

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

HOSEA BYRD,

Plaintiff,

No. CIV S-10-0839 FCD DAD P

vs.

A. LYNN, et al.,

Defendants.

ORDER

\_\_\_\_\_ /

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action pursuant to 42 U.S.C. § 1983. On September 17, 2010, plaintiff filed a motion for an “informal restraining order.” Plaintiff asserts therein that Correctional Sergeant Quiring has filed a false lock-up order against him, resulting in plaintiff being placed in administrative segregation. Plaintiff asserts further that in administrative segregation, he does not have access to his legal materials. Accordingly, plaintiff requests the court order prison officials to release his legal documents pertaining to this case.<sup>1</sup>

////

\_\_\_\_\_

<sup>1</sup> Plaintiff also filed a letter with the court on September 17, 2010, wherein he reiterates that prison officials are denying him access to his legal materials.

1 The court has not yet authorized service of plaintiff's supplemented complaint,  
2 and the defendants have not made an appearance in this case. Rather, the undersigned findings  
3 and recommendations recommending dismissal of various defendants are currently under  
4 consideration by the assigned district judge. (Doc. No. 18.) Plaintiff has filed timely objections  
5 to those findings and recommendations . (Doc. No 19.) Therefore, the court lacks jurisdiction to  
6 issue an injunction against any of the defendants. See Zepeda v. United States Immigration  
7 Service, 753 F.2d 719, 727 (9th Cir. 1985) ("A federal court may issue an injunction if it has  
8 personal jurisdiction over the parties and subject matter jurisdiction over the claim; it may not  
9 attempt to determine the rights of persons not before the court."). Accordingly, plaintiff's motion  
10 for an "informal restraining order" must be denied as premature. To the extent that he seeks the  
11 immediate return of his legal materials, plaintiff is advised to seek relief through the institution's  
12 administrative grievance process.<sup>2</sup>

13 For the reasons set forth above, IT IS HEREBY ORDERED that plaintiff's  
14 September 17, 2010 motion for an "informal restraining order" (Doc. No. 21) is denied as  
15 premature.

16 DATED: September 22, 2010.

17  
18   
19 \_\_\_\_\_  
DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

20 DAD:sj  
21 byrd0839.mot  
22  
23  
24

25 \_\_\_\_\_  
26 <sup>2</sup> Plaintiff is also advised that at this time, he has no pending filing deadlines in this  
action.