

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

TEVIN LEE HARRIS,
Plaintiff,
v.
R. VALENCIA, et al.,
Defendants.

No. 2: 19-cv-1751 JAM KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s July 24, 2020 motion for a traverse. (ECF No. 40.) For the reasons stated herein, plaintiff’s motion for a traverse is denied.

The only defendant in this action is R. Pleschuck, who is employed at California State Prison-Sacramento (“CSP-Sac”) as a “Phd.” Plaintiff alleges that defendant Pleschuck denied plaintiff adequate mental health care, in violation of the Eighth Amendment, while plaintiff was housed in CSP-Sac-A-2 PSU during 2018. Plaintiff is currently housed at the Los Angeles County Jail.

On April 14, 2020, the undersigned referred this action to the Post-Screening ADR Project and stayed this action for 120 days. This action is set for a settlement conference before Magistrate Judge Claire on August 25, 2020.

///

1 On July 1, 2020, the undersigned denied plaintiff’s April 13, 2020 motion to compel
2 production of his medical and mental health records. (ECF No. 37.) The undersigned found that
3 litigation of plaintiff’s claim that he was denied access to his medical and mental health records
4 was better left until after the settlement conference, if appropriate. (Id.) The undersigned ordered
5 defendant to produce plaintiff’s relevant medical and mental health records to Magistrate Judge
6 Claire for in-camera review at the time they submit their confidential settlement conference
7 statement. (Id.)

8 In the pending motion, plaintiff alleges that prison officials at California State Prison-
9 Corcoran (“Corcoran”) failed to provide him with his medical and mental health records. (ECF
10 No. 40.) Plaintiff also alleges that he fears that prison officials at Corcoran will retaliate against
11 him again and cause him injuries, suffering and death, as alleged in administrative grievances.
12 (Id. at 4.) Plaintiff requests that the court order Corcoran prison officials to protect plaintiff’s
13 personal and legal property. (Id.) Plaintiff alleges that he filed another civil rights action, case
14 no. 1:19-cv-00429, alleging excessive force against Corcoran prison officials and a conflict of
15 interest between himself and Corcoran Mental Health Officer Kyle. (Id.) Plaintiff alleges that he
16 has made complaints and grievances alleging assaults, unnecessary use of force and sexual assault
17 against Correctional Officer Madrigal and K. Kyle. (Id.)

18 Court records indicate that plaintiff has a pending lawsuit in the Fresno Division of this
19 court, Harris v. Parks, et al., 1:19-cv-429 JDP.¹ In case 1:19-cv-429 JDP, plaintiff alleges
20 “excessive and unnecessary force incidents” involving several Corcoran prison officials including
21 A. Madrigal. See case no. 1:19-cv-429 JDP (ECF No. 27 at 2). In case 1:19-cv-429 JDP,
22 plaintiff also alleges that he was sexually assaulted. (Id.)

23 Turning to the pending motion, plaintiff’s request that Corcoran officials be ordered to
24 provide him with his medical and mental health records is denied for the reasons stated in the July
25 1, 2020 order denying plaintiff’s motion to compel production of these records.

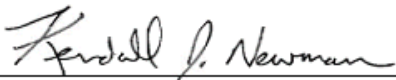
26 ///

27 _____
28 ¹ A court may take judicial notice of court records. See MGIC Indem. Co. v. Weisman, 803 F.2d
500, 505 (9th Cir. 1986).

1 In the pending motion, plaintiff requests injunctive relief against Corcoran prison officials.
2 However, no defendants in this action are located at Corcoran. This court is unable to issue an
3 order against individuals who are not parties to a suit pending before it. See Zenith Radio Corp.
4 v. Hazeltine Research, Inc., 395 U.S. 100, 112 (1969). Plaintiff's request for injunctive relief
5 regarding Corcoran officials should be filed in case no. 1:19-cv-429 JDP.

6 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for a traverse (ECF No.
7 40) is denied.

8 Dated: August 7, 2020

9
10 
11 KENDALL J. NEWMAN
12 UNITED STATES MAGISTRATE JUDGE

13 Harr1751.den
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28