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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SAMUEL SALDANA,
Plaintiff,
v.
M.E. SPEARMAN, et al.,
Defendants.

No. 2:18-cv-0319 KJM AC P

FINDINGS AND RECOMMENDATIONS

Plaintiff, a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983, has filed a motion for a preliminary injunction. ECF No. 81. Plaintiff alleges that on April 4, 2022, he was subject to an excessive use of force that he is in the process of grieving. Id. at 2, 18-19. He asserts that as a result of his grievance, the prison administration is trying to transfer him to interfere with his ability to pursue a lawsuit related to the use of force. Id. When plaintiff told officials that he had a settlement conference in this case scheduled for May 18, 2022, he was told that they would wait to transfer him until after the settlement conference. Id. at 2, 18. Plaintiff requests an order directing that he be left alone and not transferred for one year. Id. at 3, 19.

“A plaintiff seeking a preliminary injunction must establish [(1)] that he is likely to succeed on the merits, [(2)] that he is likely to suffer irreparable harm in the absence of preliminary relief, [(3)] that the balance of equities tips in his favor, and [(4)] that an injunction is

1 in the public interest.” Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 20 (2008) (citations
2 omitted). If the moving party cannot show a likelihood of success on the merits, “serious
3 questions going to the merits’ and a balance of hardships that tips sharply towards the plaintiff
4 can support issuance of a preliminary injunction, so long as the plaintiff also shows that there is a
5 likelihood of irreparable injury and that the injunction is in the public interest.” All. for the Wild
6 Rockies v. Cottrell, 632 F.3d 1127, 1135 (9th Cir. 2011).

7 In order to prevail on a motion for preliminary injunctive relief, the Ninth Circuit has also
8 held

9 that there must be a relationship between the injury claimed in the
10 motion for injunctive relief and the conduct asserted in the
11 underlying complaint. This requires a sufficient nexus between the
12 claims raised in a motion for injunctive relief and the claims set forth
13 in the underlying complaint itself. The relationship between the
14 preliminary injunction and the underlying complaint is sufficiently
15 strong where the preliminary injunction would grant “relief of the
16 same character as that which may be granted finally.” De Beers
17 Consol. Mines[v. United States], 325 U.S. [212,] 220, 65 S. Ct. 1130
18 [(1945)]. Absent that relationship or nexus, the district court lacks
19 authority to grant the relief requested.

20 Pac. Radiation Oncology, LLC v. Queen’s Med. Ctr., 810 F.3d 631, 636 (9th Cir. 2015). A
21 district court also has no authority to grant relief in the form of a preliminary injunction where it
22 has no jurisdiction over the parties. Ruhrgas AG v. Marathon Oil Co., 526 U.S. 574, 584 (1999)
23 (“Personal jurisdiction, too, is an essential element of the jurisdiction of a district . . . court,
24 without which the court is powerless to proceed to an adjudication.” (alteration in original)
25 (citation and internal quotation omitted)).

26 It does not appear that plaintiff’s impending transfer will have any effect on his ability to
27 participate in the settlement conference scheduled in this case, and his allegations regarding the
28 motivations for his transfer and its effect on his ability to pursue a separate lawsuit have no
relationship to the claims at issue in this action. Furthermore, plaintiff seeks relief based on the
conduct of non-defendant prison officials, whose future conduct he seeks to enjoin; the court does
not have jurisdiction over those individuals unless plaintiff provides facts showing that they are
acting “in active concert or participation” with the defendant. Fed. R. Civ. P. 65(d)(2); Zenith
Radio Corp. v. Hazeltine Rsch., Inc., 395 U.S. 100, 112 (1969) (“[A] nonparty with notice cannot

1 be held in contempt until shown to be in concert or participation.”)). Plaintiff has failed to
2 provide any such facts. Because the claims in the motion for injunction are unrelated to the
3 claims underlying this case and the court lacks jurisdiction over the individuals against whom
4 plaintiff seeks injunctive relief, the motion should be denied.

5 Accordingly, IT IS HEREBY RECOMMENDED that plaintiff’s motion for a preliminary
6 injunction (ECF No. 81) 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 twenty-one 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.” Any response to the
12 objections shall be served and filed within fourteen days after service of the objections. The
13 parties are advised that failure to file objections within the specified time may waive the right to
14 appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

15 DATED: May 6, 2022

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17 ALLISON CLAIRE
18 UNITED STATES MAGISTRATE JUDGE
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