



1 (“CMF”). Defendants Dr. Rauf and Maya are employed at Kern Valley State Prison (“KVSP”).  
2 (ECF No. 13.) Plaintiff alleges that these defendants violated the Eighth Amendment when they  
3 denied plaintiff’s request to discontinue his prescription for the anti-psychotic medication Invega  
4 after plaintiff told defendants that he was not psychotic and that the medication caused harmful  
5 side effects, including chest pain, borderline diabetes, heart palpitations and gynecomastia  
6 (enlargement of breast tissue). (Id. at 3.)

7 Plaintiff is currently incarcerated at KVSP.

8 Discussion

9 As discussed in the November 18, 2021 order, in the pending motions plaintiff requests to  
10 be taken off all anti-psychotic drugs. However, in the amended complaint, plaintiff challenges his  
11 prescription for Invega rather than all anti-psychotic drugs. “[T]here must be a relationship  
12 between the injury claimed in the motion for injunctive relief and the conduct asserted in the  
13 underlying claim.” Pacific Radiation Oncology, LLC v. Queen’s Medical Center, 810 F.3d 631,  
14 636 (9th Cir. 2015).

15 The side effects plaintiff complains of in the amended complaint are allegedly caused by  
16 Invega. For this reason, the undersigned finds that plaintiff’s pending requests to be taken off all  
17 anti-psychotic medication are not sufficiently related to his claim challenging the side effects of  
18 Invega. Accordingly, plaintiff’s requests to be taken off all anti-psychotic medication, other than  
19 Invega, should be denied.

20 In the supplemental opposition, defendants state that plaintiff received his final dose of  
21 Invega, an anti-psychotic medication, on June 15, 2021, while he was housed at the California  
22 Health Care Facility (“CHCF”). (ECF No. 100-1 at 2.) Thereafter, plaintiff was prescribed  
23 Haldol, another anti-psychotic medication, and continues on that medication to this day. (Id.)

24 When a prisoner seeks injunctive relief concerning conditions at a prison, the prisoner’s  
25 claims for prospective injunctive relief are moot when the prisoner is “no longer subject to the  
26 prison conditions or policies he challenges.” Alvarez v. Hill, 667 F.3d 1061, 1064 (9th Cir.  
27 2012). Plaintiff’s request to be taken off Invega is moot because plaintiff is no longer taking  
28 Invega.

1 An exception to mootness are “wrongs capable of repetition yet evading review.” Ctr. for  
2 Biological Diversity v. Lohn, 511 F.3d 960, 964 (9th Cir. 2007). A claim is “capable of  
3 repetition, yet evading review” when (1) the challenged action is of limited duration, too short to  
4 be fully litigated prior to its cessation or expiration, and (2) there is a reasonable expectation that  
5 the same complaining party will be subjected to the same action again. Porter v. Jones, 319 F.3d  
6 483, 489–90 (9th Cir. 2003).

7 Based on the current record, the undersigned finds that there is not sufficient evidence to  
8 find that there is a reasonable expectation that plaintiff will again be prescribed Invega. However,  
9 if plaintiff is again prescribed Invega, he may refile a motion to be taken off Invega.

10 Accordingly, for the reasons discussed above, plaintiff’s requests to be taken off Invega  
11 should be denied as moot.


12 On December 6, 2021, plaintiff filed another motion to be taken of anti-psychotic  
13 medication. (ECF No. 99.) For the reasons discussed above, the undersigned recommends that  
14 this motion be denied.

15 Accordingly, IT IS HEREBY RECOMMENDED that plaintiff’s motions to be taken off  
16 anti-psychotic medication (ECF Nos. 77, 83, 99) be denied.

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

25 Dated: December 13, 2021

26 Dr1665.pi(2)

27   
28 KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE