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8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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11 ANDRE CRAVER,

12 Plaintiff,

13 v.

14 J. HASTY, et al.,

15 Defendants.  
16

No. 2: 11-cv-1344 TJN KJN P

ORDER

17 Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant  
18 to 42 U.S.C. § 1983. Plaintiff alleges that on February 2, 2011, while he was housed at High  
19 Desert State Prison (“HDSP”), defendants Rayner and Hasty used excessive force in violation of  
20 the Eighth Amendment when they sprayed O.C. spray into plaintiff’s cell during a cell search.

21 This action is set for trial on February 24, 2014, before the Honorable Troy L. Nunley.

22 On September 30, 2013, plaintiff filed a motion for “immediate federal protection.” (ECF  
23 No. 74.) Plaintiff is now housed at California State Prison-Lancaster. In his motion filed  
24 September 30, 2013, plaintiff alleges he is homicidal and is hearing voices telling him to defend  
25 his life. (*Id.* at 2.) Plaintiff alleges that on September 24, 2013, he went before the Prison  
26 Classification Committee. (*Id.*) Plaintiff alleges that committee member Facility Captain “Ppfer”  
27 looked over the February 1, 2011 incident report, apparently referring to the incident on which  
28 this action is based, and stated, “Fuck you, fuck your life, you wanna sue cops I don’t care if you

1 die. Put somebody in his cell so he can kill his fucking ass!” (Id.) Plaintiff alleges that he is in  
2 imminent danger based on the comments made by the Facility Captain at the September 24, 2013  
3 Classification Committee hearing. Plaintiff requests that he be removed from California State  
4 Prison-Lancaster.

5 No defendants are located at California State Prison-Lancaster. Usually persons or  
6 entities not parties to an action are not subject to orders for injunctive relief. Zenith Radio Corp.  
7 v. Hazeltine Research, Inc., 395 U.S. 100 (1969). However, the fact that one is not a party does  
8 not automatically preclude the court from acting. The All Writs Act, 28 U.S.C. § 1651(a) permits  
9 the court to issue writs “necessary or appropriate in aid of their jurisdiction and agreeable to the  
10 usages and principles of law.” See generally S.E.C. v. G.C. George Securities, Inc., 637 F.2d 685  
11 (9th Cir. 1981); United States v. New York Telephone Co., 434 U.S. 159 (1977). This section  
12 does not grant the court plenary power to act in any way it wishes; rather the All Writs Act is  
13 meant to aid the court in the exercise and preservation of its jurisdiction. Plum Creek Lumber  
14 Company v. Hutton, 608 F.2d 1283, 1289 (9th Cir. 1979).

15 The court is concerned that it may lose jurisdiction if plaintiff is in imminent danger, as  
16 alleged.<sup>1</sup> For this reason, pursuant to the All Writs Act, the Warden of California State Prison-  
17 Lancaster is directed to file a status report addressing plaintiff’s allegations regarding the alleged  
18 imminent threat to his safety contained in his September 30, 2013 motion.<sup>2</sup>

19 Accordingly, IT IS HEREBY ORDERED that:

- 20 1. Within seven days of the date of this order, the Warden of California State Prison-  
21 Lancaster shall file the status report described above;

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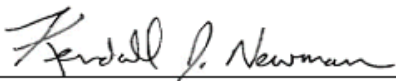
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24 <sup>1</sup> On October 8, 2013, defendants Raynor and Hasty filed an opposition to plaintiff’s September  
25 30, 2013 motion. Defendants argue, in part, that they cannot provide plaintiff with the relief he  
26 seeks. Defendants also state that in an abundance of caution, defense counsel contacted the  
Litigation Department at California State Prison-Lancaster because of plaintiff’s claims that he is  
having homicidal thoughts.

27 <sup>2</sup> While plaintiff appears to have misspelled the name of the Facility Captain who allegedly  
28 made the threatening statements, it should not be difficult to identify this person by reviewing the  
report from the Classification Committee.

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2. The Clerk of the Court is directed to serve a copy of this order and plaintiff's September 30, 2013 motion (ECF No. 74) on the Warden of California State Prison-Lancaster, P.O. Box 4430, Lancaster, California, 93539;
3. The Clerk of the Court is directed to serve a copy of this order and plaintiff's September 30, 2013 motion (ECF No. 74) on Supervising Deputy Attorney General Monica Anderson.

Dated: October 9, 2013

  
KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE