



1 On July 21, 2014, the undersigned recommended that plaintiff's June 10, 2014 motion for  
2 injunctive relief be denied. (ECF No. 65.) The undersigned found that plaintiff sought injunctive  
3 relief against individuals not named in this action, i.e., prison officials at Corcoran. (Id.) Because  
4 the court is unable to issue an order against individuals who are not parties to a suit pending  
5 before it, the undersigned recommended that plaintiff's motion for injunctive relief be denied.  
6 (Id.) See Zenith Radio Corp. v. Hazeltine Research, Inc., 395 U.S. 100, 112 (1969).

7 On September 23, 2014, the Honorable William B. Shubb remanded this matter for further  
8 consideration. (ECF No. 76.) In his order, Judge Shubb stated,

9 Plaintiff names ten defendants in this case: T. Virga, Warden at  
10 CSP-Sac, and Drs. Hamkar and Curren. (See Pl.'s Am. Compl. at  
11 2.) In his objections to the F&Rs, plaintiff points out that Drs.  
12 Hamkar and Curren are employed by the C.D.C.R. (See Pl.'s  
13 Objections at 2.) While service of process was directed to these  
14 defendants at CSP-Sac, (see Docket No. 44), it is not clear whether  
15 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.

16 (ECF No. 76 at 3.)

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

20 On October 15, 2014, the undersigned issued an order directing further briefing in  
21 accordance with Judge Shubb's order. (ECF No. 77.) In this order, the undersigned observed  
22 that since the undersigned issued the findings and recommendations, plaintiff was transferred to  
23 the California Medical Facility ("CMF"). (ECF No. 73.) Based on this changed circumstance,  
24 plaintiff's motion for injunctive relief concerning conditions at Corcoran is moot. (ECF No. 77.)  
25 However, in accordance with Judge Shubb's order, the undersigned directed defendants to file  
26 briefing addressing whether any defendant was able to deliver medical and/or mental health care  
27 to plaintiff at any prison other than CSP-Sac. (Id.) In an abundance of caution, the undersigned  
28 also directed Supervising Deputy Attorney General Monica Anderson to file a status report

1 addressing the status of plaintiff's mental health and mental health treatment at CMF. (Id.)

2 On October 29, 2014, defendants filed a response addressing all of the issues raised in the  
3 October 15, 2014 order. (ECF No. 80.) Defendants observe that plaintiff's first amended  
4 complaint names two health care providers, Dr. Hamkar and Dr. Curren. (Id. at 2.) None of the  
5 other defendants provide medical or mental health care to inmates, so defendants Hamkar and  
6 Curren are the only defendants who could potentially deliver medical or mental health care to  
7 plaintiff. (Id.)

8 Defendant Hamkar is employed at the California Institution for Men. (ECF No. 80-1 at  
9 1.) Defendant Curren remains employed at CSP-Sac. (ECF No. 80-2 at 1.) Their privileges do  
10 not extend to other institutions, so they are not authorized to treat patients at CMF, where plaintiff  
11 is now housed. (ECF Nos. 80-1 at 1, 80-2 at 1.)

12 With regard to the status of plaintiff's mental health treatment at CMF, defendants  
13 submitted the declaration of Dr. Sutherland, a staff psychiatrist at CMF. (ECF No. 80-3.) Dr.  
14 Sutherland is one of plaintiff's treating psychiatrists. (Id. at 1.) Dr. Sutherland states,

15 2. Mr. Farley is currently being treated by the Department of State  
16 Hospitals in the Acute Psychiatric Program ("APP") located at  
17 CMF. This is the highest acuity psychiatric program available  
18 within the California Department of Corrections and Rehabilitation  
19 ("CDCR") prison system. Mr. Farley has been housed in the APP  
20 since approximately September 17, 2014.

