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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

TRAVIS MICHAEL ORTIZ,
Plaintiff,
v.
BUTTE COUNTY CORRECTIONS, et al.,
Defendants.

No. 2:18-CV-2859-TLN-DMC-P

FINDINGS AND RECOMMENDATIONS

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court are plaintiff’s motions for injunctive relief (Docs. 7 and 11).

In this action, plaintiff complains of constitutionally inadequate medical treatment by county jail officials. See Doc. 1. In his motions seeking preliminary injunctive relief, plaintiff appears to allege various defects relating to his underlying criminal conviction. See Docs .7 and 11.

The legal principles applicable to requests for injunctive relief, such as a temporary restraining order or preliminary injunction, are well established. To prevail, the moving party must show that irreparable injury is likely in the absence of an injunction. See Stormans, Inc. v. Selecky, 586 F.3d 1109, 1127 (9th Cir. 2009) (citing Winter v. Natural Res. Def. Council, Inc., 129 S.Ct. 365 (2008)). To the extent prior Ninth Circuit cases suggest a lesser

1 standard by focusing solely on the possibility of irreparable harm, such cases are “no longer
2 controlling, or even viable.” Am. Trucking Ass’ns, Inc. v. City of Los Angeles, 559 F.3d 1046,
3 1052 (9th Cir. 2009). Under Winter, the proper test requires a party to demonstrate: (1) he is
4 likely to succeed on the merits; (2) he is likely to suffer irreparable harm in the absence of an
5 injunction; (3) the balance of hardships tips in his favor; and (4) an injunction is in the public
6 interest. See Stormans, 586 F.3d at 1127 (citing Winter, 129 S.Ct. at 374). The court cannot,
7 however, issue an order against individuals who are not parties to the action. See Zenith Radio
8 Corp. v. Hazeltine Research, Inc., 395 U.S. 100, 112 (1969).

9 The court finds injunctive relief is inappropriate. First, plaintiff cannot establish
10 any connection between the merits of the issues raised in this action and the issues raised in his
11 motions for preliminary court intervention. Indeed, he cannot because the merits are completely
12 unrelated. Second, plaintiff has not suggested any irreparable injury that cannot be adequately
13 addressed on application for state or federal habeas corpus relief. Finally, the court does not have
14 jurisdiction in this action over any of the individuals allegedly responsible for defects in
15 plaintiff’s criminal trial.

16 Based on the foregoing, the undersigned recommends that plaintiff’s motions for
17 injunctive relief (Docs. 7 and 11) be denied.

18 These findings and recommendations are submitted to the United States District
19 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days
20 after being served with these findings and recommendations, any party may file written objections
21 with the court. Responses to objections shall be filed within 14 days after service of objections.
22 Failure to file objections within the specified time may waive the right to appeal. See Martinez v.
23 Ylst, 951 F.2d 1153 (9th Cir. 1991).

24
25 Dated: March 26, 2019



26 DENNIS M. COTA
27 UNITED STATES MAGISTRATE JUDGE
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