



1 the general population of the prison. Plaintiff contends that correctional officers and other  
2 inmates have threatened his life upon release of this memorandum. Defendant has not been  
3 served with the complaint or the motions for a preliminary injunction. Accordingly, defendant  
4 has not provided any response to motion for a preliminary injunction.

5 Further, the only defendant named in the instant complaint is Rivers, the prison  
6 official who allegedly released the memorandum or allowed the memorandum to be released. She  
7 does not appear to have authority to alter the conditions of plaintiff's incarceration.

8 The Magistrate Judge filed findings and recommendations on July 28, 2010  
9 recommending that this court deny plaintiff's motions for a preliminary injunction because he  
10 has not demonstrated that irreparable injury is likely. He reasoned that, "plaintiff's documents  
11 reflect that he has been transferred from prison to prison and/or has been placed in protective  
12 housing segregated from the general population and that these actions have been taken for his  
13 safety." This court does not find that these indications in the record demonstrate that plaintiff is  
14 not likely to suffer irreparable injury. Specifically, plaintiff claims that he experienced threats of  
15 violence or violence at each prison from which he has been transferred. Moreover, the court  
16 cannot determine whether his placement in administrative segregation is current or whether it  
17 protects him from violence or threats of violence from correctional officers. Thus, the evidence  
18 submitted along with plaintiff's filings in this case demonstrate that transfer from prison to  
19 prison has not protected him from violence and threats of violence.


20 Nonetheless, the court denies plaintiff's motion because he has not sued a party  
21 that the court has authority to enjoin. Rather, in order to obtain injunctive relief, plaintiff must  
22 name a defendant (or defendants) who has authority to alter the conditions of his confinement,  
23 such as the prison warden. Such a defendant must nonetheless meet the Ninth Circuit's standard  
24 for injunctive relief, which is that his "combined acts or omissions of the state officials  
25 responsible for operating the state's penal system created living conditions that violate the"  
26 constitution. Leer v. Murphy, 844 F.2d 626, 633 (9th Cir. 1988) While this analysis "undeniably

1 focuses on the duties and responsibilities of each of the individual defendants whose acts or  
2 omissions are alleged to have caused the constitutional deprivation,” it nonetheless “is broader  
3 and more generalized than when that same prisoner seeks damages for the harmful effects” of the  
4 constitutional violation. Id. Accordingly, in order to demonstrate that he is entitled to injunctive  
5 relief under § 1983, plaintiff must name a defendant who is responsible for policies or practices  
6 that resulted in violations of plaintiff’s Constitutional rights.<sup>1</sup>

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. The court declines to adopt the findings and recommendations filed July  
9 28, 2010;
- 10 2. The court nonetheless denies plaintiff’s motions for a preliminary  
11 injunction, ECF Nos. 2, 12, 15, 19.
- 12 3. Plaintiff is granted leave of sixty (60) days to file an amended complaint in  
13 which he adds a defendant (or defendants) who has the authority to alter  
14 the conditions of his employment.

15 DATED: August 30, 2010

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18 LAWRENCE K. KARLTON  
19 SENIOR JUDGE  
20 UNITED STATES DISTRICT COURT  
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24 <sup>1</sup> The court notes that this order in no way alters the magistrate judge’s holding that  
25 plaintiff has stated a non-frivolous claim against defendant Rivers. Rather, it appears to the court  
26 that plaintiff may only seek monetary damages from Rivers. If plaintiff chooses to file an  
amended complaint, he is advised that he must name Rivers as well as a defendant with authority  
to alter the conditions of his confinement in order to maintain a claim against Rivers.