21 3. The APP operates under CMF's General Acute Care License.  
22 The APP consists of licensed inpatient psychiatric program beds,  
23 with seven units and three yards. The APP is guided by the  
24 biopsychosocial rehabilitation model. This model recognizes the  
25 interrelationship of factors that contribute to mental illness,  
26 including brain impairment, inter-psyche abnormalities, and  
27 environmental, situational, and social factors. This treatment  
28 approach is designed to address each of these three areas, through  
pharmacotherapy, group and individual therapy, and the program's  
structure and milieu. The theoretical framework of non-medical  
treatment is cognitive behavioral. Sufficient flexibility is  
maintained in order to accommodate a wide range of special needs  
and functioning levels. Implementation of the clinical program is  
accomplished through an interdisciplinary treatment planning and  
decision making structure. The professional disciplines of  
Psychiatry, Psychiatric Social Work, Psychology, Nursing,  
Dietetics, and Rehabilitative Therapy constitute a multidisciplinary  
approach to patient evaluation and treatment. An integral and  
ongoing program evaluation system is maintained in order to  
provide an accurate and continuing description of the patient

1 population, as well as to measure treatment efficacy.

2 4. Mr. Farley variously self-reports diagnoses of mood disorder,  
3 bipolar disorder, impulse control disorder, psychotic disorder,  
4 polysubstance dependence, antisocial disorder, posttraumatic stress  
5 disorder, and acute deficit hyperactivity disorder. However, there  
6 have been many inconsistencies in his stories regarding his alleged  
7 diagnoses, and each story has a manipulative or self-serving quality  
8 so it seems likely that, other than malingering and polysubstance  
9 abuse, Mr. Farley's symptoms appear attributable to his Axis II  
10 personality disorders or possibly posttraumatic stress disorder.  
11 However, Mr. Farley frequently changes his reported symptoms in  
12 a misguided attempt to manipulate his housing placement.

13 5. As of October 17, 2014, Mr. Farley reported his mood as "0"  
14 with 0 being good and 10 being bad. Mr. Farley has not expressed  
15 any suicidal ideations or engaged in any self-injurious behaviors  
16 since his admission to the APP. Mr. Farley is presently compliant  
17 with medication and treatment, and, for the most part, has been  
18 regularly attending his scheduled programs and appointments. Mr.  
19 Farley did refuse to attend his Interdisciplinary Treatment Team  
20 meeting on October 20, 2014, but attended the following day.  
21 During that meeting, he minimized his own behavior and blamed  
22 others for his actions.

23 6. As recently as October 27, 2014, the Interdisciplinary Treatment  
24 Team made the medical determination to discharge Farley to an  
25 Enhanced Outpatient ("EOP") level of care. Farley was unhappy  
26 with this determination and stated that "he would probably be  
27 suicidal" if he was downgraded to EOP status and his housing  
28 changed accordingly. Mr. Farley's suicidal ideations are situational  
and directed only be his desire to be [sic] manipulate his housing  
assignment.

18 (Id. at 1-3.)

19 Analysis

20 As noted above, plaintiff's pending motion seeks injunctive relief regarding conditions at  
21 Corcoran. Plaintiff has since been transferred to CMF. When an inmate seeks injunctive or  
22 declaratory relief concerning the prison where he is incarcerated, his claims for such relief  
23 become moot when he is no longer subjected to those conditions. See Weinstein v. Bradford, 423  
24 U.S. 147, 149 (1975); Dilley v. Gunn, 64 F.3d 1365, 1368-69 (9th Cir. 1995). On this ground,  
25 plaintiff's motion for injunctive relief should be denied.

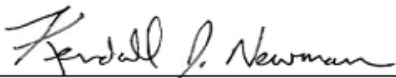
26 Accordingly, IT IS HEREBY RECOMMENDED that plaintiff's June 10, 2014 motion for  
27 injunctive relief (ECF No. 56) be denied.

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1           These findings and recommendations are submitted to the United States District Judge  
2 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
3 after being served with these findings and recommendations, any party may file written  
4 objections with the court and serve a copy on all parties. Such a document should be captioned  
5 “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the  
6 objections shall be filed and served within fourteen days after service of the objections. The  
7 parties are advised that failure to file objections within the specified time may waive the right to  
8 appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

9 Dated: October 31, 2014

10  
11 Far1751.inj(2)

  
KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE