

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

JEFF HAWKINS,

Plaintiff,

v.

M. WINKFIELD, et al.,

Defendants.

No. 2:19-cv-1228 TLN KJN P

ORDER

Plaintiff is a state prisoner, proceeding pro se, and is currently housed at the California Health Care Facility. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983. On October 8, 2020, plaintiff filed a document styled, “Injunctive and Monetary Relief and Temporary Restraining Order.” (ECF No. 47.) As discussed below, plaintiff’s motion is denied without prejudice.

I. Plaintiff’s Complaint

Plaintiff alleges that on August 28, 2018, while housed at Mule Creek State Prison (“MCSP”), defendants Winkfield, Pendleton, Decker, Troncoso and Whipple used excessive force on plaintiff in violation of the Eighth Amendment. (ECF No. 10 at 5.) Plaintiff seeks medical treatment and money damages. (ECF No. 10 at 6.)

II. Plaintiff’s Motion for Preliminary Relief

In his motion, plaintiff requests injunctive relief from defendants Winkfield, Pendleton, Decker, Troncoso and Whipple because these correctional officers “assaulted and beat . . .

1 plaintiff” on September 28, 2018, at MCSP. (ECF No. 47 at 1.) Despite a stay away order put in
2 place during the internal investigation, defendant Winkfield and Troncoso violated the stay away
3 order by being present at R&R while plaintiff was receiving a package: Winkfield was standing
4 behind plaintiff; Troncoso had his back to the holding cell where inmates are held while receiving
5 packages. On another occasion, defendant Pendleton was present at the gym door during a yard
6 search. Plaintiff “feels” these officers will retaliate against plaintiff based on the 2018 assault and
7 their disregard for the stay away order. (ECF No. 47 at 2.) The violations of the stay away orders
8 took place on July 1, 2019, and December 1, 2019. Plaintiff states he is “afraid of these
9 correctional officers and any other correctional officer he comes in contact with because of the
10 assault.” (ECF No. 47 at 2.)

11 Plaintiff also requests “injunctive monetary relief . . . for the assault/beatings.” (Id.)

12 A. Applicable Law

13 A temporary restraining order may issue upon a showing “that immediate and irreparable
14 injury, loss, or damage will result to the movant before the adverse party can be heard in
15 opposition.” Fed. R. Civ. P. 65(b)(1)(A). The purpose of such an order is to preserve the status
16 quo and to prevent irreparable harm “just so long as is necessary to hold a hearing, and no
17 longer.” Granny Goose Foods, Inc. v. Brotherhood of Teamsters, 415 U.S. 423, 439 (1974). In
18 ruling on a motion for temporary restraining order, district courts apply the same factors used to
19 evaluate a request for preliminary injunctive relief: whether plaintiff “is likely to succeed on the
20 merits, . . . likely to suffer irreparable harm in the absence of preliminary relief, . . . the balance of
21 equities tips in his favor, and . . . an injunction is in the public interest.” Winter v. Natural Res.
22 Def. Council, Inc., 555 U.S. 7, 20 (2008); see Stuhlberg Int’l. Sales Co. v. John D. Brush & Co.,
23 240 F.3d 832, 839 n.7 (9th Cir. 2001) (“Because our analysis is substantially identical for the
24 injunction and the TRO, we do not address the TRO separately.”).

25 “A preliminary injunction is an extraordinary remedy never awarded as of right.” Winter,
26 555 U.S. at 24 (citation omitted).

27 Federal courts are courts of limited jurisdiction and in considering a request for
28 preliminary injunctive relief, the court is bound by the requirement that as a preliminary matter, it

1 have before it an actual case or controversy. City of L.A. v. Lyons, 461 U.S. 95, 102 (1983);
2 Valley Forge Christian Coll. v. Ams. United for Separation of Church & State, Inc., 454 U.S.
3 464, 471 (1982). If the court does not have an actual case or controversy before it, it has no
4 power to hear the matter in question. Id. Further, requests for prospective relief are limited by 18
5 U.S.C. § 3626(a)(1)(A) of the Prison Litigation Reform Act (“PLRA”), which requires that the
6 court find the “relief [sought] is narrowly drawn, extends no further than necessary to correct the
7 violation of the Federal right, and is the least intrusive means necessary to correct the violation of
8 the Federal right.”

9 Finally, the pendency of an action does not give the court jurisdiction over prison officials
10 in general. Summers v. Earth Island Inst., 555 U.S. 488, 491-93 (2009); Mayfield v. United
11 States, 599 F.3d 964, 969 (9th Cir. 2010). The court’s jurisdiction is limited to the parties in this
12 action and to the viable legal claims upon which this action is proceeding. Summers, 555 U.S. at
13 491-93; Mayfield, 599 F.3d at 969.

14 B. Discussion

15 Plaintiff’s motion is insufficient because he fails to address all of the factors required
16 under Winter, 555 U.S. at 20.

17 In addition, plaintiff has not demonstrated that he is or will be subject to immediate and
18 irreparable harm if an injunction does not issue. Plaintiff claims generally that he is afraid of the
19 defendant officers, as well as all correctional officers, based on the 2018 assault. But plaintiff
20 articulates no facts demonstrating a threat of imminent or likely harm. See Alliance for the Wild
21 Rockies v. Cottrell, 632 F.3d 1127, 1131 (9th Cir. 2011) (“Under Winter, plaintiff[] must
22 establish that irreparable harm is likely, not just possible.”); Goldie’s Bookstore, Inc. v. Superior
23 Court of State of Cal., 739 F.2d 466, 472 (9th Cir. 1984) (“Speculative injury does not constitute
24 irreparable injury.”); Rigsby v. State, 2013 WL 1283778, at *5 (D. Ariz. Mar. 28, 2013) (denying
25 prisoner’s TRO based on fear of potential future injury based on past assaults). Indeed, plaintiff
26 is no longer housed at Mule Creek State Prison, and does not allege that any of the defendants
27 have been transferred to employment at California Health Care Facility where plaintiff is
28 presently housed. A presently existing actual threat must be shown, even though injury need not

1 be certain to occur. See Zenith Radio Corp. v. Hazeltine Research, Inc., 395 U.S. 100, 130-31
2 (1969); FDIC v. Garner, 125 F.3d 1272, 1279-80 (9th Cir. 1997).

3 Moreover, to meet Rule 65's "irreparable injury" requirement, plaintiff must do more than
4 simply allege imminent harm; he must demonstrate it. Caribbean Marine Servs. Co., Inc. v.
5 Baldrige, 844 F.2d 668, 674 (9th Cir. 1988). This requires he allege "specific facts in an
6 affidavit or a verified complaint [which] clearly show" a credible threat of "immediate and
7 irreparable injury, loss or damage." Fed R. Civ. P. 65(b)(A). "Speculative injury does not
8 constitute irreparable injury sufficient to warrant granting a preliminary injunction." Caribbean
9 Marine, 844 F.2d at 674-75. Just because certain defendants were standing near plaintiff while he
10 was housed at MCSP nearly a year after plaintiff was assaulted in 2018 does not demonstrate a
11 threat of irreparable injury in 2019, but certainly does not demonstrate such threat in October of
12 2020, following plaintiff's transfer to a different prison. While the court is sympathetic to
13 plaintiff's fear of correctional officers based on the 2018 assault, plaintiff may not obtain
14 injunctive relief in this action based upon such generalized fear.

15 Finally, plaintiff may not obtain money damages through a motion for injunctive relief.
16 Rather, plaintiff has sought money damages through his amended complaint, and such request
17 will be decided upon resolution of this action.

18 For all of the above reasons, plaintiff's motion is denied without prejudice.

19 Accordingly, IT IS HEREBY ORDEREED that plaintiff's motion (ECF No. 47) is denied
20 without prejudice.

21 Dated: October 13, 2020

22 
23 _____
24 KENDALL J. NEWMAN
25 UNITED STATES MAGISTRATE JUDGE

26 /hawk1228.tro.pi
27
28