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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD J. CRANE,
Plaintiff,
v.
RODRIGUEZ, et al.,
Defendants.

No. 2:15-cv-0208 TLN KJN P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Plaintiff is a state prisoner, proceeding pro se. Plaintiff’s fully-briefed motion for injunctive relief is before the court. As discussed below, plaintiff’s motion should be denied.

Plaintiff’s Allegations

This action proceeds on plaintiff’s second amended complaint against defendants Davey, Rodriguez, Robinette, Barton, Probst and Weeks. (ECF No. 16.) The court found plaintiff stated potentially cognizable First and Eighth Amendment claims for relief based on plaintiff’s allegations that such defendants conspired to violate his civil rights while plaintiff was incarcerated at High Desert State Prison (“HDSP”). (ECF No. 26 at 6.) Plaintiff alleges that on multiple occasions from December 31, 2009, to March 1, 2013, defendants set him up for assault by inmates Washington, Smith, Dolihite, Parker and Williams because of plaintiff’s litigation activities. (ECF No. 16 at 3-9.) Plaintiff also alleges that defendants Robinette and Weeks used excessive force on March 1, 2013. (ECF No. 16 at 7-8.)

1 Background

2 Plaintiff is housed at RJ Donovan Correctional Facility, where he has been housed since
3 filing this action. On February 18, 2022, plaintiff filed a motion for preliminary injunction. (ECF
4 No. 281.) Plaintiff claims that due to COVID-19 and staffing shortages, the law library is closed,
5 and the only way he can obtain photocopies of his opposition to the motions for summary
6 judgment is to send it in a manilla envelope, unsealed without a receipt, which plaintiff contends
7 is unsafe and not secure. On February 24, 2022, defendants Davey, Rodriguez, Probst, Barton,
8 and Robinette filed an opposition to plaintiff's motion for injunctive relief, stating that plaintiff is
9 able to access the law library through paging to make copies. (ECF No. 282.)

10 On March 7, 2022, plaintiff filed an opposition to the motions for summary judgment.
11 (ECF No. 289.) On March 8, 2022, plaintiff was provided the opportunity to clarify the
12 following: (a) whether his February 28, 2022 (ECF No. 283), and March 3, 2022 (ECF No. 286)
13 filings were all of the documents he intended to file to oppose the pending motions for summary
14 judgment; if plaintiff did not intend to file anything further, he should so state; (b) how inmate
15 Reed's declaration should be considered in connection with the pending motions for summary
16 judgment; and (c) whether in light of his opposition plaintiff intended to withdraw his motion for
17 injunctive relief. (ECF No. 290.)

18 On March 28, 2022, plaintiff filed a document styled "Plaintiff's Response to Court's
19 Order [ECF No. 290]." (ECF No. 294.)

20 On April 14, 2022, plaintiff was granted an extension of time to file and serve his
21 supplemental opposition to defendant's May 21, 2021 motion for summary judgment. (ECF No.
22 297.) On April 18, 2022, plaintiff filed a "supplemental" opposition to defendant's motion for
23 summary judgment. (ECF No. 298.) In this document, plaintiff responded to the March 8, 2022
24 order clarifying that his prior opposition briefing was not complete, and supplemented his
25 opposition to the motion for summary judgment. On April 22, 2022, plaintiff filed a declaration
26 in support of his opposition to the motion for summary judgment. (ECF No. 300.)

27 On May 31, 2022, plaintiff filed a reply to the opposition to his motion for injunctive
28 relief. (ECF No. 308.) Plaintiff asserted that while prison officials operated dayroom and yard

1 access, claiming it was necessary to close the law library, the defendants violated confidentiality
2 of legal documents by copying legal documents during such closure. (ECF No. 308 at 1.) He
3 claims such closure was a pretext to deny access to the courts. Plaintiff also argued that he has
4 shown that he was denied law library access for two months, demonstrating that prison officials
5 violated plaintiff's access to the courts. (ECF No. 308 at 2-3.)

6 Plaintiff's Motion for Injunctive Relief

7 Governing Standards

8 "A preliminary injunction is an extraordinary remedy never awarded as of right." Winter
9 v. Natural Resources Defense Council, Inc., 555 U.S. 7, 24 (2008) (citations omitted); Epona v.
10 Cty. of Ventura, 876 F.3d 1214, 1227 (9th Cir. 2017). The party seeking a preliminary injunction
11 must establish that "he is likely to succeed on the merits, that he is likely to suffer irreparable
12 harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an
13 injunction is in the public interest." Winter, 555 U.S. at 20 (citations omitted); see also American
14 Trucking Ass'ns, Inc. v. City of Los Angeles, 559 F.3d 1046, 1052 (9th Cir. 2009) (quoting
15 Winter, 555 U.S. at 20); Fed. R. Civ. P. 65 (governing both temporary restraining orders and
16 preliminary injunctions). An injunction may only be awarded upon a clear showing that the
17 plaintiff is entitled to relief. See Winter, 555 U.S. at 22 (citation omitted). A presently existing
18 actual threat must be shown, although the injury need not be certain to occur. See Zenith Radio
19 Corp. v. Hazeltine Research, Inc., 395 U.S. 100, 130-31 (1969); FDIC v. Garner, 125 F.3d 1272,
20 1279-80 (9th Cir. 1997); Caribbean Marine Services Co., Inc. v. Baldrige, 844 F.2d 668, 674 (9th
21 Cir. 1988). Also, an injunction against individuals not parties to an action is strongly disfavored.
22 See Zenith Radio Corp., 395 U.S. at 110 ("It is elementary that one is not bound by a judgment . .
23 . . resulting from litigation in which he is not designated as a party. . . .").

