



1     **II.     Request for Judicial Notice**

2             On July 8, 2021, Plaintiff filed a request for the Court to take judicial notice of his  
3 included motion requesting a temporary restraining order and preliminary injunction. (ECF No.  
4 58.) As discussed below, Plaintiff’s motion references alleged due process violations committed  
5 by CDCR staff at the mailroom of Mule Creek State Prison (“MCSP”), Plaintiff’s current  
6 institution. (*Id.*)

7             Rule 201(b) of the Federal Rules of Evidence provides that a court may judicially notice a  
8 fact that is not subject to reasonable dispute because it: (1) is generally known within the trial  
9 court’s territorial jurisdiction; or (2) can be accurately and readily determined from sources whose  
10 accuracy cannot reasonably be questioned. Fed. R. Evid. 201(b). A motion is not the type of  
11 adjudicative fact that is judicially noticeable. Accordingly, Plaintiff’s request for judicial notice  
12 is denied.

13     **III.     Motion for Permanent and Preliminary Injunction**

14             In his motion, Plaintiff alleges that the legal desk at MCSP has stopped returning  
15 Declarations of Service that prove inmates’ legal mail was sent out in a timely fashion, or return  
16 them unsigned by the mailroom staff, rendering it unofficial and useless. (ECF No. 58.) Plaintiff  
17 therefore requests that the Court order: (1) an injunction and restraining order on the Warden of  
18 MCSP regarding the alleged withholding of Plaintiff’s Declarations of Service proving his  
19 outgoing legal mail; (2) a hearing on this matter; and (3) the staff at MCSP to not retaliate against  
20 Plaintiff. (*Id.*)

21             Defendants have not had the opportunity to file a response, but the Court finds a response  
22 unnecessary. The motion is deemed submitted. Local Rule 230(1).

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

1 omitted).

2 Federal courts are courts of limited jurisdiction and in considering a request for  
3 preliminary injunctive relief, the Court is bound by the requirement that as a preliminary matter, it  
4 have before it an actual case or controversy. *City of L.A. v. Lyons*, 461 U.S. 95, 102 (1983);  
5 *Valley Forge Christian Coll. v. Ams. United for Separation of Church & State, Inc.*, 454 U.S.  
6 464, 471 (1982). If the Court does not have an actual case or controversy before it, it has no  
7 power to hear the matter in question. *Id.* Requests for prospective relief are further limited by 18  
8 U.S.C. § 3626(a)(1)(A) of the Prison Litigation Reform Act, which requires that the Court find  
9 the “relief [sought] is narrowly drawn, extends no further than necessary to correct the violation  
10 of the Federal right, and is the least intrusive means necessary to correct the violation of the  
11 Federal right.”

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

17 Plaintiff has not met the requirements for the injunctive relief he seeks in this motion. The  
18 injunctive relief requested is directed at the Warden of MCSP and his subordinates in the  
19 mailroom, who are not parties to this action. Thus, the Court at this time lacks personal  
20 jurisdiction over the third parties who would be enjoined. Furthermore, Plaintiff has requested  
21 relief that he admits is unrelated to his claims regarding his own medical care.

#### 22 **IV. Order and Recommendation**

23 Accordingly, IT IS HEREBY ORDERED as follows:

- 24 1. The Clerk of the Court is DIRECTED to correct the docket for Plaintiff’s request for  
25 judicial notice, (ECF No. 58), to include a motion for temporary restraining order and  
26 preliminary injunction; and
- 27 2. Plaintiff’s request for judicial notice, (ECF No. 58), is DENIED.

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1           Furthermore, it is HEREBY RECOMMENDED that Plaintiff’s motion for temporary  
2 restraining order and preliminary injunction, (ECF No. 58), be DENIED.

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

11  
12 IT IS SO ORDERED.

13 Dated: July 14, 2021

13 /s/ Barbara A. McAuliffe  
14 UNITED STATES MAGISTRATE JUDGE