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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 DOYLE WAYNE DAVIS,
12 CDCR #34318,

13 Plaintiff,

14 vs.

15 DANIEL PARAMO, Warden, et al.,

16 Defendants.
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Case No.: 3:16-cv-0689-BEN-JMA

**ORDER DENYING PLAINTIFF'S
MOTION FOR PERMISSION TO
FILE AN INTERLOCUTORY
APPEAL**

[Doc. No. 54]

19 Plaintiff Doyle Wayne Davis is incarcerated at Richard J. Donovan Correctional
20 Facility ("RJD") in San Diego. He is proceeding pro se and has filed a civil Complaint
21 pursuant to 42 U.S.C. § 1983. Before this Court is Plaintiff's ex parte motion for
22 permission to file an interlocutory appeal regarding the Court's denial of his request for a
23 preliminary injunction. (Doc. No. 54.) For the reasons that follow, the motion is
24 **DENIED.**

25 **BACKGROUND**

26 On July 18, 2016, this Court issued an order denying Plaintiff's motion for a
27 preliminary injunction. (Doc. No. 11.) Plaintiff moved for reconsideration, and the
28 Court denied Plaintiff's motion for reconsideration. (Doc. No. 40.) On both occasions,

1 the Court found that Plaintiff had failed to show that he was likely to suffer irreparable
2 harm because his assertions of future incidents of retaliation and health complications
3 were conjectural. *See Caribbean Marine Servs. Co., Inc. v. Baldrige*, 844 F.2d 668, 675
4 (9th Cir. 1988) (“Speculative injury does not constitute irreparable injury sufficient to
5 warrant granting a preliminary injunction.”). In the order denying the motion for
6 reconsideration, the Court also held that it lacked authority to issue an injunction for most
7 of the relief sought because the requested relief related to events that occurred after
8 Plaintiff filed his Complaint. *See Pac. Radiation Oncology, LLC v. Queen’s Med. Ctr.*,
9 810 F.3d 631, 636 (9th Cir. 2015) (“[T]here must be a relationship between the injury
10 claimed in the motion for injunctive relief and the conduct asserted in the underlying
11 complaint.”).

12 Plaintiff now moves for permission to file an interlocutory appeal of the Court’s
13 denials of injunctive relief. He contends that the Court should construe his pleadings
14 liberally to grant him the desired relief because his medical conditions are worsening.

15 **DISCUSSION**

16 28 U.S.C. § 1292(a)(1) allows courts of appeal to review interlocutory orders
17 “refusing . . . injunctions.” Therefore, the Court’s orders denying preliminary injunctive
18 relief are immediately appealable orders. Plaintiff does not need the Court’s permission
19 to appeal the denials. *See Armstrong v. Wilson*, 124 F.3d 1019, 1021 (9th Cir. 1997)
20 (“[I]nterlocutory appeals under § 1292(a) are ‘by right,’ while those under § 1292(b) are
21 ‘by permission.’”). Plaintiff’s motion for permission to file an interlocutory appeal is
22 denied.

23 However, Plaintiff must file a notice of appeal in order to proceed. The Court will
24 direct that Plaintiff’s request for permission to file an interlocutory appeal be construed as
25 a notice of appeal of the orders denying his requests for preliminary injunctive relief.

26 Therefore, **IT IS HEREBY ORDERED** that:

27 1. Plaintiff’s motion for permission to file an interlocutory appeal (Doc. No. 54) is
28 denied; and

1 2. Plaintiff's motion for permission to file an interlocutory appeal is construed as a
2 notice of appeal of the previous orders denying preliminary injunctive relief (Doc. Nos.
3 11, 40).

4 **IT IS SO ORDERED.**

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6 Dated: March 23, 2017

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8 Hon. Roger T. Benitez
9 United States District Judge
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