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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMBRI SEAN JOHNSON, Sr.,  
Plaintiff,  
v.  
DR. MOHAMED IBRAHIM, et al.,  
Defendants.

No. 2:16-cv-387-JAM-EFB P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding in forma pauperis and without counsel in an action brought under 42 U.S.C. § 1983. He has filed a “motion for immediate injunction” wherein he requests that the court order prison officials to return a typewriter that they confiscated. ECF No. 36. He claims that an injury – ostensibly the one to his right hand at issue in this litigation – renders it difficult for him to “write more than two pages without suffering severe pain in the wrist and fingers . . . .” *Id.* at 1. For the reasons stated hereafter, it is recommended that the motion be denied.

Legal Standard

A preliminary injunction represents the exercise of a far-reaching power not to be indulged except in a case clearly warranting it. *Dymo Indus. v. Tapeprinter, Inc.*, 326 F.2d 141, 143 (9th Cir. 1964). To be entitled to preliminary injunctive relief, a party must demonstrate “that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the

1 absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction  
2 is in the public interest.” *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir. 2009) (citing  
3 *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7 (2008)). The Ninth Circuit has also held  
4 that the “sliding scale” approach it applies to preliminary injunctions—that is, balancing the  
5 elements of the preliminary injunction test, so that a stronger showing of one element may offset  
6 a weaker showing of another—survives *Winter* and continues to be valid. *Alliance for the Wild  
7 Rockies v. Cottrell*, 622 F.3d 1045, 1050 (9th Cir. 2010). “In other words, ‘serious questions  
8 going to the merits,’ and a hardship balance that tips sharply toward the plaintiff can support  
9 issuance of an injunction, assuming the other two elements of the *Winter* test are also met.” *Id.*

#### 10 Analysis

11 As an initial matter, plaintiff has failed to address any of the elements which the court is  
12 required to weigh in deciding whether to issue a preliminary injunction. That is, he has not  
13 offered argument or evidence indicating that he is likely to succeed on the merits, that he is likely  
14 to suffer irreparable harm absent injunctive relief, that the balance of equities tips in his favor, or  
15 that the injunction is in the public interest. See *Selecky*, 586 F.3d at 1127. Most crucially, the  
16 court has no medical evidence before it which confirms either that: (1) plaintiff suffers from a  
17 severe medical condition which inhibits his ability to write; or (2) that provision of a typewriter is  
18 medically necessary or appropriate to permit him access to the courts. The court also notes that  
19 there is no constitutional right to provision of a typewriter in prison. See *Lindquist v. Idaho State  
20 Bd. of Corrections*, 776 F.2d 851, 858 (9th Cir. 1985) (“The existence or condition of the library’s  
21 typewriters is irrelevant, as the Constitution does not require that they be made available to  
22 inmates.”). Finally, plaintiff avers that he is still in the process of exhausting prison grievance  
23 procedures on this issue. ECF No. 36 at 1-2. Absent strong evidence that the courthouse doors  
24 would be closed to plaintiff if his motion were not granted, the court is disinclined to pre-empt the  
25 internal grievance procedures which afford prison officials first opportunity to address problems  
26 without court intervention.

27 The foregoing analysis should not be taken as an indication that the court is unsympathetic  
28 to the litigative difficulties facing prisoners – especially those with health issues. To that end, the

1 court is receptive to reasonable requests for extensions of time. If, as plaintiff indicates, he can  
2 only write two pages without suffering pain (ECF No. 1 at 1), he may seek extensions in order to  
3 write at a more gradual pace and still comply with the court's deadlines.

4 Conclusion

5 For the foregoing reasons, it is RECOMMENDED that plaintiff's motion for preliminary  
6 injunction (ECF No. 36) be DENIED.

7 These findings and recommendations are submitted to the United States District Judge  
8 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
9 after being served with these findings and recommendations, any party may file written  
10 objections with the court and serve a copy on all parties. Such a document should be captioned  
11 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections  
12 within the specified time may waive the right to appeal the District Court's order. *Turner v.*  
13 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

14 DATED: September 24, 2019.

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16 EDMUND F. BRENNAN  
17 UNITED STATES MAGISTRATE JUDGE  
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