

1 all other Def[endant] custody [in order] to avoid death or serious injury.” ECF No. 38 at 1.
2 Plaintiff alleges that “Def[endant] CDCR is actively seeking to have [him] attacked by gang
3 members,” that he has “been injured / maimed, [and] set up / harassed at [four] prisons,” and that
4 he is “in jeopardy of being killed or seriously injured again”² Id. at 1, 6. Accordingly, plaintiff
5 asks that he be “transfer[red] completely out of CDCR state custody into federal custody.” See
6 ECF No. 38 at 6. A transfer to another CDCR prison “won’t help,” plaintiff argues, because
7 “corrupt C/O[]s will call to those prisons [and] tell lies or truth to get . . . equally corrupt co-
8 worker to continue . . . their harassment.” Id.

9 II. DISCUSSION

10 A. Plaintiff Seeks Relief That is Unavailable

11 To the extent that the motion requests plaintiff’s transfer into federal custody, it must be
12 denied. The federal Bureau of Prisons houses those offenders committed to it upon conviction
13 and sentencing in a federal court. See 18 U.S.C. § 3621. There is no indication that plaintiff has
14 any outstanding federal sentence that could support BOP custody. Even if he did, the
15 determination of priority of custody and service of sentence between state and federal sovereigns
16 is a matter of comity to be resolved by federal and state executive branches. It is not a judicial
17 function. See United States v. Warren, 610 F.2d 680, 684-85 (9th Cir. 1980).

18 In any event, courts regularly defer to prison officials’ decisions on internal matters. See,
19 e.g., Sandin v. Conner, 515 U.S. 472, 482 (1995) (“[F]ederal courts ought to afford appropriate
20 deference and flexibility to state officials trying to manage a volatile environment.”); Wolff v.
21 McDonnell, 418 U.S. 539, 566 (1974) (“We should not be too ready to exercise oversight and put
22 aside the judgment of prison administrators.”). Inmates have no constitutional right to any
23 particular prison placement. See Meachum v. Fano, 427 U.S. 215, 224 (1976); Neal v. Shimoda,
24 131 F.3d 818, 828 (9th Cir. 1997).

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27 ² Plaintiff states that he has “still not [been] treated for previous injuries inflicted.” ECF No. 38
28 at 6. However, plaintiff fails to provide any information whatsoever about these alleged previous
injuries. See generally ECF No. 38.

1 B. Failure to Show Likelihood of Irreparable Harm

2 To obtain preliminary injunctive relief, a party must demonstrate that (1) he is likely to
3 succeed on the merits; (2) he is likely to suffer irreparable harm in the absence of an injunction;
4 (3) the balance of equities tips in his favor, and (4) an injunction is in the public interest. Winter
5 v. Natural Resources Defense Council, 555 U.S. 7, 20 (2008). Here, although plaintiff repeats his
6 claims of imminent life-threatening danger, there continues to be a complete absence of evidence
7 to support the allegations. Plaintiff alleges that he was “permanently maimed and severely
8 injured” after the court denied his second preliminary injunction request in November 2019. ECF
9 No. 38 at 4. However, plaintiff does not provide any specific facts regarding the nature of this
10 alleged permanent injury or the circumstances under which it was sustained, and no medical
11 records or other documentary evidence is provided.

12 Because there has been a complete failure to establish the likelihood of irreparable harm,
13 the court need not address the other Winter factors. Plaintiff not met his burden, and the motion
14 for a preliminary injunction must be denied.

15 CONCLUSION

16 Accordingly, IT IS HEREBY RECOMMENDED that plaintiff’s motion for preliminary
17 injunction, ECF No. 38, be DENIED.

18 These findings and recommendations are submitted to the United States District Judge
19 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
20 after being served with these findings and recommendations, plaintiff may file written objections
21 with the court. Such a document should be captioned “Objections to Magistrate Judge’s Findings
22 and Recommendations. Plaintiff is advised that failure to file objections within the specified time
23 may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th
24 Cir. 1991).

25 DATED: July 19, 2021

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27 ALLISON CLAIRE
28 UNITED STATES MAGISTRATE JUDGE