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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ERIC ZACHARY ANDERSON,
Plaintiff,
v.
TIM VIRGA, et al.,
Defendants.

No. 2:15-cv-01148-KJM-EFB

ORDER

Plaintiff Eric Zachary Anderson, a state prisoner proceeding pro se, brings this civil rights action under 42 U.S.C. § 1983 and now moves for a preliminary injunction to prevent his transfer to High Desert State Prison or Pelican Bay State Prison where he alleges he will be killed by gang members. Mot., ECF No. 92. Plaintiff alleges “there is a [sic] active kill order on [Anderson] & and the last time defendants in this suit sent [him] to a yard with them [Anderson] was the victim of attempted murder.” *Id.* at 1.

The court previously ordered Senior Supervising Deputy Attorney General Monica Anderson to respond to plaintiff’s allegations and provide the court with all available documents regarding any pending classification or transfer decision. ECF No. 93. Defendants responded, providing a declaration from California Department of Corrections and Rehabilitation Corrections Counselor K. Bradford, Classification Committee Chronos dated September 13, 20 and 27, 2018, and a Classification Services Unit Memorandum dated October 1, 2018. Response, ECF No. 95;

1 Bradford Decl., ECF No. 95-1; Chronos, Ex. A, Bradford Decl.; Memorandum, Ex. B, Bradford
2 Decl.

3 Defendants' response indicates that Anderson is not currently scheduled for
4 transfer to either Pelican Bay State Prison or High Desert State Prison. Response at 2; Bradford
5 Decl. ¶ 10. Rather, Bradford represents under penalty of perjury that the Institution Classification
6 Committee has heard and considered Anderson's safety concerns and that Anderson will be
7 retained at California State Prison, Lancaster for up to ninety days. Bradford Decl. ¶¶ 7-8.
8 Anderson will then be transferred to either California State Prison, Corcoran, or re-referred to an
9 Institution Classification Committee to determine where he should be placed. *Id.* ¶ 9. Although
10 the Institution Classification Committee had previously recommended that Anderson be
11 transferred to High Desert State Prison, that recommendation was based on the Committee's
12 determination at that time that Anderson may be safely housed in certain facilities at High Desert
13 State Prison. *Id.* ¶¶ 3, 7.

14 Based on the state's response, there is no indication Anderson's transfer is
15 imminent or that any transfer poses a threat of irreparable harm. Accordingly, his preliminary
16 injunction request is DENIED without prejudice.

17 IT IS SO ORDERED.

18 DATED: October 29, 2018.

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UNITED STATES DISTRICT JUDGE