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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 JOSE ROBERTO ZAIZA,

12 Plaintiffs,

13 vs.

14 CLARK, et al.,

15 Defendants.
16

1:19-cv-01476-DAD-GSA-PC

**FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT PLAINTIFF'S
MOTION FOR PRELIMINARY
INJUNCTIVE RELIEF BE DENIED
(ECF No. 32.)**

**OBJECTIONS, IF ANY, DUE WITHIN
FOURTEEN DAYS**

17 **I. BACKGROUND**

18 Jose Roberto Zaiza ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma*
19 *pauperis* with this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the
20 Complaint commencing this action on October 17, 2019. (ECF No. 1.) This case now proceeds
21 with the First Amended Complaint against Defendants Ken Clark (Warden) and Captain J.
22 Gallagher¹ (collectively, "Defendants") for insufficient access to out-of-cell exercise in violation
23 of the Eighth Amendment.² (ECF No. 11.)
24

25 ¹ Sued as Gallagher.

26 ² On April 20, 2021, the court issued an order dismissing all claims and defendants from
27 this case except for Plaintiff's adverse conditions of confinement claims against defendants Clark,
28 Gallagher, and Baughman, for Plaintiff's failure to state a claim. (ECF No. 15.) On January 27, 2022,
the Court granted in part Defendants' motion to dismiss, dismissing Defendant Baughman from this case.
(ECF No. 21.)

1 On March 21, 2022, Plaintiff filed a motion for preliminary injunctive relief. (ECF No.
2 32.) On May 2, 2022, Defendants filed an opposition to the motion. (ECF No. 38.) The motion
3 is now before the Court. Local Rule 230(l).

4 **II. PLAINTIFF’S MOTION**

5 Plaintiff requests a court order lifting the quarantine lockdown at the prison and allowing
6 him access to the law library. Plaintiff asserts that early in March 2022, Defendant Ken Clark
7 (Warden) ordered that the C-Facility 3 Building, where Plaintiff is housed, be placed on a Covid
8 19 quarantine lockdown. Plaintiff argues that Defendant Clark has not followed CDC guidelines
9 limiting enforcement of the lockdown to 21 days. Plaintiff claims he does not have the Covid 19
10 virus and that he should have law library access.

11 Defendants oppose the motion and argue that Plaintiff *does* have access to the law library
12 because even during short-term lockdowns the library paging system was still in effect and
13 available to general users, subject to custody status and librarian availability. While Defendants
14 acknowledge that Plaintiff’s access to the library is not unlimited, they assert that Plaintiff has
15 not been denied access to legal materials to which he was entitled and prison officials have
16 promptly responded to his requests for materials, forms, and cases for in-cell study. Defendants
17 also argue that Plaintiff has not shown that he will suffer irreparable harm if his requested relief
18 is not granted, that he is likely to succeed on the merits in this lawsuit, that the balance of equities
19 tips in his favor, or that an injunction is in the public interest.

20 **Preliminary Injunctive Relief**

21 The purpose of a preliminary injunction is to preserve the status quo if the balance of
22 equities so heavily favors the moving party that justice requires the court to intervene to secure
23 the positions until the merits of the action are ultimately determined. University of Texas v.
24 Camenisch, 451 U.S. 390, 395 (1981). A preliminary injunction is available to a plaintiff who
25 “demonstrates either (1) a combination of probable success and the possibility of irreparable
26 harm, or (2) that serious questions are raised and the balance of hardship tips in its favor.”
27 Arcamuzi v. Continental Air Lines, Inc., 819 F. 2d 935, 937 (9th Cir. 1987). Under either
28 approach the plaintiff “must demonstrate a significant threat of irreparable injury.” Id. Also, an

1 injunction should not issue if the plaintiff “shows no chance of success on the merits.” Id. At a
2 bare minimum, the plaintiff “must demonstrate a fair chance of success of the merits, or questions
3 serious enough to require litigation.” Id.

4 Federal courts are courts of limited jurisdiction, and as a preliminary matter, the court
5 must have before it an actual case or controversy. City of Los Angeles v. Lyons, 461 U.S. 95,
6 102, 103 S.Ct. 1660, 1665 (1983); Valley Forge Christian Coll. v. Ams. United for Separation of
7 Church and State, Inc., 454 U.S. 464, 471, 102 S.Ct. 752, 757-58 (1982); Jones v. City of Los
8 Angeles, 444 F.3d 1118, 1126 (9th Cir. 2006). If the court does not have an actual case or
9 controversy before it, it has no power to hear the matter in question. Id. Thus, “[a] federal court
10 may issue an injunction [only] if it has personal jurisdiction over the parties and subject matter
11 jurisdiction over the claim; it may not attempt to determine the rights of persons not before the
12 court.” Zepeda v. United States Immigration Service, 753 F.2d 719, 727 (9th Cir. 1985).

13 **III. DISCUSSION**

14 In Plaintiff’s case, the court lacks jurisdiction to issue the order sought by Plaintiff. In
15 addition to establishing irreparable harm, the injunctive relief sought must be related to the claims
16 brought in the complaint. See Pac. Radiation Oncology, LLC v. Queen's Med. Ctr., 810 F.3d
17 631, 633 (9th Cir. 2015) (“When a plaintiff seeks injunctive relief based on claims not pled in
18 the complaint, the court does not have the authority to issue an injunction.”) Here, the Court
19 lacks jurisdiction because the requested order would not remedy any of the claims upon which
20 this case proceeds. Plaintiff’s lawsuit proceeds only on his claims that he was given insufficient
21 access to out-of-cell exercise in violation of the Eighth Amendment. In this request, Plaintiff
22 seeks a court order granting him access to the law library. Because such an order would not
23 remedy any of the claims in this case the court lacks jurisdiction to issue the order sought by
24 Plaintiff, and Plaintiff’s motion must be denied. The court also recognizes that prison
25 administrators “should be accorded wide-ranging deference in the adoption and execution of
26 policies and practices that in their judgment are needed to preserve internal order and discipline
27 and to maintain institutional security.” Whitley v. Albers, 475 U.S. 312, 321-322 (1986) (quoting

1 Bell v. Wolfish, 441 U.S. 520, 547 (1970). Accordingly, the court shall defer to the prison’s
2 policies and practices in ordering lockdowns and granting Plaintiff access to the law library.

3 **IV. CONCLUSION AND RECOMMENDATIONS**

4 Based on the foregoing, **IT IS HEREBY RECOMMENDED** that Plaintiff’s motion for
5 preliminary injunctive relief, filed on March 21, 2022, be DENIED for lack of jurisdiction.

6 These findings and recommendations are submitted to the United States District Judge
7 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen**
8 **(14) days** after the date of service of these findings and recommendations, Plaintiff may file
9 written objections with the court. Such a document should be captioned “Objections to
10 Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file
11 objections within the specified time may result in the waiver of rights on appeal. Wilkerson v.
12 Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394
13 (9th Cir. 1991)).

14
15 IT IS SO ORDERED.

16 Dated: June 11, 2022

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE