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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JEROME MARKIEL DAVIS,
Plaintiff,
v.
STATE OF CALIFORNIA, *et al.*,
Defendants.

Case No. 1:18-cv-00832-DAD-BAM (PC)
FINDINGS AND RECOMMENDATIONS
REGARDING PLAINTIFF’S MOTION FOR
PRELIMINARY INJUNCTION
(ECF No. 35)
FOURTEEN (14) DAY DEADLINE

I. Background

Plaintiff Jerome Markiel Davis (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff’s complaint against Defendant Roberts in her individual capacity for deliberate indifference in violation of the Eighth Amendment, arising from the alleged incident of food tampering.

Currently before the Court is Plaintiff’s motion to order CDCR envelopes and stationary, filed October 23, 2019, which the Court construes as a motion for preliminary injunction. (ECF No. 35.) Defendant Roberts has not filed a response to the motion, and the deadline to do so has expired.

In his motion, Plaintiff argues that although CDCR has an indigent system for inmates, they do not like to accommodate inmates who are proceeding *pro per* in lawsuits with envelopes,

1 without a court order. Therefore, Plaintiff requests that the Court order CDCR to provide him
2 with items such as envelopes, stationary, and pens, on the basis that he is an indigent pro per
3 inmate. (Id.)

4 **II. Motion for Preliminary Injunction**

5 “A preliminary injunction is an extraordinary remedy never awarded as of right.” Winter
6 v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 24 (2008) (citation omitted). “A plaintiff seeking a
7 preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to
8 suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his
9 favor, and that an injunction is in the public interest.” Id. at 20 (citations omitted). An injunction
10 may only be awarded upon a clear showing that the plaintiff is entitled to relief. Id. at 22 (citation
11 omitted).

12 Federal courts are courts of limited jurisdiction and in considering a request for
13 preliminary injunctive relief, the Court is bound by the requirement that as a preliminary matter, it
14 have before it an actual case or controversy. City of L.A. v. Lyons, 461 U.S. 95, 102 (1983);
15 Valley Forge Christian Coll. v. Ams. United for Separation of Church & State, Inc., 454 U.S.
16 464, 471 (1982). If the Court does not have an actual case or controversy before it, it has no
17 power to hear the matter in question. Id. Requests for prospective relief are further limited by 18
18 U.S.C. § 3626(a)(1)(A) of the Prison Litigation Reform Act, which requires that the Court find
19 the “relief [sought] is narrowly drawn, extends no further than necessary to correct the violation
20 of the Federal right, and is the least intrusive means necessary to correct the violation of the
21 Federal right.”

22 Furthermore, the pendency of this action does not give the Court jurisdiction over prison
23 officials in general. Summers v. Earth Island Inst., 555 U.S. 488, 491–93 (2009); Mayfield v.
24 United States, 599 F.3d 964, 969 (9th Cir. 2010). The Court’s jurisdiction is limited to the parties
25 in this action and to the viable legal claims upon which this action is proceeding. Summers, 555
26 U.S. at 491–93; Mayfield, 599 F.3d at 969.

27 In his motion, Plaintiff does not seek injunctive relief against Defendant Roberts, who is
28 the only defendant remaining in this action. “A federal court may issue an injunction [only] if it

1 has personal jurisdiction over the parties and subject matter jurisdiction over the claim; it may not
2 attempt to determine the rights of persons not before the court.” Zepeda v. U.S. Immigration
3 Serv., 753 F.2d 719, 727 (9th Cir. 1985). Thus, the Court must deny Plaintiff’s motion because it
4 lacks jurisdiction over CDCR generally, or any staff apparently responsible for the distribution of
5 envelopes or stationary to indigent inmates.

6 **III. Recommendation**

7 Accordingly, it is HEREBY RECOMMENDED that Plaintiff’s motion for preliminary
8 injunction, (ECF No. 35), be DENIED for lack of jurisdiction.

9 These Findings and Recommendation will be submitted to the United States District Judge
10 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen**
11 **(14) days** after being served with these Findings and Recommendation, Plaintiff may file written
12 objections with the court. The document should be captioned “Objections to Magistrate Judge’s
13 Findings and Recommendation.” Plaintiff is advised that failure to file objections within the
14 specified time may result in the waiver of the “right to challenge the magistrate’s factual
15 findings” on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing Baxter v.
16 Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

17
18 IT IS SO ORDERED.

19 Dated: November 18, 2019

/s/ Barbara A. McAuliffe
20 UNITED STATES MAGISTRATE JUDGE