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

RICHARD JOSEPH CRANE,

Plaintiff,

No. 2:11-cv-0663 KJM CKD P

vs.

MIKE McDONALD, et al.,

Defendants.

ORDER

_____ /

Plaintiff, a state prisoner proceeding pro se, seeks relief pursuant to 42 U.S.C. § 1983. On August 7, 2012, the court issued an order directing service of the first amended complaint (Dkt. No. 21; “FAC”) on defendants Mike Evans, D. Mantel, and Davey. (Dkt. No. 27.) The court found that for screening purposes, the FAC stated an Eighth Amendment claim concerning denial of outdoor exercise against these defendants. (Dkt. No. 22 at 5.) As of this time, service has not been effected.

On September 14, 2012, plaintiff filed a motion for preliminary injunction. (Dkt. No. 31.) In it, he asserts that he is being unconstitutionally deprived of outdoor exercise while housed in the “B” Sensitive Needs Yard at High Desert State Prison. He also asserts that his health is deteriorating due in part to lack of exercise. Plaintiff further asserts that “defendants” are retaliating against him for past legal activity. However, while defendant Davey was allegedly a Captain assigned to the Facility B Sensitive Needs Yard at HDSP during the relevant time

1 period (FAC, ¶ 10), defendants Evans and Mantel are described in the FAC as working at Salinas
2 Valley State Prison. Thus it is unclear how their actions could be affecting plaintiff at this time.

3 Due to the concerns plaintiff raises with regard to his right to humane conditions
4 of confinement, the court will direct a response from defendant Davey within fourteen days. The
5 court is cognizant of the demands placed upon prison officials and the Attorney General by
6 having to respond to seriatim preliminary injunction motions. However, the court will entertain
7 plaintiff's preliminary injunction motion in this case.

8 In accordance with the above, IT IS HEREBY ORDERED that:

9 1. Defendant Davey must respond to plaintiff's motion for preliminary injunction,
10 filed on September 14, 2012 (Dkt. No. 31), within fourteen (14) days.

11 2. In the interim, the Attorney General and defendant Davey must forthwith take
12 any steps necessary to ascertain whether plaintiff is being denied outdoor exercise in violation of
13 the Eighth Amendment;

14 3. The Clerk of the Court is directed to send a copy of the FAC (Dkt. No. 21);
15 plaintiff's motion for preliminary injunction (Dkt. No. 31); and a copy of this order upon Monica
16 Anderson, Supervising Deputy Attorney General.

17 4. In addition, the Clerk of the Court is directed to mail a copy of the FAC (Dkt.
18 No. 21); plaintiff's motion for preliminary injunction (Dkt. No. 31); and a copy of this order to
19 defendant Captain Davey, High Desert State Prison, P.O. Box 750, Susanville, CA, 96-127-750.

20 Dated: September 25, 2012

21 
22 CAROLYN K. DELANEY
23 UNITED STATES MAGISTRATE JUDGE