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

MORRIS MESTER

Plaintiff,

No. 09-cv-3307 FCD KJN P

vs.

K. DICKINSON, et al.

Defendant.

ORDER

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Plaintiff is a state prisoner proceeding without counsel on an action under 42 U.S.C. § 1983. Plaintiff is currently housed at High Desert State Prison (HDSP). He has filed a request that “the court assist him in transferring from this facility since reprisals are used to not allow plaintiff to submit an appeal for transfer[.]” See Dkt. No. 10 at 2. He has also filed a motion requesting an investigation into appeal procedures at HDSP. That motion states that he has not been allowed “to submit a hardship transfer appeal and an appeal to correct a wrongful conviction that has intentionally been placed in my central file[.]” Mot. at 1 (Dkt. No. 13).

Neither motion is well taken. First, plaintiff must seek an order of transfer from one prison facility to another by filing an independent action under 42 U.S.C. § 1983. “[I]f [a prisoner] is seeking a different program or location or environment... his remedy is under civil rights law[.]” Glaus v. Anderson, 408 F.3d 382, 386-87 (7th Cir.2005); see also Christian v.

1 Deboo, 2007 WL 470587 (E.D.Cal.). In his complaint, plaintiff lists the forms of relief he seeks  
2 in this case. See Complaint at 9-10 (Dkt. No. 1). None of those forms or relief involves a  
3 transfer. Even if plaintiff did include such a request in his complaint, the court could not grant  
4 the instant motion and order transfer at this early stage of the proceeding unless plaintiff could  
5 “clearly show that immediate and irreparable injury, loss, or damage will result to the [plaintiff]  
6 before the adverse party can be heard in opposition.” See Fed. R. Civ. P. 65(b)(1)(A). In any  
7 event, plaintiff’s request for a transfer is not properly before the court. Therefore it will be  
8 denied.

9           The court also cannot grant plaintiff’s motion for an investigation into appeal  
10 procedures at HDSP. A federal court has the power to award damages or order injunctive relief  
11 in cases where it has jurisdiction. A federal court is not an investigative agency. If plaintiff’s  
12 complaint sufficiently alleges the same obstruction of the prison appeals process that plaintiff  
13 avers in his motion, and if defendants file an answer to the complaint, plaintiff will have the  
14 opportunity to conduct his own discovery and adduce evidence of the practices that he believes  
15 violate his constitutional rights. Outside a motion for enforcement of the rules of discovery,  
16 however, plaintiff cannot enlist the court’s aid in investigating defendants’ conduct.<sup>1</sup> The motion  
17 will be denied.

18           Accordingly, IT IS HEREBY ORDERED that:

19           1. The request for the court’s assistance in transferring to a different prison  
20 facility (Dkt. No. 10) is denied.

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25           <sup>1</sup> The rules of discovery will not be operable in this case until the court orders the  
26 commencement of discovery, which ordinarily occurs after defendants have filed an answer.

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2. The motion for an investigation into appeal processing (Dkt. No. 13) is denied.

DATED: March 29, 2010

  
KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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