

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

DARREN VINCENT FORD,

Plaintiff,

v.

CALIFORNIA HEALTH CARE  
FACILITY, et al.,

Defendants.

No. 2:15-cv-2588 GEB DB P

ORDER AND FINDINGS AND  
RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action under 42 U.S.C. § 1983. Upon screening, the court found plaintiff stated a potentially cognizable claim under the Eighth Amendment against defendant Jahangiri for failing to take protective measures after plaintiff threatened to commit suicide. (ECF No. 11.) Defendant Jahangiri is the only defendant remaining in this action.

On November 10, 2016, defendant filed an answer. On November 21, 2016, the court issued a discovery and scheduling order. On December 6, 2016, plaintiff filed motions for his legal property, for an extension of time to respond to a request for production of documents, and for an order requiring W. Porter to give plaintiff library access and his legal property. (ECF Nos. 32, 33, 34.)

////

1 In both his “Motion for Legal Property” and his “Motion for Restraining Order,” plaintiff  
2 seeks an order requiring Officer W. Porter to give him his legal property and to give him access to  
3 the law library. These are requests for preliminary injunctive relief.

4 A party requesting preliminary injunctive relief must show that “he is likely to succeed on  
5 the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the  
6 balance of equities tips in his favor, and that an injunction is in the public interest.” Winter v.  
7 Natural Res. Def. Council, 555 U.S. 7, 20 (2008). The propriety of a request for injunctive relief  
8 hinges on a significant threat of irreparable injury that must be imminent in nature. Caribbean  
9 Marine Serv. Co. v. Baldrige, 844 F.2d 668, 674 (9th Cir. 1988).

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

17 The principal purpose of preliminary injunctive relief is to preserve the court’s power to  
18 render a meaningful decision after a trial on the merits. See 9 Charles Alan Wright & Arthur R.  
19 Miller, Federal Practice and Procedure § 2947 (3d ed. 2014). Implicit in this required showing is  
20 that the relief awarded is only temporary and there will be a full hearing on the merits of the  
21 claims raised in the injunction when the action is brought to trial. The Ninth Circuit Court of  
22 Appeals recently considered the relationship between a request for preliminary injunctive relief  
23 and the underlying action. The court held that there must be a “sufficient nexus between the  
24 claims raised in a motion for injunctive relief and the claims set forth in the underlying complaint  
25 itself.” Pacific Radiation Oncology, LLC v. Queen’s Med. Ctr., 810 F.3d 631, 636 (9th Cir.  
26 2015). That relationship is sufficient to support a preliminary injunction where the injunctive  
27 relief sought is ““of the same character as that which may be granted finally.”” Id. (quoting De

28 ///

1 Beers Consol. Mines v. United States, 325 U.S. 212, 220 (1945)). “Absent that relationship or  
2 nexus, the district court lacks authority to grant the relief requested.” Id.

3 In cases brought by prisoners involving conditions of confinement, any preliminary  
4 injunction “must be narrowly drawn, extend no further than necessary to correct the harm the  
5 court finds requires preliminary relief, and be the least intrusive means necessary to correct that  
6 harm.” 18 U.S.C. § 3626(a)(2). Further, an injunction against individuals not parties to an action  
7 is strongly disfavored. See Zenith Radio Corp. v. Hazeltine Research, Inc., 395 U.S. 100, 110  
8 (1969) (“It is elementary that one is not bound by a judgment . . . resulting from litigation in  
9 which he is not designated as a party . . .”).

10 The subject of the present lawsuit is defendant’s response to plaintiff’s threatened suicide.  
11 In his motions, plaintiff asks the court to order a non-party, Officer W. Porter, to provide him  
12 with access to legal materials and the library. Because the subject of plaintiff’s request for  
13 injunctive relief is not the same as the subject matter of his complaint, the court “lacks authority  
14 to grant the relief requested.” Pacific Radiation Oncology, LLC v. Queen’s Med. Ctr., 810 F.3d  
15 631, 636 (9th Cir. 2015). Accordingly, the court will recommend denial of plaintiff’s request for  
16 injunctive relief.


17 Plaintiff has likely shown good cause for an extension of time to respond to discovery. If  
18 plaintiff is facing an imminent deadline, then he should be permitted additional time to respond  
19 based on his difficulties in getting his legal property. The problem with plaintiff’s request,  
20 however, is that plaintiff does not specify when his responses to the request for production of  
21 documents are due or how much time he seeks. Therefore, the court will deny plaintiff’s request  
22 without prejudice to its renewal.

23 For the foregoing reasons, IT IS HEREBY ORDERED that plaintiff’s motion for an  
24 extension of time (ECF No. 33) is denied without prejudice. If plaintiff seeks an extension of  
25 time, in addition to showing good cause, plaintiff must tell the court when his responses are due  
26 and how much additional time he seeks to respond.

27 IT IS HEREBY RECOMMENDED that plaintiff’s motions for injunctive relief (ECF  
28 Nos. 32, 34) be denied for the reasons set forth above.

1           These findings and recommendations will be 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. The 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 result in waiver of  
8 the right to appeal the district court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

9 Dated: December 12, 2016

10  
11   
12 \_\_\_\_\_  
13 DEBORAH BARNES  
14 UNITED STATES MAGISTRATE JUDGE  
15  
16

17 DLB:9  
18 DLB1/prisoner-civil rights/ford2588.eot  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28