

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  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM D. FARLEY,  
  
Plaintiff,  
  
v.  
  
T. VIRGA, et al.,  
  
Defendants.

No. 2:13-cv-1751 WBS KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action filed pursuant to 42 U.S.C. § 1983. On July 21, 2014, the undersigned recommended that plaintiff’s motion for injunctive relief filed June 10, 2014 (ECF No. 56) be denied. (ECF No. 65.) On September 23, 2014, the Honorable William B. Shubb remanded this matter for further consideration. (ECF No. 76.) The undersigned herein directs defendants to respond to Judge Shubb’s order.

This action is proceeding on the amended complaint filed November 13, 2013 as to defendants Virga, Meier, Stewart, Scogin, Gonzales, Higgins, Deloney, Hamkar and May. (ECF No. 11.) All defendants are located at California State Prison-Sacramento. (“CSP-Sac.”) At the time plaintiff filed his June 10, 2014 motion for injunctive relief, plaintiff was housed at California State Prison-Corcoran (“Corcoran”). (ECF No. 56.) In the motion for injunctive

///

1 relief, plaintiff alleged that he was not receiving adequate medical and mental health treatment at  
2 Corcoran. (Id.)

3 The undersigned recommended that plaintiff's June 10, 2014 motion for injunctive relief  
4 be denied because plaintiff sought injunctive relief against individuals not named in this action,  
5 i.e., prison officials at Corcoran. (ECF No. 65.) Because the court is unable to issue an order  
6 against individuals who are not parties to a suit pending before it, the undersigned recommended  
7 that plaintiff's motion for injunctive relief be denied. (Id.) See Zenith Radio Corp. v. Hazeltine  
8 Research, Inc., 395 U.S. 100, 112 (1969.)

9 In his order, Judge Shubb states,

10 Plaintiff names ten defendants in this case: T. Virga, Warden at  
11 CSP-Sac, and Drs. Hamkar and Curren. (See Pl.'s Am. Compl. at  
12 2.) In his objections to the F&Rs, plaintiff points out that Drs.  
13 Hamkar and Curren are employed by the C.D.C.R. (See Pl.'s  
14 Objections at 2.) While service of process was directed to these  
15 defendants at CSP-Sac, (see Docket No. 44), it is not clear whether  
16 these doctors work solely at CSP-Sac or provide services at  
multiple prisons. Nor is it clear whether these doctors have the  
authority to deliver mental and medical care to plaintiff at CSP-  
Corcoran. Defendants' location does not conclusively indicate the  
scope of their authority. Without further investigation into this  
matter, the court cannot conclude that an injunction against Dr.  
Hamkar and Dr. Curren could not provide the plaintiff with relief.

17 (ECF No. 76 at 3.)

18 Judge Shubb remanded this matter to the undersigned for further consideration of whether  
19 an injunction directed to any of the named defendants could provide the plaintiff with the relief he  
20 requests. (Id. at 3-4.)

21 Since the undersigned issued the findings and recommendations, plaintiff was transferred  
22 to the California Medical Facility ("CMF"). (ECF No. 73.) Based on this changed circumstance,  
23 plaintiff's motion for injunctive relief concerning conditions at Corcoran is moot. However, in  
24 accordance with Judge Shubb's order, the undersigned directs defendants to file briefing  
25 addressing whether any defendant is able to deliver medical and/or mental health care to plaintiff  
26 at any prison other than CSP-Sac.

27 ///

28 ///

1 In an abundance of caution, the undersigned also directs Supervising Attorney General  
2 Monica Anderson to file a status report addressing the status of plaintiff's mental health and  
3 mental health treatment at CMF.

4 Accordingly, IT IS HEREBY ORDERED that:

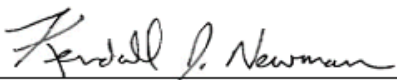
5 1. Within fourteen days of the date of this order, defendants shall file the further briefing  
6 described above;

7 2. Within fourteen days of the date of this order, Supervising Deputy Attorney General  
8 Monica Anderson shall file a brief status report addressing the status of plaintiff's mental health  
9 and mental health treatment at CMF;

10 3. The Clerk of the Court is directed to serve a copy of this order on Supervising Deputy  
11 Attorney General Monica Anderson.

12 Dated: October 14, 2014

13  
14 Far1751.fb

  
KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28