

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD ERNEST ANAYA,

Plaintiff,

No. CIV S-07-0029 GEB GGH P

vs.

ROSEANNE CAMPBELL, et al.,

Defendants.

ORDER

_____ /

On February 4, 2009, plaintiff filed a motion requesting that the court order the Warden of High Desert State Prison (HDSP) to send plaintiff’s legal property to Kern Valley State Prison (KVSP). Plaintiff states that he was transferred from HDSP to KVSP on January 27, 2009. The court construes plaintiff’s motion as a request for a protective order.

Clearly, plaintiff’s request does not seek dispositive relief on the merits of the complaint. The motion is addressed to procedures that the parties must utilize in litigating this case. See United States v. Flaherty, 666 F.2d 566, 586 (1st Cir. 1981): “A pretrial matter within the magistrate’s jurisdiction would thus seem to be a matter unconnected to issues litigated at trial and not defined with respect to the time of trial.” Neither do the rulings herein involve injunctive relief.

////

1 As in nearly all rulings of magistrate judges pursuant to 28 U.S.C. § 636(b)(1)(A),
2 parties are told to do something or not do something. For example, in typical discovery motions,
3 parties are compelled to answer interrogatories, answer a question or produce a document despite
4 a claim of privilege, attend a deposition at a certain time or place, be compelled to undergo a
5 medical examination, pay costs associated with discovery in a cost-shifting sense. No one
6 would think of asserting that such non-dispositive orders are invalid because they command or
7 disallow a certain activity. Therefore, the fact that parties are directed in their activities by a
8 magistrate judge, cannot, without more, transform the matter at hand into an “injunctive” relief
9 situation governed by § 636(b)(1)(B). See e.g., Grimes v. City and County of San Francisco, 951
10 F.2d 236 (9th Cir. 1991) (magistrate judge may compel a party to pay prospective sanctions of
11 \$500.00 per day during period for non-compliance with discovery orders); Rockwell Int. Inc. V.
12 Pos-A-Traction Indus., 712 F.2d 1324, 1325 (9th Cir. 1983) (magistrate judge had jurisdiction to
13 order witnesses to answer questions); United States v. Bogard, 846 F.,2d 563, 567 (9th Cir. 1988)
14 superseded by rule on unrelated matter, Simpson v. Lear Astronics Corp., 77 F.3d 1170, 1174
15 (9th Cir. 1996) (magistrate judge may deny requests to see jury selection materials); New York v.
16 United States Metals Roofing Co., 771 F.2d 796 (3rd Cir. 1985) (magistrate judge may prevent a
17 party from releasing discovery information to the public; specifically held not to be an injunction
18 beyond the authority of a magistrate judge); Affelt v. Carr, 628 F. Supp. 1097, 1101 (N.D. Oh.
19 1985) (issuance of gag orders and disqualification of counsel are duties permitted to a magistrate
20 judge.). It is only where the relief sought goes to the merits of plaintiff’s actions or to complete
21 stays of an action are orders under § 636(b)(1)((A) precluded. See e.g. Reynaga v. Camisa, 971
22 F.2d 414 (9th Cir. 1992); compare United States Metals etc., 771 F.2d at 801 (orders which
23 restrain or direct the conduct of the parties are not to be characterized as an appealable injunction
24 beyond the authority of the magistrate judge unless the restraint goes to the merits of the action).
25 In other words, a motion for injunctive relief must relate to the allegations in the complaint. If
26 there is no relation, it is not an injunctive relief situation. A party seeking preliminary injunctive

