over the evidence had an obligation to preserve it at  
8 the time it was destroyed; (2) that the records were destroyed with a “culpable state of mind” and (3)  
9 that the evidence was “relevant” to the party’s claim or defense such that a reasonable trier of fact  
10 could find that it would support that claim or defense. Zubulake v. USB Warburg LLC, 220 F.R.D.  
11 212, 220 (S.D.N.Y. 2003) (citing Residential Funding Corp. v. DeGeorge Fin’l Corp., 306 F.3d 99,  
12 108 (2d Cir. 2002)). “After considering these factors, a court must then consider all available  
13 sanctions and determine the appropriate one.” Apple Inc. v. Samsung Electronics Co., Ltd., 881  
14 F.Supp.2d 1132, 1138 (N.D. Cal. 2012). The party seeking spoliation sanctions has the burden of  
15 establishing the elements of a spoliation claim. Centrifugal Force, Inc. v. Softnet Communication,  
16 Inc., 783 F.Supp.2d 736, 740 (S.D.N.Y. 2011).

17 Plaintiff’s motion is not premised on any showing that *relevant* evidence has been destroyed.  
18 While Plaintiff contends that a request for the suicide watch observation notes/records were not  
19 located within his medical file, the Court cannot determine that such evidence is relevant or that it was  
20 lost or intentionally destroyed during the pendency of this action. Zubalake, 220 F.R.D. at 220.  
21 Discovery in this action is ongoing and the discovery deadline is currently set for June 9, 2019. To the  
22 extent there is a dispute over whether certain evidence exists and/or should be disclosed, the proper  
23 procedural mechanism is to file a motion to compel. Accordingly, Plaintiff’s motion for a preliminary  
24 injunction should be denied.

## 25 II.

### 26 RECOMMENDATION

27 Based on the foregoing, it is HEREBY RECOMMENDED that Plaintiff’s motion for a  
28 preliminary injunction be denied.

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

8  
9 IT IS SO ORDERED.

10 Dated: January 23, 2019



11 UNITED STATES MAGISTRATE JUDGE