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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TIMOTHY O’KEEFE,
Plaintiff,
v.
JERRY BROWN, et al.,
Defendants.

No. 2:11-cv-2659 KJM KJN P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s May 6, 2015 motion for injunctive relief. (ECF No. 203.) For the following reasons, this motion should be denied.

This action is proceeding on the fifth amended complaint filed November 14, 2014. (ECF No. 171). Plaintiff alleges that defendants have failed to provide him with adequate mental health care for exhibitionism, voyeurism and paraphilia. (Id. at 4.) Plaintiff requests injunctive relief in the form of an order directing defendants to provide him with treatment for these conditions. (Id. at 14.)

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1 In the pending motion for injunctive relief, plaintiff seeks an order preventing defendants
2 from elevating his level of mental health care treatment from “CCCMS” to “EOP.” (ECF No.
3 203 at 2.) Plaintiff alleges that the EOP level of care is not appropriate for him. (Id.) Plaintiff
4 alleges that half of the prisoners who are EOP are low functioning and plaintiff cannot relate to
5 them. (Id. at 3.) Plaintiff alleges that the other half of prisoners who are EOP are “playing” in
6 order to be at that level of care. (Id.)

7 In order to obtain injunctive relief, plaintiff must establish the following: 1) he is likely to
8 succeed on the merits; 2) he is likely to suffer irreparable harm in the absence of preliminary
9 relief; 3) the balance of equities tips in his favor; and 4) an injunction is in the public interest.
10 Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 20 (2008).

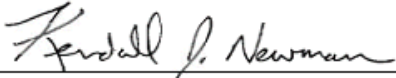
11 Plaintiff has failed to demonstrate how the subject matter of his pending motion for
12 injunctive relief has any bearing on his likelihood of success on the merits of his underlying
13 claim. A plaintiff seeking injunctive relief must show “[a] relationship between the injury
14 claimed in the party’s motion and the conduct asserted in the complaint.” Devose v. Harrington,
15 42 F.3d 470, 471 (8th Cir. 1994). Plaintiff has not demonstrated how his claim alleging that the
16 EOP level of care is not appropriate for him is related to the claim on which this action is
17 proceeding, i.e., defendants are not providing him with adequate treatment for voyeurism,
18 exhibitionism and paraphilia. Because the conduct plaintiff seeks to enjoin appears to have no
19 bearing on plaintiff’s likelihood of success on the merits, the pending motion for injunctive relief
20 should be denied.

21 Accordingly, IT IS HEREBY RECOMMENDED that plaintiff’s motion for injunctive
22 relief (ECF No. 203) be denied.

23 These findings and recommendations are submitted to the United States District Judge
24 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
25 after being served with these findings and recommendations, any party may file written
26 objections with the court and serve a copy on all parties. Such a document should be captioned
27 “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the
28 objections shall be filed and served within fourteen days after service of the objections. The

1 parties are advised that failure to file objections within the specified time may waive the right to
2 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

3 Dated: May 14, 2015

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6 KENDALL J. NEWMAN
7 UNITED STATES MAGISTRATE JUDGE

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