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E-FILED - 3/18/09

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ULYSSES DAVIS, JR.,
Plaintiff,
v.
MARIN COUNTY JAIL, et al.,
Defendants.

No. C 03-4334 RMW (PR)
ORDER GRANTING LEAVE TO
FILE EMERGENCY INJUNCTIVE
MOTION; DENYING MOTION FOR
EMERGENCY INJUNCTIVE RELIEF
(Docket Nos. 101, 102)

Plaintiff filed a pro se civil rights complaint pursuant to 42 U.S.C. § 1983, alleging that he received inadequate medical care and was subject to the use of excessive force while he was an inmate at the Marin County Jail. On September 30, 2008, the court granted defendants' motion for summary judgment on plaintiff's medical claims, and denied the motion on plaintiff's claims of excessive force. On December 9, 2008, the court referred this case to the Pro Se Prisoner Settlement Program and stayed the case pending such proceedings. On February 18, 2009, plaintiff filed a motion for leave to file an emergency injunctive motion and a motion for emergency injunctive relief. The court will GRANT plaintiff's motion for leave to file and DENY plaintiff's motion for emergency injunctive relief.

Plaintiff's motion for injunctive relief asks the court to order California State Prison, Sacramento, ("CSP - Sacramento") officials to allow him to use the law library. Plaintiff's basis for

1 the request, access to the law library at CSP - Sacramento, is not before the court in the instant
2 amended complaint. This claim first needs to be addressed through the administrative process
3 available to plaintiff. See Booth v. Churner, 121 S. Ct. 1819, 1825 (2001); 42 U.S.C. § 1997e(a).
4 Courts do not have discretion under § 1997e(a) to excuse exhaustion. Id. at 1825 n.5. Plaintiff is
5 free to file a new complaint concerning these allegations once he has exhausted the administrative
6 process available to him.

7 Additionally, this court has no jurisdiction to order CSP - Sacramento personnel to comply
8 with the court's orders because they are not parties in the present action, nor does the court's
9 jurisdiction, within the Northern District of California, extend to CSP - Sacramento where plaintiff is
10 located. See 28 U.S.C. § 1391(b). Accordingly, plaintiff's motion for injunctive relief (docket no.
11 102) is DENIED.

12 This order terminates docket numbers 101 and 102.

13 IT IS SO ORDERED.

14 DATED: 3/16/09



RONALD M. WHYTE
United States District Judge