

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CLARENCE ROBERSON,
Plaintiff,
v.
SGT. SINGH, et al.,
Defendants

No. 2:14-cv-2302 KJN P

ORDER AND FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner, proceeding without counsel. Plaintiff filed a document entitled, “Plaintiff Clarence Roberson now targeted retaliation by CSP-SAC [California State Prison, Sacramento] for filing a suit on Stockton CHCF [California Health Care Facility] mental health facility.” (ECF No. 19.) Plaintiff claims that since his transfer to CSP-SAC, his property and incoming mail have been taken, and he’s been issued an allegedly false rules violation report. Plaintiff seeks an emergency transfer and payment of \$5,000 in compensatory damages for stress. The undersigned construes plaintiff’s filing as a motion for injunctive relief.

The party requesting preliminary injunctive relief must show that “he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” Winter v. Natural Resources Defense Council, 555 U.S. 7, 20 (2008); Stormans, Inc. v. Selecky, 586 F.3d 1109, 1127 (9th Cir. 2009) (quoting Winter). The propriety of a request for injunctive relief

1 hinges on a significant threat of irreparable injury that must be imminent in nature. Caribbean
2 Marine Serv. Co. v. Baldridge, 844 F.2d 668, 674 (9th Cir. 1988).

3 Alternatively, under the so-called sliding scale approach, as long as the plaintiff
4 demonstrates the requisite likelihood of irreparable harm and can show that an injunction is in the
5 public interest, a preliminary injunction may issue so long as serious questions going to the merits
6 of the case are raised and the balance of hardships tips sharply in plaintiff's favor. Alliance for
7 Wild Rockies v. Cottrell, 632 F.3d 1127, 1131-36 (9th Cir. 2011) (concluding that the "serious
8 questions" version of the sliding scale test for preliminary injunctions remains viable after
9 Winter).

10 The principal purpose of preliminary injunctive relief is to preserve the court's power to
11 render a meaningful decision after a trial on the merits. See 11A Charles Alan Wright & Arthur
12 R. Miller, Federal Practice and Procedure, § 2947 (2d ed. 2010). As noted above, in addition to
13 demonstrating that he will suffer irreparable harm if the court fails to grant the preliminary
14 injunction, plaintiff must show a "fair chance of success on the merits" of his claim. Sports
15 Form, Inc. v. United Press International, Inc., 686 F.2d 750, 754 (9th Cir. 1982) (internal citation
16 omitted). Implicit in this required showing is that the relief awarded is only temporary and there
17 will be a full hearing on the merits of the claims raised in the injunction when the action is
18 brought to trial. In cases brought by prisoners involving conditions of confinement, any
19 preliminary injunction "must be narrowly drawn, extend no further than necessary to correct the
20 harm the court finds requires preliminary relief, and be the least intrusive means necessary to
21 correct the harm." 18 U.S.C. § 3626(a)(2).

22 In addition, as a general rule this court is unable to issue an order against individuals who
23 are not parties to a suit pending before it. Zenith Radio Corp. v. Hazeltine Research, Inc., 395
24 U.S. 100 (1969).

25 Here, plaintiff's claims regarding prison staff at CSP-SAC are unrelated to the claims on
26 which this action is proceeding, i.e., plaintiff's claims that on August 31, 2014, while he was
27 housed at CHCF, defendants Singh and Cotter used excessive force on plaintiff, and the
28 remaining named defendants failed to take steps to prevent or stop them. Because the grounds of

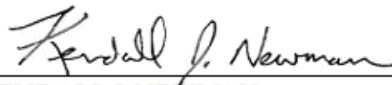
1 plaintiff's request for injunctive relief are unrelated to the merits of the instant action, the court is
2 unable to address plaintiff's motion for injunctive relief because such claims will not be heard on
3 the merits in the instant action. Moreover, plaintiff seeks injunctive relief against individuals who
4 are not named as defendants herein.

5 In accordance with the above, IT IS HEREBY ORDERED that the Clerk of the Court is
6 directed to assign a district judge to this case; and

7 IT IS RECOMMENDED that plaintiff's motion (ECF No. 19) be denied.

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

16 Dated: April 28, 2015

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18 KENDALL J. NEWMAN
19 UNITED STATES MAGISTRATE JUDGE

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