

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

DUPREE LAMONT ADKINS,  
Plaintiff,  
v.  
DAVID HURTADO, *et al.*,  
Defendants.

Case No. 2:21-cv-00531-DJC-JDP (PC)

**ORDER**

DENYING PLAINTIFF’S MOTION TO  
DISQUALIFY AND GRANTING  
DEFENDANTS’ MOTION TO COMPEL

ECF Nos. 82 & 93

**FINDINGS AND RECOMMENDATIONS**

THAT PLAINTIFF’S MOTION FOR  
PRELIMINARY INJUNCTION AND  
TEMPORARY RESTRAINING ORDER BE  
DENIED

ECF No. 83

OBJECTIONS DUE WITHIN FOURTEEN  
DAYS

Plaintiff brought this § 1983 case against defendants David Hurtado and E. Marshak, alleging that he was denied access to the law library when similarly situated white inmates were not. Pending are plaintiff’s motion to disqualify and request for preliminary injunctive relief. ECF Nos. 82 & 83. For the reasons stated hereafter, these motions should be denied. Also pending is defendants’ motion to compel seeking an order directing plaintiff to produce a law library log, which he represented was in his possession. ECF No. 93. That motion will be

1 granted.

2 Motion to Disqualify

3 Plaintiff has filed a motion seeking to disqualify supervising attorney general Chad E.  
4 Stegeman. ECF No. 82 at 1. “The right to disqualify counsel is a discretionary exercise of the  
5 trial court’s inherent powers.” *Certain Underwriters at Lloyd’s London v. Argonaut Ins. Co.*, 264  
6 F. Supp. 2d 914, 918 (N.D. Cal. 2003). In determining whether to disqualify counsel, the court  
7 applies state law. *In re Cnty. of Los Angeles*, 223 F.3d 990, 995 (9th Cir. 2000). In weighing a  
8 motion for disqualification, a court should consider “a client’s right to chosen counsel, an  
9 attorney’s interest in representing a client, the financial burden on a client to replace disqualified  
10 counsel, and the possibility that tactical abuse underlies the disqualification motion.” *People ex*  
11 *rel. Dep’t of Corps. v. Speedee Oil Change Sys., Inc.*, 20 Cal. 4th 1135, 1145, 86 Cal. Rptr. 2d  
12 816, 980 P.2d 371 (1999).

13 Here, plaintiff argues that requiring him to use a “sign-in” log provides other inmates with  
14 his housing information. ECF No. 82 at 2-3. He claims that Stegeman is aware of this danger but  
15 has failed to rescind the requirement or otherwise to act upon it. *Id.* He also alleges that  
16 Stegeman has misrepresented facts in signed filings. *Id.* at 3. The motion is denied. First,  
17 Stegeman is not listed on the official docket as a counsel of record for any defendant. Rather, he  
18 is the supervising deputy attorney general for the state of California; it is uncertain whether he  
19 may even be disqualified from this case. Additionally, plaintiff’s unsupported allegations are  
20 insufficient to warrant disqualification. Plaintiff’s claims regarding the danger presented by  
21 “sign-in” logs are vague, and I cannot tell how Stegeman is involved in their use. That is, I  
22 cannot tell whether Stegeman himself has ordered their implementation or, instead, if they are an  
23 element of prison policy that he has declined to intervene against. Additionally, plaintiff has not  
24 adequately described what misinformation Stegeman has submitted.

25 This motion is denied.

26 Motion for Preliminary Injunction

27 Plaintiff’s motion for preliminary injunctive relief also concerns the aforementioned  
28 “sign-in” logs. It asks that the court order that plaintiff be exempted from that requirement when

1 using the law library. ECF No. 83 at 7. This motion should be denied. First, despite his vague  
2 allegations that the logs allow other inmates to see his confidential information, he has not shown,  
3 with the required specificity, that he will be irreparably harmed in the absence of an injunction.  
4 *See Summers v. Earth Island Institute*, 555 U.S. 488, 493 (2009) (“To seek injunctive relief, a  
5 plaintiff must show that he is under threat of suffering ‘injury in fact’ that is concrete and  
6 particularized; the threat must be actual and imminent, not conjectural or hypothetical; it must be  
7 fairly traceable to the challenged action of the defendant; and it must be likely that a favorable  
8 judicial decision will prevent or redress the injury.”). Additionally, the relief requested must be  
9 related to the facts and injury asserted in the underlying complaint. *See Pac. Radiation Oncology,*  
10 *LLC v. Queen’s Med. Ctr.*, 810 F.3d 631, 638 (9th Cir. 2015) (“We follow the Eighth Circuit and  
11 adopt the rule of *Devoe*—there must exist a relationship between the injury claimed in a motion  
12 for injunctive relief and the conduct alleged in the underlying complaint.”). Here, plaintiff alleges  
13 that he was denied access to the law library that was afforded other, similarly situated inmates of  
14 a different race. The suit is not about whether “sign-in” logs pose a danger to him or other  
15 inmates forced to use them.

16 This motion should be denied.

#### 17 Motion to Compel

18 Defendants have moved to compel production of a log indicating that other inmates could  
19 access the law library when plaintiff himself could not. ECF No. 93 at 2. Plaintiff indicated that  
20 he had such a document during a meet and confer with defendants’ counsel. *Id.* at 3. In his  
21 opposition to the motion, plaintiff claims his log is irrelevant, but he has nevertheless attached a  
22 document that he claims is responsive.<sup>1</sup> ECF No. 95 at 1, 5. In their reply, defendants argue that  
23 the document produced in the opposition is not the same log plaintiff previously represented he  
24 had during the meet and confer proceedings. ECF No. 96 at 2. I find defendants’ arguments  
25 about the relevance of the log persuasive. This suit directly concerns other, white inmates’ ability  
26 to access the law library when plaintiff was denied similar access. Thus, a log showing other

---

27 <sup>1</sup> Plaintiff has also filed an unauthorized sur-reply, ECF No. 98, which I have reviewed.  
28 Nothing therein alters my conclusions with respect to the defendants’ motion to compel.

1 inmates' access during the relevant time period is unquestionably pertinent. Within twenty-one  
2 days of this order's entry, plaintiff shall either produce the log at issue or submit a sworn response  
3 indicating that the document he produced in his opposition is the only pertinent one in his  
4 possession. If such a response is submitted, plaintiff should explain the discrepancy between his  
5 statements during the meet and confer and his current position.

6 Conclusion

7 Accordingly, it is ORDERED that:

- 8 1. Plaintiff's motions to disqualify, ECF No. 82, is DENIED.
- 9 2. Defendants' motion to compel, ECF No. 93, is GRANTED and, within twenty-one days  
10 of this order's entry, plaintiff shall either produce the log at issue or submit a sworn  
11 response indicating that he does not possess it.

12 Further, it is RECOMMENDED that plaintiff's motion for preliminary injunctive relief,  
13 ECF No. 83, be DENIED.

14 These findings and recommendations are submitted to the United States District Judge  
15 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
16 after being served with these findings and recommendations, any party may file written  
17 objections with the court and serve a copy on all parties. Such a document should be captioned  
18 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the  
19 objections shall be served and filed within fourteen days after service of the objections. The  
20 parties are advised that failure to file objections within the specified time may waive the right to  
21 appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez*  
22 *v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

23  
24 IT IS SO ORDERED.

25 Dated: May 8, 2024

26   
27 JEREMY D. PETERSON  
28 UNITED STATES MAGISTRATE JUDGE