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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

VERNON WAYNE McNEAL,
Plaintiff,
v.
EVERT, et al.,
Defendants.

No. 2:05-cv-0441-GEB-EFB P

ORDER

Plaintiff, a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983, has filed a motion for an order compelling prison officials to repair certain personal property and replace other property. ECF No. 320.

Plaintiff’s request does not implicate the conduct of any defendant or involve the allegations in this action and thus is not a proper request for an injunction under Fed. R. Civ. P. 65. Furthermore, even if properly presented as a request for an injunction, plaintiff has not satisfied the standards for such an order. He has failed to demonstrate “that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir. 2009) (citing *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7 (2008)); see also *Alliance for Wild Rockies v. Cottrell*, 632 F.3d 1127, 1130-34 (9th Cir. 2010).

1 Nor does plaintiff seek an order that is necessary to allow him to effectively litigate this
2 action (such as an order compelling officials to provide him with legal materials or law library
3 access). Rather, plaintiff seeks an order compelling non-parties to repair and/or replace personal
4 items of property (headphones, television, hot pot, shoes, antenna, etc.). He alleges that, by
5 marring or withholding his property, officials are “retaliating against plaintiff for his lawsuit in
6 the courts.” ECF No. 321 at 3.

7 If plaintiff believes that other, non-party officials are retaliating against him for his
8 lawsuit, his remedy is to challenge the retaliatory conduct through the administrative appeals
9 system at his institution of incarceration and, if appropriate, initiate a separate lawsuit against the
10 individuals whom plaintiff believes have retaliated against him.

11 Accordingly, plaintiff’s December 12, 2017 motion for a court order (ECF No. 320) is
12 hereby DENIED.

13 DATED: January 9, 2018.

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15 EDMUND F. BRENNAN
16 UNITED STATES MAGISTRATE JUDGE
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