24 Further, a plaintiff seeking preliminary injunctive relief must demonstrate a sufficient
25 nexus between the injury claimed in the motion and the conduct asserted in the underlying
26 complaint. Pacific Radiation Oncology, LLC v. Queen's Medical Ctr., 810 F.3d 631, 636 (9th
27 Cir. 2015). "The relationship . . . is sufficiently strong where the preliminary injunction would
28 grant relief of the same character as that which may be granted finally." Id. (quotation marks

1 omitted). “Absent that relationship or nexus, the district court lacks authority to grant the relief
2 requested.” Id.; see Saddiq v. Ryan, 703 F. App’x 570, 572 (9th Cir. 2017) (unpublished)
3 (affirming denial of preliminary injunction because the prisoner did not establish a nexus between
4 the claims of retaliation in his motion and the claims set forth in his complaint).

5 Discussion

6 March 28, 2022 Response

7 Initially, the undersigned observes that plaintiff’s March 28, 2022 response failed to
8 address the issues set forth in the March 8, 2022 order or in his pending motion for injunctive
9 relief. Rather, plaintiff raised new allegations concerning assaults that took place in 2016, 2021
10 and 2022, all of which took place after the instant action was filed in 2015. Such allegations are
11 not relevant to plaintiff’s pending motion for injunctive relief, and were wholly unresponsive to
12 the March 8, 2022 order. Therefore, plaintiff’s March 28, 2022 response (ECF No. 294) is
13 disregarded.

14 Motion for Injunctive Relief

15 While housed at RJ Donovan, plaintiff sought “very limited prospective relief to gain
16 access to the law library, and make photocopies of his opposition to defendants’ motion for
17 summary judgment.” (ECF No. 281 at 6.) In his prayer for relief, plaintiff asked the court to
18 grant him “a preliminary injunction to gain access to the law library to prepare, copy, and file his
19 oppositions to defendants’ motions for summary judgment.” (ECF No. 281 at 10.) Plaintiff has
20 now filed such opposition; indeed, he was also granted leave to file a supplemental opposition.
21 Thus, plaintiff’s motion for injunctive relief should be denied as moot.

22 Despite his ability to file such oppositions, plaintiff filed a reply claiming he was denied
23 access to the courts for two months. However, plaintiff fails to demonstrate a nexus between the
24 alleged denial of access to the courts at RJ Donovan and his underlying retaliation and Eighth
25 Amendment excessive force claims based on incidents at High Desert State Prison pursued
26 herein. Absent such nexus, plaintiff’s motion should be denied. Pacific Radiation Oncology,
27 LLC., 810 F.3d at 636. Moreover, this action proceeds on plaintiff’s claims against defendants
28 employed at High Desert State Prison; no prison staff at RJ Donovan are named as defendants

1 herein. Thus, any action challenging access to the courts while housed at RJ Donovan is more
2 appropriately brought in the United States District Court for the Southern District of California
3 against the responsible prison staff. However, in addition to first exhausting his administrative
4 remedies as to such access to the court claim, plaintiff must demonstrate an actual injury to state a
5 cognizable civil rights claim.¹

6 For all of the above reasons, plaintiff's motion for injunctive relief should be denied.

7 Continued Filing Restrictions

8 Finally, on November 12, 2021, the undersigned sanctioned plaintiff for filing a baseless
9 motion and prohibited plaintiff from filing any motion or request unrelated to the pending
10 motions for summary judgment until the court ruled on the pending motions for summary
11 judgment. (ECF No. 266 at 2.) Subsequently, plaintiff violated such order, and on June 9, 2022,
12 plaintiff was restricted from filing anything further pending this court's findings and
13 recommendations on defendants' motions for summary judgment and plaintiff's motion for
14 injunctive relief. (ECF No. 312.) As set forth below, plaintiff is now permitted to file objections
15 to the instant findings and recommendations on his motion for injunctive relief. However,
16 plaintiff continues to be restricted from filing any additional motion or request until after findings
17 and recommendations are issued on the pending motions for summary judgment. Violation of
18 such filing restrictions will result in a recommendation that this action be terminated based on
19 plaintiff's failure to comply with court orders. Fed. R. Civ. P. 41(b).

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22 ¹ Prisoners have a constitutional right of access to the courts. Lewis v. Casey, 518 U.S. 343, 346
23 (1996); Bounds v. Smith, 430 U.S. 817, 821 (1977), limited in part on other grounds by Lewis,
24 518 U.S. at 354. The right of access to the courts is limited to non-frivolous direct criminal
25 appeals, habeas corpus proceedings, and § 1983 actions. See Lewis, 518 U.S. at 353 n.3, 354-55.
26 In order to frame a claim of a denial of the right to access the courts, a prisoner must establish that
27 he has suffered "actual injury," a jurisdictional requirement derived from the standing doctrine.
28 Lewis, 518 U.S. at 349. An "actual injury" is "actual prejudice with respect to contemplated or
existing litigation, such as the inability to meet a filing deadline or to present a claim." Lewis,
518 U.S. at 348 (citation and internal quotations omitted); see also Alvarez v. Hill, 518 F.3d
1152, 1155 n.1 (9th Cir. 2008) (noting that "[f]ailure to show that a 'non-frivolous legal claim had
been frustrated' is fatal" to a claim for denial of access to legal materials) (citing Lewis, 518 U.S.
at 353 & n.4).

1 Accordingly, IT IS HEREBY ORDERED that plaintiff's March 28, 2022 response (ECF
2 No. 294) is disregarded, and the restrictions on plaintiff's filings continue, as set forth above.

3 Further, IT IS RECOMMENDED that plaintiff's motion for injunctive relief (ECF No.
4 281) be denied.

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

13 Dated: June 27, 2022

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE