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

LAWRENCE PAMER,
Plaintiff,

No. CIV S-07-1902-MCE-CMK-P

vs.

FINDINGS AND RECOMMENDATIONS

ARNOLD SCHWARZENEGGER, et al.,
Defendants.

_____ /

Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is Plaintiff’s motion for a temporary restraining order (Doc. 67).

The legal principles applicable to requests for injunctive relief, such as a temporary restraining order or preliminary injunction, are well established. To prevail, the moving party must show that irreparable injury is likely in the absence of an injunction. See Stormans, Inc. v. Selecky, 586 F.3d 1109, 1127 (9th Cir. 2009) (citing Winter v. Natural Res. Def. Council, Inc., 129 S. Ct. 365 (1008)). To the extent prior Ninth Circuit cases suggest a lesser standard by focusing on the mere possibility of irreparable harm, such cases are “no longer controlling, or even viable.” Am. Trucking Ass’ns, Inc. v. City of Los Angeles, 559 F.3d 1046,

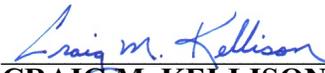
1 1052 (9th Cir. 2009). Under Winter, the proper test requires a party to demonstrate: (1) he is
2 likely to succeed on the merits; (2) he is likely to suffer irreparable harm in the absence of an
3 injunction; (3) the balance of hardships tips in his favor; and (4) an injunction is in the public
4 interest. See Stormans, 586 F.3d at 1127 (citing Winter, 129 S. Ct. at 374).

5 Here, Plaintiff is complaining about actions by non-parties. He contends these
6 nonparty correctional officers are stealing his personal property, interfering with his legal work,
7 and denying him privileges. He is also complaining about his general living conditions.
8 Although he is requesting an injunction be issued against the director of CDCR, his motion is
9 actually a request for an injunction against non-party officers who are allegedly bothering him.
10 Plaintiff does not make any complaints about the direct actions of the director in his motion.
11 Such an order cannot issue. This court is unable to issue an order against individuals who are
12 not parties to a suit pending before it. See Zenith Radio Corp. v. Hazeltine Research, Inc., 395
13 U.S. 100, 112 (1969). Plaintiff's request must, therefore, be denied.

14 Based on the foregoing, the undersigned recommends that Plaintiff's motion for a
15 temporary restraining order (Doc. 67) be denied.

16 These findings and recommendations are submitted to the United States District
17 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days
18 after being served with these findings and recommendations, any party may file written
19 objections with the court. Responses to objections shall be filed within 14 days after service of
20 objections. Failure to file objections within the specified time may waive the right to appeal.
21 See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

22
23 DATED: July 29, 2010

24 
25 **CRAIG M. KELLISON**
26 UNITED STATES MAGISTRATE JUDGE